

Franchise Addendum Updates

The SBA Addendum now includes a drop down box to allow the entity to select the appropriate type of agreement (e.g. franchise, license, jobber etc) and the proper titles of the parties to the agreement. It will also allow for manual entry of other types of agreements (e.g. membership agreements)

- The language under the heading “Covenants” has been clarified to address any restrictions that may already be recorded against the franchisee’s real estate. Any such restriction must be removed from the title in order for the Franchisee to obtain SBA-assisted financing.
- The language under the heading “Employment” has been revised to clarify that for temporary personnel franchises, the temporary employees will be employed by the Franchisee not the Franchisor.
- Language regarding termination of the Addendum has been clarified
- Signature blocks have been revised to include authorized individuals.



Multiple Agreements

SBA recognizes that there are situations where a Small Business Applicant may operate under one or more agreements where some of the agreements (either individually or in the aggregate) do not constitute a critical part of the Small Business Applicant's total business operation.

- When an applicant franchise operates under one or more agreements, SBA will only require review of the agreement(s) (or product, service or trademark covered by such agreements(s)) that are critical to the Small Business Applicant's business operation in order to determine if the agreement(s) meets the FTC definition of a franchise and, therefore requires either (i) the SBA Addendum to Franchise Agreement or (ii) the Certification with the SBA Negotiated Addendum.



Franchise Updates

DELEGATED PROCESS

- When processing under its delegated authority, the 7(a) lender or CC must obtain an executed copy of the franchise agreement, either the execute SBA Addendum or Certification and SBA Negotiated Addendum, and all other documents the franchisor requires the franchisee to sign prior to any disbursement of 7(a) loan and prior to closing a 504 loan.

PCLP CDC's must provide the executed SBA Addendum or Certification and SBA Negotiated Addendum to the SLPC prior to loan closing. In Addition the 7(a) lender and CDC must ensure that the system meets all SBA eligibility requirements, and must review all other documents the franchisor requires the franchisee to execute to ensure compliance with either addendum and SBA Loan Program Requirements (e.g. there are no restrictions recorded against the real estate).



Franchise Updates

NON-DELEGATED PROCESS

- The 7(a) lender must submit a copy of the agreement and the SBA Addendum or the Certification and SBA Negotiated Addendum (whether executed or not), along with any related documents the franchisor requires the franchisee to execute with their loan documentation to the LGPC;
- The CDC must submit a copy of the agreement and the SBA Addendum or the Certification and SBA Negotiated Addendum (whether execute or not), along with any related documents the franchisor requires the franchisee to execute to the SLPC prior to submitting the application for review. In addition, the executed SBA Addendum or Certification and SBA Negotiated Addendum must be provided to the SLPC prior to loan closing.

