

# **SBA’S APPENDIX 5 REQUIREMENTS ADD COMPLEXITY TO 7A AND 504 LOANS ON GAS STATION PROPERTIES**

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SBA’s new Standard Operating Procedures for 7A and 504 loans made effective August 1, 2008 (SOP 50-10(5)) have special requirements associated with current or former gas station properties that have NAICS codes associated with an environmentally sensitive industry (in this case NAICS code 447).

LSE recently completed environmental due diligence evaluations of an active gas station in Cranston, RI involving a SBA 504 loan. Due to involvement by numerous parties in this type of financing (e.g., SBA Legal Counsel, Lender, Certified Development Corp., Owner, etc.), providing excellent communication with all involved allowed LSE to successfully complete environmental components of SBA’s Appendix



5 requirements. “Addressing the equipment testing requirements of this gas station ESA in a timely fashion using contractors not within our control was a challenge” says Dave Hazebrouck, principal of LSE. Nonetheless, LSE coordinated the AAI-compliant Phase I ESA, subsurface testing, and petroleum equipment testing on time and on budget.

The specific requirements for gas stations are detailed in 4 primary sections of Appendix 5 of the SOP including:

1) Relevant Document Review” - is typically completed by the lender. This includes review of title documents, product (oil) supply agreements and P&S documents. Institutional and Engineering Controls require additional scrutiny.

2) Environmental Investigations – Specific investigation requirements are determined base on the age of the gas station and would range from an environmental questionnaire to an AAI-Compliant Phase I ESA.

A component of this requirement is the need for testing of petroleum storage and dispensing equipment by a qualified contractor no more than 6 months prior to the closing. This testing includes USTs, lines, vapor recovery systems, continuous monitoring devices and containment sumps. Any leaking or detective equipment *must* be replaced or repaired *prior to* disbursement of funds by SBA.

3) Indemnification Agreement – The SBA form of indemnification agreement provided in Appendix 6 of the SOP must be executed.

4) Environmental Insurance – The loan applicant must carry Environmental Pollution or Impairment Liability Insurance to the extent that its “reasonably available and affordable” and must register for any available government petroleum storage tank fund.

The take home message involving gas stations financed with SBA loan programs is that far more coordination and communication is necessary than for other industries classified as environmentally sensitive. It also helps to have an intimate

understanding of gasoline storage and dispensing equipment and the various equipment tests used to determine compliance and functionality.

