



Decision

Matter of: U.S. Small Business Administration—Applicability of the Congressional Review Act to Policy and Procedural Notices Updating Citizenship and Residency Requirements for 7(a) and 504 Loans

File: B-338157

Date: July 1, 2026

DIGEST

In February 2026, the U.S. Small Business Administration (SBA) issued a Policy Notice and a Procedural Notice (together, the 2026 Notices) that modified its standard operating procedures governing the 7(a) and 504 loan programs. Through the 2026 Notices, SBA began requiring that 100 percent of all direct and/or indirect owners of a small business applicant for one of the loan programs be U.S. citizens or U.S. nationals who have their principal residence in the U.S., its territories, or possessions.

The Congressional Review Act (CRA) requires that before a rule can take effect, an agency must submit the rule to both the House of Representatives and the Senate, as well as the Comptroller General. CRA adopts the definition of a rule under the Administrative Procedure Act (APA) but excludes certain categories of rules from coverage. We conclude that the 2026 Notices meet the APA definition of a rule and no CRA exception applies. Therefore, the 2026 Notices are a rule subject to CRA's submission requirements.

DECISION

On February 2, 2026, the U.S. Small Business Administration (SBA) issued a Policy Notice,¹ and on February 11, 2026, SBA issued a Procedural Notice (together, the

¹ SBA, *Policy Notice 5000-876441: Update to SOP 50 10 8 – Citizenship and Residency Requirements and Rescission of Procedural Notice 5000-872050* (Feb. 2, 2026), available at <https://www.sba.gov/document/policy-notice-5000-876441-update-sop-50-10-8-citizenship-residency-requirements-recission-procedural-notice-5000-872050> (last visited June 26, 2026).

2026 Notices).² The 2026 Notices modified SBA’s standard operating procedure (SOP) 50 10, *Lender and Development Company Loan Programs*, which contains SBA’s loan origination policies and procedures governing its 7(a) and 504 loan programs.³ After the 2026 Notices took effect on March 1, 2026, 100 percent of all direct and/or indirect owners of a small business applicant were required to be U.S. citizens or U.S. nationals who have their principal residence in the United States, its territories, or possessions.⁴

We received a request for a decision as to whether the 2026 Notices are a rule for purposes of the Congressional Review Act (CRA).⁵ Our practice when rendering decisions is to contact the relevant agencies to obtain factual information and their legal views on the subject of the request.⁶ Accordingly, we reached out to SBA on March 3, 2026.⁷ SBA did not provide a response with its views.⁸

² SBA, *Procedural Notice 5000-876626: Update to SOP 50 10 8 – Revised Applicant Ownership Citizenship and Residency Requirements for 7(a) and 504 Loans* (Feb. 11, 2026), available at <https://www.sba.gov/document/procedural-notice-5000-876626-revised-applicant-ownership-citizenship-residency-requirements-7a-504-loans> (last visited June 26, 2026).

³ See SBA, *SOP 50 10 8: Lender and Development Company Loan Programs with Technical Updates* (effective June 1, 2025), available at <https://www.sba.gov/document/sop-50-10-lender-development-company-loan-programs> (last visited June 26, 2026).

⁴ Policy Notice, at 1; Procedural Notice, at 1.

⁵ Letter from Senator Edward J. Markey and Representative Nydia M. Velázquez, to Comptroller General (Feb. 24, 2026).

⁶ GAO, *GAO’s Protocols for Legal Decisions and Opinions*, GAO-24-107329 (Washington, D.C.: Feb. 2024), available at <https://www.gao.gov/products/gao-24-107329>.

⁷ Letter from Managing Associate General Counsel for Appropriations Law, GAO, to General Counsel, SBA (Mar. 3, 2026).

⁸ SBA initially requested an extension in which to provide its response to the development letter, which we granted. Email from Senior Staff Attorney, GAO, to General Counsel, SBA, *Subject: RE: U.S. Small Business Administration—Applicability of the Congressional Review Act to Policy Notice and Procedural Notice Relating to Citizenship and Residency Requirements for 7(a) and 504 Loans* (Mar. 17, 2026). Subsequently, SBA informed us that it would not be providing a response to the development letter.

BACKGROUND

7(a) and 504 Loans

SBA guarantees loans to small businesses through several programs, including the 7(a) and 504 loan programs.⁹ In fiscal year 2025, SBA guaranteed approximately \$45 billion in 7(a) and 504 loans to more than 85,000 small businesses.¹⁰ According to SBA, the 7(a) loan program is SBA's primary business loan program for providing financial assistance to small businesses.¹¹ For 7(a) loans, a lender initiates the loan to a small business and, if SBA agrees to guarantee the loan, the lender funds and services the loan.¹² If the borrower defaults on the loan, the lender and SBA share in the loss, if any, in accordance with the percentage guaranteed by SBA.¹³ For most 7(a) loan programs, SBA guarantees up to 85 percent of loans of \$150,000 or less, and up to 75 percent of loans above \$150,000, except as otherwise authorized by law.¹⁴

Similarly, the 504 loan program provides long-term, fixed rate financing for major fixed assets that promote business growth and job creation.¹⁵ According to SBA, 504 loans are issued through a partnership with Certified Development Companies (CDC) and private sector third party lenders.¹⁶ CDCs are generally non-profit corporations certified and regulated by SBA to package, process, close, and service

⁹ See SBA, *Loans*, available at <https://www.sba.gov/funding-programs/loans> (last visited June 26, 2026).

¹⁰ SBA, *2025 Annual Report*, at 2, available at <https://www.sba.gov/annual-report/files/SBA%202025%20Annual%20Report.pdf> (last visited June 26, 2026).

¹¹ SBA, *7(a) Loans*, available at <https://www.sba.gov/funding-programs/loans/7a-loans> (last visited June 26, 2026). See 15 U.S.C. § 636(a).

¹² SBA, *SOP 50 56 1: Lender Participation Requirements* (effective Aug. 1, 2023), at 9, available at <https://www.sba.gov/document/sop-50-56-1-lender-participation-requirements> (last visited June 26, 2026).

¹³ *Id.*

¹⁴ See SBA, *Terms, Conditions, and Eligibility*, available at <https://www.sba.gov/partners/lenders/7a-loan-program/terms-conditions-eligibility> (last visited June 26, 2026); see also 13 C.F.R. § 120.210.

¹⁵ SBA, *504 Loans*, available at <https://www.sba.gov/funding-programs/loans/504-loans> (last visited June 26, 2026). See 15 U.S.C. §§ 695–697f.

¹⁶ SBA, *SOP 50 56 1*, at 65.

504 loans.¹⁷ For 504 loans, up to 40 percent of the loan is covered by the CDC, and SBA guarantees 100 percent of that amount.¹⁸ The remainder of the 504 loan amount is financed through a contribution by the applicant small business and from third party lenders.¹⁹

To implement its programs, SBA provides guidance to relevant parties—including lenders, SBA employees, and various agency partners—through several categories of documents.²⁰ According to SBA, policy notices are used to convey a change in policy, while procedural notices are used to convey a change in process or procedures.²¹ Both policy notices and procedural notices may be permanent or temporary.²² SBA's SOPs are permanent directives that set forth the policies and procedures relating to SBA's programs and activities.²³ SBA's regulations note that lenders must comply with loan program requirements for the 7(a) and 504 programs,²⁴ which include SBA SOPs.²⁵

SOP 50 10

SBA's *SOP 50 10, Lender and Development Company Loan Programs*, contains SBA's loan origination policies and procedures governing the 7(a) and 504 loan programs.²⁶ The most recent version of *SOP 50 10*, version 8, took effect on June 1, 2025 (*SOP 50 10 8*, or the SOP).²⁷ The SOP provides requirements that lenders and CDCs must follow when administering loans under the 7(a) and 504 programs.

¹⁷ See *id.*

¹⁸ See 13 C.F.R. §§ 120.801(c)(2), 120.801(d).

¹⁹ *Id.* §§ 120.801(c)(1), (3).

²⁰ See SBA, *SBA Guidance*, available at <https://www.sba.gov/about-sba/open-government/sba-guidance> (last visited June 26, 2026).

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ 13 C.F.R. § 120.180.

²⁵ *Id.* § 120.10 (defining loan program requirements).

²⁶ SBA, *SOP 50 10 8*.

²⁷ *Id.*

For example, Section A of the SOP, entitled “Core Requirements for All 7(a) and 504 Loans,” states that “7(a) Lenders and CDCs . . . must always start by reviewing the contents of this section.”²⁸ The SOP also states that “7(a) Lenders *must* comply with the Core requirements in Section A and with the detailed guidance provided for each delivery method in the applicable chapter of Section B” and that “CDCs *must* comply with the Core requirements in Section A and with the detailed guidance provided for the delivery of 504 Loan Program loans.”²⁹

Chapter 1 of Section A outlines the primary applicant eligibility requirements for the 7(a) and 504 loan programs.³⁰ In particular, Paragraph F of Chapter 1 provides additional information regarding the loan eligibility of businesses owned by non-U.S. citizens.³¹ Prior to the changes made by the documents examined in this decision, the SOP stated that, among other things, “SBA financing is limited to businesses with 100% direct and/or indirect owners and SBA-required guarantors . . . that are U.S. citizens, U.S. Nationals, or who are Lawful Permanent Residents (LPRs) (commonly referred to as “green card holders”), and comply with the requirements in this Paragraph.”³² All direct and indirect owners and guarantors were also required to have their primary residence in the United States, its territories, or possessions.³³

The SOP also requires that SBA lenders certify that no direct and/or indirect owner or guarantor is an “Ineligible Person.”³⁴ In part, the SOP previously defined ineligible persons for the purpose of 7(a) and 504 loans as “foreign nationals, those granted asylum, refugees, visa holders, nonimmigrant aliens under 8 U.S.C. § 1101(a)(15), those under Deferred Action for Childhood Arrivals . . . and undocumented aliens who are in the U.S. illegally.”³⁵

²⁸ *Id.* at 11.

²⁹ *Id.* at 9 (emphasis added).

³⁰ *Id.* at 13.

³¹ *Id.* at 27.

³² *Id.* This decision only evaluates Policy Notice 5000-876441 and Procedural Notice 5000-876626, and takes no position on whether other policy or procedural notices amending the SOP constitute rules for purposes of CRA.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* at 406.

On December 19, 2025, SBA issued Procedural Notice 5000-872050 (2025 Procedural Notice).³⁶ The 2025 Procedural Notice is addressed to all SBA employees, 7(a) lenders, and CDCs, and announced that, among other changes, SBA was revising Section A, Chapter 1, Paragraph F of *SOP 50 10 8*.³⁷ In particular, the 2025 Procedural Notice stated that while the general rule remained that 100 percent of all direct and/or indirect owners of applicant businesses must be U.S. citizens, U.S. nationals, or LPRs who have their principal residence in the United States, its territories, or possessions, the following groups would be allowed to have up to five percent direct and/or indirect ownership in a borrower in the aggregate: (1) Individuals who are not U.S. citizens, U.S. nationals, or LPRs, and are not ineligible persons but are instead foreign nationals living outside the U.S.; (2) U.S. citizens, U.S. nationals, or LPRs whose principal residence is outside the U.S., its territories, or possessions; and (3) aliens with conditional LPR status (collectively, the Five Percent Exception).³⁸ These changes took effect for all 7(a) and 504 loan applications approved by SBA on or after January 1, 2026.³⁹

Policy Notice and Procedural Notice

In 2026, SBA issued Policy and Procedural Notices that further modified the eligibility and selection criteria for 7(a) and 504 loans. On February 2, 2026, SBA published the Policy Notice.⁴⁰ The Policy Notice, which is also addressed to all SBA employees, 7(a) lenders, and CDCs, announced the rescission of the 2025 Procedural Notice, thereby removing the Five Percent Exception.⁴¹ Beginning March 1, 2026, 100 percent of all direct and/or indirect owners of a small business applicant were required to be U.S. citizens or U.S. nationals who have their principal residence in the U.S., its territories, or possessions.⁴² LPRs would no longer be

³⁶ SBA, *Procedural Notice 5000-872050: Update to SOP 50 10 8 – Citizenship and Residency Requirements* (effective Dec. 19, 2025), available at <https://www.sba.gov/document/procedural-notice-5000-872050-procedural-notice-5000-872050-update-sop-50-10-8-citizenship-residency-requirements> (last visited June 26, 2026).

³⁷ *Id.* at 1–2.

³⁸ *Id.* at 2.

³⁹ *Id.* at 1.

⁴⁰ Policy Notice, at 1.

⁴¹ *Id.*

⁴² *Id.*

eligible to own any percentage interest in an applicant borrower, among other things.⁴³

The Policy Notice notes that it made these changes consistent with 13 C.F.R. § 120.100 and Executive Order No. 14159, *Protecting the American People Against Invasion*.⁴⁴ The Executive Order states that it “ensures that the Federal Government protects the American people by faithfully executing the immigration laws of the United States,”⁴⁵ and instructs the Office of Management and Budget to ensure that agencies take action to “identify and stop the provision of any public benefits to any illegal alien not authorized to receive them.”⁴⁶ 13 C.F.R. § 120.100 outlines the basic eligibility requirements for applicants for SBA business loans.

Then, on February 11, 2026, SBA published the Procedural Notice.⁴⁷ SBA stated that the purpose of the Procedural Notice was to advise SBA employees, 7(a) lenders, and CDCs that it was incorporating the changes announced in the Policy Notice into *SOP 50 10 8*.⁴⁸ Under the revised SOP, Section A, Chapter 1, Paragraph F states that “SBA financing is limited to business Applicants with 100% direct and/or indirect owners and SBA-required guarantors, all of whom must be U.S. Citizens or U.S. Nationals who have their Principal Residence in the United States, its territories, or possessions.”⁴⁹

Furthermore, the Procedural Notice updated the definition of “Ineligible Person” to include LPRs, “including individuals with permanent (Unconditional) LPR status, and Conditional LPR status.”⁵⁰ An applicant borrower with any percentage interest held by LPRs who did not completely divest their interest prior to the issuance of an SBA loan number would be ineligible for 7(a) and 504 loans under the revised criteria.⁵¹ The changes took effect on March 1, 2026, for 7(a) and 504 loans approved under

⁴³ *Id.*

⁴⁴ 90 Fed. Reg. 8443 (Jan. 29, 2025).

⁴⁵ *Id.*

⁴⁶ *Id.* at 8447.

⁴⁷ Procedural Notice, at 1.

⁴⁸ *Id.*

⁴⁹ *Id.* at 2.

⁵⁰ *Id.* at 4.

⁵¹ *See id.* at 2, 4.

delegated procedures, and for non-delegated 7(a) and 504 applications that entered Reviewer 1, or R1, status in SBA's online system on or after March 1, 2026.⁵²

Finally, on March 31, 2026, SBA issued guidance clarifying the 2026 Notices (Guidance).⁵³ Among other things, the Guidance states that for loans approved prior to the March 1, 2026, effective date of the 2026 Notices, lenders may continue to perform servicing actions but "may not increase an existing loan if the Applicant is not eligible under the revised citizenship and residency requirements on or after March 1, 2026."⁵⁴

The Congressional Review Act

CRA, enacted in 1996 to strengthen congressional oversight of agency rulemaking, requires federal agencies to submit a report on each new rule to both houses of Congress and to the Comptroller General for review before a rule can take effect.⁵⁵ The report must contain a copy of the rule, "a concise general statement relating to the rule," and the rule's proposed effective date.⁵⁶ CRA allows Congress to review and disapprove of federal agency rules for a period of 60 days using special procedures.⁵⁷ If a resolution of disapproval is enacted, then the new rule has no force or effect.⁵⁸

⁵² See *id.* at 1. SBA "may grant delegated authority to lenders to process, close, service, and liquidate certain SBA-guaranteed loans without prior SBA review," including 7(a) loans. *SOP 50 56 1*, at 28. SBA also has a similar delegated authority process for CDCs under the 504 loan program. See *id.* at 74.

⁵³ SBA, *SBA Information Notice 5000-877673: Guidance for Frequently Asked Questions Related to Recent SBA Procedural Notices* (Mar. 31, 2026), available at <https://www.sba.gov/sites/default/files/2026-04/Info%20Notice%20-%20Guidance%20for%20Frequently%20Asked%20Questions%20Related%20to%20Recent%20Procedural%20Notices%20%28FINA.pdf> (last visited June 26, 2026). The Guidance is not a subject of this decision request and therefore we take no position on whether it constitutes a rule for purposes of CRA. It is included here only to provide additional clarity as to the effect of the 2026 Notices.

⁵⁴ *Id.* at 2.

⁵⁵ 5 U.S.C. § 801(a)(1)(A).

⁵⁶ *Id.*

⁵⁷ See *id.* § 802.

⁵⁸ *Id.* § 801(b)(1).

CRA adopts the definition of rule under the Administrative Procedure Act (APA), which states that a rule is “the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency.”⁵⁹ However, CRA excludes three categories of rules from coverage: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.⁶⁰

SBA did not submit a CRA report to Congress or to the Comptroller General on the 2026 Notices.

DISCUSSION

At issue here is whether the 2026 Notices meet CRA’s definition of a rule, which adopts APA’s definition of a rule with three exceptions. As explained below, we conclude that the 2026 Notices meet the APA definition, and no exceptions apply. Therefore, the 2026 Notices are a rule subject to CRA’s submission requirements.⁶¹

⁵⁹ *Id.* §§ 551(4), 804(3).

⁶⁰ *Id.* § 804(3).

⁶¹ In general, several common factors emerge from our caselaw relating to when agency actions taken in multiple steps or via multiple documents should be assessed together for purposes of CRA. These include but are not limited to: how procedurally and substantively related the actions are; the temporal proximity of the actions to one another; the similarity of scope of the actions; and whether the actions contribute to the same changes. See, e.g., B-337954, May 12, 2026 (evaluating the applicability of CRA to a decision by the Department of the Treasury to suspend the Internal Revenue Service Direct File Program, which was announced through a report, website, and email); B-336260, Oct. 1, 2024 (evaluating whether an action related to credit score models announced in a press release by the Federal Housing Finance Agency and implemented through a subsequent directive two days later was a rule under CRA); B-334045, July 5, 2023 (evaluating whether two memoranda issued by the Department of Homeland Security on the same day relating to the termination of the Migrant Protection Protocols constituted a rule under CRA); B-334644, Mar. 17, 2023 (evaluating whether actions taken by the Department of Education relating to student loan repayment—which were announced on a website and publicized in the *Federal Register*—were collectively a rule under CRA). See also B-330843, Oct. 22, 2019 (evaluating three Supervision and Regulation Letters issued by the Board of Governors of the Federal Reserve System (FRB) as separate actions under CRA where the letters were issued in three separate years, focused on different entities, and each led to different substantive changes to FRB’s practices).

(continued...)

The 2026 Notices are a Rule Under APA

Applying APA's definition of a rule, the 2026 Notices satisfy all three elements. First, the 2026 Notices are agency statements because they were issued by SBA, an independent agency of the federal government.⁶² Second, the 2026 Notices are of future effect because they adopt new criteria for 7(a) and 504 loan applications moving forward. As SBA noted, beginning March 1, 2026, only applications from businesses with 100% ownership by U.S. citizens or U.S. nationals are eligible for 7(a) and 504 loans.⁶³

Finally, the 2026 Notices implement, interpret, or prescribe law or policy. The 2026 Notices revise SBA's SOP and modify the eligibility requirements for the 7(a) and 504 loan programs.⁶⁴ Additionally, the Policy Notice states that the changes it announces implement in part the administration's immigration policies, as outlined in Executive Order No. 14159.⁶⁵ Furthermore, the Procedural Notice notes that it incorporates into the SOP "the updated policy requirements" that 100 percent of all direct and/or indirect owners of a small business applicant be U.S. citizens or U.S. nationals who have their principal residence in the U.S., its territories, or possessions.⁶⁶ Together, the 2026 Notices therefore prescribe and implement policy determinations made by SBA relating to the eligibility requirements for its loan programs.

Here, the 2026 Notices are expressly interrelated, given that the Procedural Notice directly states that it incorporates the changes announced in the Policy Notice into the SOP. Procedural Notice, at 1. Additionally, the 2026 Notices were published close in time to one another—only nine days apart. With respect to scope, both the Policy Notice and the Procedural Notice apply to the same entities—all SBA employees, 7(a) lenders, and CDCs—and under the same circumstances. Finally, both the Policy Notice and the Procedural Notice precede the same change in SBA's policy relating to the availability of 7(a) and 504 loans for non-U.S. citizens, providing further evidence that they are part of the same agency action, rather than separate actions. Together, all of the factors at issue here weigh in favor of evaluating the 2026 Notices as one action under CRA.

⁶² See 15 U.S.C. § 633(a).

⁶³ See Procedural Notice, at 1.

⁶⁴ See Policy Notice, at 1; Procedural Notice, at 1.

⁶⁵ See Policy Notice, at 1.

⁶⁶ Procedural Notice, at 1.

CRA Exceptions

Having concluded that the 2026 Notices satisfy the APA definition of a rule, we must next determine whether any of CRA's three exceptions apply. CRA provides for three types of rules that are not subject to its requirements: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.⁶⁷

(1) Rule of Particular Applicability

First, the 2026 Notices are a rule of general applicability, rather than particular applicability. Rules of particular applicability are rules addressed to specific, identified persons or entities and determine actions that person or entity may or may not take, considering facts and circumstances specific to those persons or entities.⁶⁸ Here, the 2026 Notices announce changes that are incorporated into the SOP that apply to all 7(a) and 504 loan applications. The 2026 Notices do not take into account the particular facts and circumstances of any individual lender or applicant when determining whether the 2026 Notices apply to it. Rather, all lenders and CDCs are required to adhere to the changes outlined in the 2026 Notices. Therefore, it is not a rule of particular applicability.

(2) Rule of Agency Management or Personnel

Second, the 2026 Notices are not a rule of agency management or personnel. We have previously held that rules that fall into this category relate to purely internal matters,⁶⁹ such as controlling, directing, or supervising internal management issues.⁷⁰ We have previously noted that these rules include "rules as to leaves of absence, vacation, travel, etc."⁷¹ For example, in B-335115, Sept. 26, 2023, we concluded that Department of Defense (DOD) memoranda implementing changes to DOD's policies regarding service members' healthcare "address matters that clearly

⁶⁷ 5 U.S.C. § 804(3).

⁶⁸ See B-334995, July 6, 2023; B-333732, July 28, 2022.

⁶⁹ See, e.g., B-335142, May 1, 2024; B-334411, June 5, 2023.

⁷⁰ B-336512, Aug. 29, 2024.

⁷¹ *Id.* at 7 (quoting U.S. Department of Justice, *Attorney General's Manual on the Administrative Procedure Act*, at 18 (1947)).

and directly implicate agency personnel matters” and “concern communications between employees and managers, leave, and benefits.”⁷²

Here, the 2026 Notices do not concern purely internal matters. While both the Policy Notice and the Procedural Notice are addressed in part to SBA employees, they are also addressed to 7(a) lenders and CDCs.⁷³ SBA’s regulations state that “[l]enders, CDCs and their contractors are independent contractors that are responsible for their own actions with respect to a 7(a) or 504 loan.”⁷⁴ Additionally, the 2026 Notices do not address the kind of management or personnel issues we have previously determined fall under this exception. Unlike in B-335115, Sept. 26, 2023, the 2026 Notices are not concerned primarily with the internal operations of the agency or management of its personnel. Rather, the 2026 Notices are intended to provide new criteria that lenders must adhere to in the administration of the 7(a) and 504 loan programs—including what kinds of applications should no longer be accepted. The 2026 Notices also outline new criteria for applicants to adhere to in order to have their applications considered and accepted by SBA, lenders, and CDCs. Therefore, the 2026 Notices are not a rule of agency management or personnel.

(3) Rule of Agency Organization, Procedure, or Practice With No Substantial Effect on Non-Agency Parties

Third, the 2026 Notices do not satisfy the exception for rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. We have previously explained that this exception was modeled on the APA exception to notice-and-comment rulemaking requirements for “rules of agency organization, procedure, or practice.”⁷⁵ Some courts have limited the APA exception to rules that do not have a substantial impact on non-agency parties,⁷⁶ which is incorporated into the language of the CRA exception.⁷⁷ Therefore, we look to caselaw concerning the APA exception for guidance.⁷⁸ The purpose of the APA

⁷² B-335115, Sept. 26, 2023, at 5.

⁷³ Policy Notice, at 1; Procedural Notice, at 1.

⁷⁴ 13 C.F.R. § 120.181.

⁷⁵ 5 U.S.C. § 553(b)(A); see B-329926, Sept. 10, 2018.

⁷⁶ See B-329926, Sept. 10, 2018.

⁷⁷ See 5 U.S.C. § 804(3)(C).

⁷⁸ See, e.g., B-337397, Aug. 27, 2025.

exception is to ensure “that agencies retain latitude in organizing their internal operations,” so long as such rules do not alter the rights or interests of parties.⁷⁹

First, we must first determine whether the 2026 Notices are a rule of agency organization, procedure, or practice. Rules of agency organization, procedure, or practice are “limited to an agency’s methods of operation or how the agency organizes its internal operations,” including the way that regulated entities submit information to an agency, how the agency reviews that information, and rules that affect the type or timing of actions the agency will take based on that submission.⁸⁰ Following this principle in the CRA context, we have only applied CRA’s third exception to rules that primarily focus on the internal operations of an agency.⁸¹ In contrast, rules that are directed at and primarily concerned with the behavior of non-agency parties do not fall under the exception.⁸²

For instance, in B-329926, Sept. 10, 2018, we found that updates to a Social Security Administration (SSA) hearing manual governing SSA adjudicators’ use of information from the internet qualified as a rule of agency organization, procedure, or practice. There, the manual outlined procedures for SSA employees to follow in processing and adjudicating benefits claims.⁸³ Because the manual was directed to and binding only on SSA officials without imposing new burdens on claimants, we concluded that the manual met CRA’s third exception.⁸⁴ Similarly, in B-337895, Mar. 24, 2026, we determined that a U.S. Army Corps of Engineers manual was a rule of agency organization, procedure, or practice, because it was also directed at agency personnel and identified and delineated procedures for agency staff to follow.

Here, on the other hand, the 2026 Notices are not a rule of organization, procedure, or practice. The 2026 Notices do in part direct the behavior of SBA employees when evaluating and processing applications for 7(a) and 504 loans. However, unlike in B-329926, Sept. 10, 2018, and B-337895, Mar. 24, 2026, the 2026 Notices also modify the requirements that non-agency parties including lenders and CDCs must follow when processing applications. The changes made by the 2026 Notices are primarily concerned with which applicants are eligible to apply and have their applications considered for 7(a) and 504 loans by lenders and CDCs. As a result,

⁷⁹ *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980).

⁸⁰ B-336217, Aug. 6, 2024, at 11.

⁸¹ B-337935, May 12, 2026; B-337503, Sept. 18, 2025.

⁸² B-337503, Sept. 18, 2025.

⁸³ B-329926, Sept. 10, 2018.

⁸⁴ *Id.*

these changes are not primarily focused on the internal operations of the agency and therefore the 2026 Notices are not a rule of organization, procedure, or practice.

Furthermore, the 2026 Notices cannot fall under this exception because they have a substantial effect on non-agency parties. In the federal funding context, we have previously determined that rules amending or clarifying the requirements of existing financial assistance programs for non-agency parties substantially affect those parties' rights or obligations.⁸⁵ Where a rule modifies an existing financial assistance program through actions such as defining eligibility requirements and selection criteria, it has a substantial effect on non-agency parties who participate in the program.⁸⁶

Here, the 2026 Notices modify the eligibility and selection criteria for 7(a) and 504 loans. For example, prior to the 2026 Notices, LPRs who had their principal residence in the United States, its territories, or possessions could be 100 percent direct and/or indirect owners of applicant borrowers.⁸⁷ Additionally, U.S. citizens, U.S. nationals, and LPRs who had their principal residence outside the United States, its territories, or possessions could own up to five percent of an applicant borrower in the aggregate pursuant to the Five Percent Exception.⁸⁸ However, through the 2026 Notices, the Five Percent Exception was removed, and LPRs were added to the definition of ineligible persons.⁸⁹ As a result, beginning March 1, 2026, LPRs could no longer own any percentage interest in an applicant borrower.⁹⁰ The 2026 Notices also expand the definition of ineligible person to include other groups, such as individuals—including U.S. citizens and U.S. nationals—who have their principal residence outside of the United States, its territories, or possessions.⁹¹ The 2026 Notices therefore substantially affect lenders who administer the loan programs and the prospective borrowers who apply for the loans. As a result, no CRA exception applies to the 2026 Notices.

⁸⁵ *E.g.*, B-337604, Dec. 16, 2025 (citing B-335488, Oct. 18, 2023; B-334146, June 5, 2023; B-333732, July 28, 2022).

⁸⁶ *Id.* (citing B-335488, Oct. 18, 2023).

⁸⁷ 2025 Procedural Notice, at 2.

⁸⁸ *Id.*

⁸⁹ See Policy Notice, at 1; Procedural Notice, at 4.

⁹⁰ Policy Notice, at 1.

⁹¹ *Compare* Procedural Notice, at 4, *with* SBA, *SOP 50 10 8*, at 406.

CONCLUSION

The 2026 Notices are a rule for purposes of CRA because they meet the APA definition of a rule and no CRA exception applies. Therefore, the 2026 Notices are subject to CRA's requirement that they be submitted to Congress and the Comptroller General before they can take effect.

A handwritten signature in black ink that reads "Edda Emmanuelli Perez". The signature is written in a cursive style with a large, stylized initial "E".

Edda Emmanuelli Perez
General Counsel