

SBA'S SOP 50 10 5 (F) COLLATERAL POLICIES ...**COMMENTS FROM OUR PERSPECTIVE**

The Small Business Administration has issued [SOP 50 10 5 \(F\)](#) Lender and Development Loan Company Programs. SOP 50 10 5 (F) becomes effective on January 1, 2014, and will apply to all applications received by SBA from that date going forward. Because the updated SOP has many significant changes and modifications, SBA encourages lenders to review it thoroughly before the effective date. From time to time, we'll be commenting on specific sections from our perspective as consultants, before and after the implementation date. First up: Collateral Policies. See the SOP's entire Collateral Section, Chapter 4, Subpart B, pgs. 168-178 for full details.

SBA's stated purpose of the new SOP is to streamline, standardize and simplify procedures for SBA lenders and borrowers. In that light, SBA has significantly modified its collateral requirements, stepping back from the "all available collateral" requirement and obligating principles to pledge only their personally owned real estate for loans over \$25,000. This releases the requirement to take other personally-held assets that may be pledged to meet the SBA's collateral requirements: publicly traded stocks, bonds, mutual funds certificates of deposit, and investment property not included in a retirement account. No collateral is required for loans under \$25,000.

Sounds simple, right? Not so fast.

Our key is found in the New Preamble to the SOP's Collateral Section: *"With respect to collateral taken, lenders must use commercially reasonable and prudent practices to identify collateral items, which conform to procedures at least as thorough as those used for their similarly sized non-SBA guaranteed commercial loans."* Importantly, SOP comment D93 Notes: *Preamble added to emphasize commercially reasonable and prudent.*

Commercially Reasonable. Prudent. While SBA doesn't require you to have borrowers pledge "all available collateral," what does your institution's loan policy say? Remember, your loan policy governs your business lending. If your loan policy requires you to fully secure all commercial loans with "adequate collateral," your policy document rules. If the loan defaults and goes into liquidation, you still must document to your institution. How would you explain why you didn't secure the loan up to the full loan amount? Further, even if your loan policy doesn't require including non-real estate collateral in your approval, you may want to. Why wouldn't you?

In reading through the SOP, you'll find some ambiguous language, especially regarding what constitutes "adequate collateral." As a lender, it's critical for you to carefully analyze collateral to ensure you're in compliance with current regulations. At J.R. Bruno & Associates, we've seen hundreds of SBA loans through underwriting and funding and have stepped in when necessary on liquidations. We can help underwrite your credit memos and pre-screen and evaluate collateral to ensure your loans meet all SBA requirements - and secure your SBA guaranty. Contact JRB at www.jrbrunoassoc.com. Or call me directly at 626.688.2125. I look forward to speaking with you!

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