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March 4, 2014

Ann Marie Mehlum  
Associate Administrator  
Office of Capital Access  
Small Business Administration  
409 3rd St. SW  
Washington DC 20416

Dear Administrator Mehlum:

The American Society of Appraisers (ASA) is writing to request a meeting with you for the purpose of clarifying the meaning of recent changes to Standard Operating Procedure (SOP) 50 10 5 (F) involving “Appraisal and Business Valuation Requirements” for small businesses with SBA guaranteed loans.<sup>1</sup> Our specific interest concerns modifications to the provisions governing the necessary qualifications for individuals who wish to perform “going concern” appraisals to determine the value of a business when required by the SOP.

ASA is a multidisciplinary professional appraisal organization that teaches, tests, and credentials highly qualified individuals in six appraisal disciplines: Business valuation; commercial and residential real property; machinery and technical specialties; tangible and intangible personal property; gems and jewelry; and appraisal review. ASA is a founding and current member of the not-for-profit Appraisal Foundation, recognized by Congress as the source of appraisal standards and appraiser qualifications for government-related transactions requiring valuations.

The relevant SOP provision states that to perform going concern valuations in connection with SBA guaranteed loans, an individual must be a “Qualified Source,” defined as “an individual who regularly receives compensation for business valuations and is accredited by one of the following recognized organizations...” (Emphasis added). ASA is one of the five recognized organizations listed in the SOP.

We seek clarity on the meaning of the elements of the “Qualified Source” requirement quoted above, as follows:

First, we seek confirmation that individuals who possess the Accredited Senior Appraiser credential in real property from ASA and who “regularly receive compensation for business valuations” meet the SOP’s definition of a “qualified source” authorized to provide going concern valuations of special use properties, such as hotels and gas stations.

We believe the clear language of the SOP authorizes ASA’s real property appraisers (who possess the requisite training, experience and coursework in going concern valuations) to

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<sup>1</sup> The changes were issued on September 23, 2013, and became effective January 1, 2014.

perform going concern appraisals of special use properties.<sup>2</sup> As members of a multidisciplinary appraisal organization that teaches, tests and credentials individuals in valuing businesses and all categories of tangible and intangible property, ASA's real property appraisers have direct and immediate access to the coursework and related resources necessary to perform going concern appraisals of special use properties in a way that meets SBA requirements and fully complies with the competency requirements of the Uniform Standards of Professional Appraisal Practice (USPAP).<sup>3</sup>

In many cases involving a business's going concern value, the single largest asset to be valued in special use engagements under the 7(a) program is the real property, with intangible business value and fixtures, furniture, and equipment comprising a minority of the total value of the business. Indeed, the previous SOP recognized the ability of real property appraisers to perform going concern appraisals of special use properties. Our criticism of the previous SOP's relevant provision was that it required real property appraisers who wished to perform SBA-related going concern appraisals to complete a course offered by only one professional appraisal organization, thereby excluding courses offered by the American Society of Appraisers as well as by other organizations.<sup>4</sup>

It is the considered view of ASA that with appropriate education, experience, and training requirements in place, a real property appraiser who holds a professional credential and has successfully completed specialized coursework in going concern valuations of special use properties is qualified to undertake such engagements.

The current SOP seems to limit eligibility to perform going concern appraisals only to ASA-credentialed real property appraisers who have the valuation skill-sets necessary to perform going concern appraisals and who regularly receive compensation for such engagements. Should SBA decide that it would like to permit appropriately qualified real property appraisers with credentials from other professional appraisal organizations to provide going concern valuations, ASA would be pleased to work with the agency to develop a clear set of guidelines for what constitutes appropriate qualifications for real estate appraisers who wish to perform going concern valuations. Given our multidiscipline membership and going concern course offerings currently available to our real property members, we believe we can be helpful to SBA in establishing appropriate qualifications.

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<sup>2</sup> This has been ASA's position throughout our many conversations with SBA officials, dating back almost two years, regarding our strong objection to a previous (and now abandoned) SOP requirement that any real estate appraiser who wished to do SBA-related going concern valuations had to take a course from one professional appraisal organization only – a course whose curriculum was criticized by some of that organization's own members.

<sup>3</sup> ASA's course for real property appraisers who wish to perform going concern valuations is a comprehensive three-day course taught both by real estate and business valuation instructors (RP401). Moreover, the RP 401 course meets USPAP's Competency Rule which states that an appraiser must be competent to perform the assignment; possess the necessary competency to perform the assignment; or, decline or withdraw from the assignment. A violation of USPAP by a real estate appraiser can lead to severe sanctions including fines and a loss of the appraiser's license or certification.

<sup>4</sup> In addition to the fact that the previous version of the SOP improperly created a coursework monopoly for one organization, we pointed out that the organization in question did not and does not credential business valuation appraisers, has no special expertise in business valuation and, as a consequence, did not appear on the previous SOP's list of recognized appraisal organizations and does not appear on the list in the current SOP.

Second, we seek clarification of the meaning of the phrase “regularly receives compensation.” Is there a numerical test (i.e., number of engagements) for meeting “the regularly receives compensation” criterion? If not, how would an appraiser – whether a real estate appraiser or a business appraiser – know, to a reasonable degree of certainty, that he or she meets the standard?

Finally, we want to point out that we are aware of the November 20, 2013, letter sent to SBA’s Deputy Associate Administrator, John Patrick Kelley, from the Appraisal Institute, the American Society of Farm Managers and Rural Appraisers and the American Bankers Association expressing concern over and urging a reversal of the changes found in the current SOP’s valuation provisions discussed above. ASA strongly disagrees with the central assertion of their letter that the changes to the SOP “will increase costs on consumers and lenders [and] delay the processing of loans.” There is no basis whatsoever for this assertion. Under the appraisal provisions of the current SOP, going concern valuations will continue to be performed in a timely manner by qualified sources without requiring two separate appraisals and without any cost increases to consumers and lenders.

Thank you for considering our views and our request for a meeting. For the purpose of arranging a meeting, please contact either Peter Barash, Government Relations Consultant to ASA, at 202-466-2221 or [peter@barashassociates.com](mailto:peter@barashassociates.com), or John D. Russell, Director of Government Relations for ASA at 703-733-2103 or [jrussell@appraisers.org](mailto:jrussell@appraisers.org).

Sincerely,



J. Mark Penny, ASA  
International President  
American Society of Appraisers



William H. Frazier, ASA  
Chair, Government Relations Committee  
American Society of Appraisers

Cc: Honorable Marianne O’Brien Markowitz, Acting Administrator, SBA  
Honorable Maria Contreras-Sweet, SBA Administrator-Nominee