

SBA FINANCE UPDATE Rocky Mountain Capital LLC #8, Jan. 13, 2010
SBA NEWS--with a Focus on Acquisition Finance

At Rocky Mountain Capital, we underwrite, package and source SBA-guaranteed financing. Our specialty is funding for business acquisition, as well as owner-occupied real estate, durable equipment, and business expansion projects.

SBA LOAN LIMIT-- EXPECTED INCREASE to \$5 MILLION

Passage of Senate Bill 2869, permanently raising the 7(A) program loan limit from \$2 million to \$5 million, is widely expected to occur in February if not earlier.

With Congress eager to show support for Main Street and small business, and the Administration endorsing this bill, action should be relatively swift after the Senate's return from recess on January 18. This bill will also:

- ▶ Increase the maximum guarantee amount to \$4.5 million (90% of \$5 million).
- ▶ Increase debenture amount under the 504 program to \$5 million (\$5.5 million in some cases). This allows a total 504 financing package, including private-sector portion and 10% down payment, as high as \$14 million.
- ▶ Continue the waiver of loan fees on 7(a) and 504 loans, through 12/31/2010.
- ▶ Continue the temporary provision for 90% guarantees through 12/31/2010.
- ▶ Broaden definition of eligible "small businesses," to include companies with tangible net worth up to \$15 million and after-tax net income up to \$5 million.

LIFTING GOODWILL CAP: HIGHER DOWN PAYMENT ON REAL ESTATE?

SBA recently eliminated any absolute dollar limit on financing that can be allocated to "goodwill," in a business acquisition. This change was widely applauded in our industry.

Little noticed (and possibly inadvertent on SBA's part) was this fact: in a business purchase that includes real estate, the new language on intangible assets can raise the minimum equity injection requirement for real estate, from the 10% level (formerly acceptable to many banks using the SBA programs) to 25%.

A 25% down payment on real estate can, however, be avoided--as outlined below.

In a business purchase where price of intangible assets (including goodwill) exceeds \$500,000 the equity injection (sum of borrower down payment plus seller notes deferred 2 years or more) must be at least 25% of purchase price, in order for the loan to be processed under PLP delegated authority. At the last NAGGL conference, SBA's Jim Hammersly confirmed that this 25% injection requirement would apply to real estate included in the transaction, as well as to business assets and intangibles.

He also confirmed that the 25% injection requirement on the real estate purchase can be avoided by using a 7(A) guaranteed loan for the business assets, and a separate 504 loan to finance the real estate (typical down payment with 504 is just 10%). A less reliable alternative: process the loan under CLP (which requires separate credit approval by SBA itself, after the bank has approved), requesting an exception for a lower down payment on the real estate portion.

So, there is a workaround—but it has costs in time and paperwork: two loans, where one would do. It seems doubtful that SBA really intended to impose higher down payments on real estate. We can work through our industry associations to get real estate exempted from the 25% equity requirement, in the next revision of regulations.

Rocky Mountain Capital: underwriting, packaging & sourcing SBA-guaranteed finance
Robert A. Heffner, President (406) 251-5861 rheffner@rockymountaincapital.com
www.rockymountaincapital.com