

Response to Scott Gabehart's article 3-20-14 SBA, SOP and Business, Real Estate and Going Concern Appraisals Controversy or Opportunity?

by John T. Bechtold CPA/ABV



In reading Scott Gabehart's article "SBA, SOP and Business, Real Estate and Going Concern Appraisals Controversy or Opportunity?" I take exception to Mr. Gabehart's statement and conclusion that:

"After years of contemplation and research, I have determined that federal law (section 564.4 of Title 12) mandates the use of USPAP for any "federally related transaction"."

In drawing his conclusion Mr. Gabehart, also states that "business valuation engagements, they are in fact already legally mandated via the Code of Federal Regulations (as per section 564.4)".

Code of Federal Regulations Title 12 - Banks and Banking section § 564

Section § 564.1 (b) (1) discusses the *Purpose and scope* of section 564 and states that "Title XI provides protection for federal financial and public policy interests in **real estate related transactions by requiring real estate appraisals used in connection with federally related transactions to be performed in writing, in accordance with uniform standards**".

Section § 564.1 (b) (2) (i) Identifies which **real estate-related financial transactions** require the services of an appraiser; (ii) Prescribes which categories of **federally related transactions shall be appraised by a State certified appraiser** and which by a **State licensed appraiser**; and (iii) Prescribes minimum standards for the performance of **real estate appraisals in connection with federally related transactions**.

The fact is that section 564 in it's entirety (sections 564.1 to 564.8) cover only real estate transactions as stated in the scope section presented above. Additionally, there is no reference in section 564 to business valuation, business appraisals, going concern value, goodwill value, intangible value or any term relating to business appraisals. Also, real estate appraisers are regulated by the States and are State certified appraisers or State licensed appraisers as mentioned in section 564(b) (2) (ii) above. The business appraisal designations approved by the SBA SOP (ASA, ABV, CBA, CVA and AVA) are regulated by the governing bodies of those particular organizations and are not regulated by the States.

While in my opinion Mr. Gabehart makes factually incorrect assertions in his article, he does raise a valid concern with respect to the requirement of whether SBA business appraisals should be USPAP compliant. While my ABV designation standards (SSVS) do not include a requirement to be USPAP compliant; for SBA appraisals, I have chosen to produce formal appraisals that are USPAP compliant.

John T. Bechtold is a CPA who is Accredited in Business Valuation (ABV). Mr. Bechtold is the President and founder of Accredited Valuation Services, Inc. and a Board Member of the North Texas Association of Government Guaranteed Lenders (NTAGGL). Mr. Bechtold has performed over one thousand SBA and USPAP compliant business appraisals and has over 30 years experience in commercial finance and as a business appraiser.