New Environmental Regulations Impact Loans, Due Diligence
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On Aug. 1, new environmental regulations in the revised Small Business Administration's standard operating procedures for lender and development company loan programs took effect. *CPN* associate editor Amanda Marsh spoke with Derek Ezovski (pictured), managing director of Environmental Data Resources' commercial property due diligence services, about how these new regulations will impact real estate.

CPN: What are some of the changes that took place to the SOP, and how are they impacting the commercial real estate community?
Ezovski: Some of the major changes included: the SOP is now shorter, more streamlined, and more structured than in the past; new levels of environmental due diligence are now required or permitted; all environmental investigations start with a quick NAICS [North American Industry Classification System] code matching to determine whether the property has been used by an "environmentally sensitive industry" currently or in the past. The SBA provided a list of such industries as part of the SOP; gas station loans have additional due diligence and indemnifications required; and (it now) embraces the Environmental Protection Agency's All Appropriate Inquiries (AAI) protocol for all Phase I environmental site assessments.

CPN: Real estate loans as low as $50,000 are now required to have an environmental inspection. Is this making it harder for small business to get a loan, especially paired with the increased lending scrutiny as a result of the credit crisis?
Ezovski: All real estate loans currently must have some sort of environmental due diligence performed. As of Aug. 1, 2008, loans for properties that are considered for "environmentally sensitive industries" must get a Phase I Environmental Site Assessment compliant with the new EPA All Appropriate Inquiries rule. For loans on properties non-"environmentally sensitive" greater than $150,000, there is now a requirement to perform a new level of due diligence called "Records Search with Risk Assessment." This is new in the SOP and is what is routinely referred to in the industry as a "Desktop Audit" or "Desktop Due Diligence." For loans on low-risk properties less than $150,000, an environmental questionnaire is required to be completed. For all real estate loans, there must be a site walk by the lender. It will not be any harder for a small business to get a loan now; however it will require that they have a better understanding of their properties. Many steps were being completed prior to the updated SOP 50-10 being released; however, now there is a very clear and easy to understand environmental investigation process.

CPN: What sort of financial impact, as a whole, will this have on small businesses?
Ezovski: These environmental changes should have little impact to the overall SBA process for small businesses, with the exception for gas station loans. The SOP serves to clarify the process but it shouldn't have much impact financially. Based on feedback that we have heard, there are some opinions that it will be very difficult for people to get SBA loans for gas stations due to new restrictions/steps that need to be addressed. Time will tell if this is true or not.

CPN: What should both banks and small businesses be aware of and expect in the loan process now?
Ezovski: Both banks and small businesses should be aware of this new SOP 50-10(5) and the requirements that it now has. The process has been streamlined and more defined but compliance with the SOP is very important to keep the process moving smoothly. That was the intention of the revision. For more

information on the SBA changes, you can visit the following site, www.edrnet.com/sba. They should also expect the SBA to be using the SOP as their guidelines to approve loans going forward.

CPN: What positive impact do these revisions have?
Ezovski: Overall, by requiring more due diligence to be completed--similar to trends that we are seeing in the lending industry as a whole--it should actually serve to protect small businesses by requiring them to better understand their properties prior to taking ownership of them. This allows their real estate to avoid having environmental issues that they are not aware of until they are operating at the property.

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