SBA CHARGE OFF PROCEDURES SUMMARY & SUGGESTED WRAP-UP REPORT

What is SBA's Policy Regarding Charge Off Accounts?

Charge off is the process by which SBA recognizes a loss and removes the uncollectible loan account from its active receivable accounts The SBA's policy is to be diligent and thorough in collection of debt and to promptly charge off all uncollectible accounts to more accurately reflect the status of the individual account and the Agency's entire portfolio. It should be noted that a charge off is merely an administrative determination that does NOT affect SBA's rights against any obligor nor reduce the SBA's (or a participant lender's) ability to proceed with any available remedy. Please keep in mind that the SBA does NOT provide for a partial charge off and if any portion of the debt is collectible in the near future with out excessive costs, the charge off action must be delayed.

When is a Charge Off Justified?

A charge off is justified when you have complied with all requirements of collection and liquidation and further collection of any substantial portion of the debt is doubtful. The determination to justify a charge off may be based on one or more of the following:

a) You must have exhausted all efforts in cost-effective recovery from:
- Voluntary payments from the borrower;
- Liquidation of collateral;
- Compromise with obligor leaving only a deficiency balance; and
- Consideration has been given to any legal remedies available so that no further reasonable expectation of recovery remains.

b) Estimated costs of future collection exceed any anticipated recovery;
c) Obligor cannot be located or is judgment proof;
d) The Lender/SBA's rights have expired (e.g., statute of limitations, restrictions of State law, Agency policy);
e) Debt is legally without merit;
f) Adjudication of a Chapter 7 Bankruptcy as a no asset case, or completion of Chap 11/13 case;
g) The inability of the Lender to effect further worthwhile recovery.

When Can't You Charge Off a Loan?

If you are receiving regular loan payments as outlined in the note or a workout Plan and/or there is additional collateral for liquidation, you **cannot** charge off an account.

What Are the Procedures for Charge Off?

You must evaluate the status of all collateral and each obligor, which includes debtor, guarantor, and cosigner, before you can charge off a loan. You must also document the file that a compromise offer was solicited if applicable and that any further collection costs would likely exceed recovery. If so, you may then prepare a Wrap-up and Charge-Off summary for submission to SBA. A suggested format and description is provided below.

Final Wrap Up /Charge-off Report

Date: ____________________ Borrower Name: ____

SBA Loan Number: __________________________ SBA Loan Number: __________________________

1. An appropriately detailed narrative identifying how and when collateral was liquidated and the gross recovery, expenses and net amount applied on the loan. Identify any remaining items of collateral which are being recommended for abandonment and provide justification. (If this includes a lien on a primary residence, provide a statement outlining attempts to compromise the debt.) Include copies of the summary sections of any appraisals made on any loan collateral to include executive summaries of any environmental reports/Phase1/2/3.

2. A detailed summary of all disbursements, payments, recoveries, and expenses during the liquidation process. In addition, you will need to submit a summary explanation with copies of invoices on all CPC expense that have NOT already been reimbursed.

3. All recoveries from liquidation, compromise, or any other sources must either have been shown on transcript of account when SBA guaranty purchased or have been sent to SBA Denver Finance Center along with copy of SBA Transmittal Form 172. Please provide copies of all Forms 172.

4. If a life insurance policy had cash value, the lender should document the efforts to collect the cash value.

5. If not already provided, a copy of site visits reports or waivers.

6. Identify remaining obligors and/or guarantors who are legally liable for the remaining deficiency balance of the loan and provide TIN's (EIN or SSAN - this is important for Treasury referrals). If obligors/guarantors are no longer liable, provide the basis for release and uncollectibility (compromised, discharged in bankruptcy, operation of law, etc.). For obligors/guarantors that remain liable, provide their most current addresses if these are different from those in the Liquidation Plan and a summary of their financial condition (based on credit reports, financial statements, real property searches, etc.), and an estimate of collectibility and the consideration given to compromising the debt. If guarantors cannot be located, outline what steps were taken to locate. Include copies of demand letters sent to obligor/guarantors. **

7. Lender name, telephone number, and email address.

** The purpose of gathering this information on loan principals is to provide SBA the data necessary for post-charge off activities conducted by SBA which may include; a) referral to DOJ Central Intake Facility (CIF) for litigation, b) referral to Treasury private collection agencies for continued collection activities, c) referral to Treasury for offset of any tax refund or other payments due the obligor, d) potential Federal salary/retirement offset, e) reporting deficiency balances to the IRS as income, f) reporting to Credit Bureaus, or, g) inclusion on the federal debarment register (CAIVRS).

To expedite handling, please include your name, telephone number, and email address and we would greatly prefer that you submit your Wrap-up reports in either of the following methods:

Email: SBAChargeoff@sba.gov

Fax: 202-292-3789 or 202-481-4674

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