



Office of Inspector General

December 2013



Business Loans

California Man Indicted

On December 5, 2013, a California man was indicted for making false statements in connection with loan and credit applications. He had been the owner of a now defunct computer business. The man allegedly made false statements and submitted false documents to obtain two SBA Express loans totaling \$400,000 from two different banks. He also allegedly committed fraud to obtain a \$150,000 line of credit and a \$100,000 term loan from a third bank. The investigation revealed that the man used one Social Security number to apply for SBA loans, bank credit cards, and other financial assistance. However, prior to applying for the SBA loans, he had filed bankruptcy using another Social Security number. He also allegedly failed to respond truthfully on his SBA loan applications about his criminal history. The investigation also uncovered evidence of misuse of an Internal Revenue Stamp, bankruptcy fraud, and Social Security fraud. He is currently employed by the federal government and has relocated to Minnesota. This investigation is a joint investigation with the Treasury Inspector General for Tax Administration and the Federal Bureau of Investigation (FBI).

Former Wisconsin Bank President Sentenced

On December 9, 2013, a former bank president in Wisconsin was sentenced to 30 days incarceration, and three years of supervised release. He had previously pled guilty and was convicted of bank fraud. The investigation found that, in late 2010, the president learned that a commercial customer and its principals had reached their maximum borrowing

limits. The bank chairman ordered him not to approve any further loans for them. However, to provide additional funds to this commercial customer, the president began to manipulate financial transactions at the bank. He withdrew funds from accounts held by other commercial customers without their knowledge or consent, and deposited the funds into accounts for the benefit of the aforementioned commercial customer. One of the accounts from which the president made unauthorized withdrawals contained SBA loan funds. Moreover, he made notations falsely indicating that the customers who owned the affected accounts had authorized the transactions. This is a joint investigation with the FBI and the Federal Deposit Insurance Corporation OIG.

Government Contracting

Man Pleads Guilty and Forfeits Nearly \$1,065,104

On December 2, 2013, a former employee of a Virginia-based government contractor that claimed status as a Service-Disabled Veteran-Owned Small Business (SDVOSB) pled guilty to conspiracy and will forfeit nearly \$1,065,104. The legal actions resulted from an investigation into allegations that the man conspired with other SDVOSBs to obtain, fraudulently, federal government contracts. Specifically, he and employees of other SDVOSBs' conspired to submit what appeared to be competing bids for government contracts when they knew the bids were not competitive. The man and the other firms' employees would identify prospective government contracts and prepare bids for one another using each

other's bid templates. He would then direct other SDVOSB employees to submit the completed bids to the government as their own, with all employees knowing that these bids were not truly competitive. This practice restricted legitimate competition by creating the false impression that the government had already received multiple competing bids.

In addition, the man worked with co-conspirators—within the government—to gain access to internal government documents, such as Internal Government Cost Estimates, before bidding on contracts. With others, he also drafted portions of internal government procurement documents and agreed to pay co-conspirators for competitive advantage on contracts totaling approximately \$33 million dollars. He received at least \$1,065,104 from his participation in the conspiracy. This is a joint investigation with the Department of Homeland Security (DHS) OIG, the Department of Veterans Affairs OIG, the General Services Administration OIG, and the Department of Justice (DOJ).

Texas Man Pleads Guilty to Wire Fraud

On December 2, 2013, a Texas man pled guilty to wire fraud after having been previously indicted for wire fraud and aggravated identity theft. This case was based on a referral from the U.S. Government Accountability Office (GAO). According to the referral, the GAO FraudNET received an anonymous letter alleging that the man's firm was falsifying documents to establish its status as an SDVOSB and as an architectural and engineering firm. The firm reportedly falsified its engineers' credentials, their office locations, the number of employ-

ees, and past projects. The investigation determined that the man did not have a Department of Veterans Affairs (VA) disability rating or service-connected disability. Thus, his firm was not a legitimate SDVOSB. The firm submitted a Standard Form (SF) 330, "Architect-Engineer Qualifications," to the VA Contracting Office in Texas, which included "example projects which best illustrate proposed team's qualifications for this contract" that the firm did not actually work on. Moreover, at least three of the company's "key personnel" shown in the SF 330 documentation had never worked with or even heard of the man or his firm. The VA Contracting Office awarded the firm an SDVOSB set-aside contract and 10 related task orders worth a cumulative value of \$1,587,952. This is a joint investigation with VA OIG.

Two Firms and Four Individuals Suspended Pending Full Debarment Review

On December 2, 2013, the SBA suspended two companies and four individuals from future contracting with any executive branch agency of the U.S. Government. The suspension was based on evidence showing that the owners and officers of both firms colluded to misrepresent the status of one of the firms when bidding on procurements set aside for SDVOSBs. Moreover, the same firm and its owners and officers made false and misleading statements to the

SBA in response to an SDVOSB status protest determination and a Certificate of Competency review. The suspension is valid pending a full debarment review by the SBA. This is a joint investigation DHS OIG and the DOJ.

Department of Justice Files Qui Tam Suit Against Ohio-Based Construction Firm

On December 5, 2013, the Department of Justice filed a complaint against an Ohio-based construction firm and its owner for allegedly making false statements to the SBA to obtain certification as a Historically Underutilized Business Zone (HUBZone) company. The firm allegedly used its fraudulent HUBZone certification to obtain four U.S. Army Corps of Engineers construction contracts worth millions of dollars that had been set aside for HUBZone companies. The owner allegedly applied to the HUBZone program in 2000 by claiming that his firm's principal office was located in a designated HUBZone when the firm actually was located in a non-HUBZone. Moreover, he consistently used his non-HUBZone address in conducting his firm's other business affairs, even stating under oath in private litigation that the firm's office was located in a non-HUBZone. In 2006, the owner allegedly applied for re-certification to the HUBZone program, again falsely stating that eight employees worked in the designated HUBZone. The government alleged that just six weeks after the owner re-

certified its eligibility with the SBA, the firm completed an affidavit in an unrelated matter stating that its principal office was located in a non-HUBZone. The government filed its complaint in two consolidated lawsuits filed under the qui tam, or whistleblower, provisions of the False Claims Act. Under the Act, a private citizen can sue on behalf of the government and share in any recovery. This is a joint matter with the DOJ's Civil Division, SBA's Office of General Counsel, and the Defense Criminal Investigative Service (DCIS).

Civil Complaint Filed Against a Prime Contractor and Others for Fraud

On December 6, 2013, the U.S. Attorney's Office filed a civil complaint alleging that a prime contractor and others, at a Department of Energy (DOE) site in Richmond, Washington, falsely claimed credit for awarding federal contracts to small businesses. The prime contractor is required to award a percentage of subcontracts to small businesses, with the failure to do so possibly resulting in DOE withholding millions of dollars. The prime contractor allegedly claimed small businesses would perform the work, but those companies were actually pass-through firms for a large subcontractor that actually completed the work. Specifically, the prime contractor allegedly represented to the DOE that it had awarded three multi-million dollar subcontracts to

Firms Suspended for Misrepresentation as Service-Disabled Veteran-Owned Small Businesses

two subcontractors (other than the large subcontractor), which it falsely claimed qualified as small businesses or Woman-Owned Small Businesses (WOSBs). Yet, the SBA had already determined one of the two firms was other than small and affiliated with the original large subcontractor. Despite this, the prime contractor continued to award subcontracts to this firm and claimed DOE small business subcontracting credit.

The prime contractor also awarded multi-million dollar contracts to the second pass-through subcontractor, a self-certified WOSB. This subcontractor's only employee was its owner, who admitted that the large subcontractor's employees performed the actual work. The complaint is seeking damages and civil penalties from the prime contractor, the large subcontractor, the second pass-through firm—and its owner—for their roles in the alleged fraud. This is a joint investigation with the DOE OIG.

Five Firms and Two Presidents Agree to \$1,175,000 Civil Settlement

On December 17, 2013, five companies and the presidents of two of the companies agreed to a \$1,175,000 civil settlement. Additional civil recoveries may occur contingent on the sale of one president's personal residence and the receipt of any funds from his firm's accounts receivables. In early 2011, the Naval Facilities En-

gineering Command Mid-Atlantic in Norfolk, Virginia, issued a "Solicitation, Offer and Award" for a series of construction projects at Camp Lejeune, including work at Courthouse Bay. The Courthouse Bay contract was awarded to a large general contractor in August 2011. The value of the Courthouse Bay contract was over \$67 million. One of the five companies submitted a \$9.4 million bid to do masonry work as a subcontractor. An employee of the general contractor subsequently told the president of the prospective subcontractor that his firm would receive the subcontract if it used a minority-owned company. The president agreed to use an affiliated company that he controlled as a front to receive the subcontract. All of the work on the subcontract was subsequently passed through the front company to the subcontractor. This is a joint investigation with the Naval Criminal Investigative Service and the DCIS.

Disaster

Arkansas Businessman Indicted on Fraud

On December 3, 2013, the president and owner of an Arkansas bottled water firm was indicted in connection with a scheme to fraudulently obtain a \$703,300 SBA disaster assistance loan. Specifically, he was indicted for making false statements, wire fraud, money laundering, and

making false and fraudulent claims. The eleven-count indictment alleges that he made false statements and representations concerning his financial condition and the location of integral business equipment when the tornado struck Arkansas in 2008.

The investigation found that the company's equipment was not present at certain locations and was not subsequently scrapped, as the president had claimed. He also portrayed a successful and profitable global business operation and a positive cash flow when it was actually negative. The president further inflated his 2008 income by reporting a bogus contract with a major U.S. retailer, and inflated income projections. He concealed over \$4.5 million in business debt at three financial institutions. These false representations and claims induced the SBA to approve the disaster loan to his firm. The investigation showed that significant portions of loan proceeds were used for purposes unrelated to the bottled water company and were transferred to other businesses under the president's control. Moreover, the indictment specifies three large currency transfers in March and April 2009 as illegal money laundering transactions. This is an ongoing joint investigation with the Internal Revenue Service, Criminal Investigations Division.

Five Firms and Two Presidents Agree to \$1,175,000 Civil Settlement

Agency Management

Audit Report 14-04

On December 16, 2013, the OIG issued [Audit Report 14-04](#), *Independent Auditors' Report on the SBA's FY 2013 Financial Statements*. The OIG contracted with an independent public accounting firm to audit the SBA's (SBA) consolidated financial statements as of September 30, 2013, and 2012, and for the years then ended.

The auditor's report includes an opinion on SBA's financial statements, internal control over financial reporting, and compliance and other matters that have a direct and material effect on the financial statements. The auditor issued an unmodified opinion on SBA's fiscal year 2013 consolidated financial statements. In summary, the auditor found that:

- The financial statements were fairly presented, in all material aspects, in conformity with U.S. generally accepted accounting principles.
- There were no material weaknesses in internal control.
- There is a significant deficiency related to SBA's information technology security controls, which is a repeat condition.

There is one instance of noncompliance with laws and regulations related to the Debt Collection Improvement Act of 1996, which is also a repeat condition.

Audit Report 14-05

On December 17, 2013, the OIG issued [Audit Report 14-05](#), *Independent Auditors' Report on the SBA's FY 2013 Special-Purpose Financial Statements*. In accordance with the Office of Management and Budget Circular No. A-136, *Financial Reporting Requirements* and the *Treasury Financial Manual*, Part 2, Chapter 4700 (TFM 2-4700), the independent auditor issued its report on the Small Business Administration's (SBA) reclassified balance sheet as of September 2013 and 2012, and the reclassified statements of net costs and changes in net position and Federal trading partner note for the year then ended.

The auditor found that the statements, including the Federal trading partner note, presented fairly in all material respects, the financial position of the SBA as of September 30, 2013, and 2012. Also, the results of operations and the changes in net position for the period then ended were in accordance with U.S. generally accepted accounting principles, and the presentation was in conformance with the requirements of TFM 2-4700.

Audit Report 14-06

On December 20, 2013, the OIG issued [Audit Report 14-06](#), *Two Economic Injury Disaster Loans Defaulted after the SBA Made Approval Decisions Totaling \$1.4 Million without Mitigating the Reasons for Prior Denials*. This report is the first of two reports resulting from the OIG's ongoing audit of the Economic Injury Disaster Loan (EIDL) Program. The overall audit objective was to determine whether the SBA had sufficient controls to ensure working capital loans under the EIDL Program were approved to eligible borrowers for the correct amount. During the audit, the auditors identified three large defaulted EIDLs that involved inquiries by elected officials and loan reconsiderations. As a result, the OIG reviewed these loans to determine if SBA Processing and Disbursement Center (PDC) staff adequately addressed or mitigated prior loan denial factors when it approved the loans. This report addresses SBA's approval decisions on two of the large defaulted EIDLs.

The OIG determined that the PDC made two EIDL approval decisions that, in effect, reversed previous denial decisions. Further, the OIG found that the PDC did not adequately address or mitigate the prior denial factors or obtain supporting documentation to overcome deficiencies. The decisions involved a \$736,300 working capital disaster loan and a \$671,900 loan increase to separate businesses, totaling approximately \$1.4 million. One of the businesses appeared to be ineligible for working capital disaster funds because it lacked repayment ability and the applicant intended to use the funds to relocate the business, not for working capital. The other business also appeared to be ineligible for a loan increase because it had already recovered from the losses it incurred due to the disaster.

**Office of Inspector General
Peggy E. Gustafson
Inspector General**

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SBA Office of Inspector General
409 Third Street SW, 7th Floor
Washington, DC 20416
E-mail: oig@sba.gov

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