EVALUATION REPORT

SBA'S FY 2016 AND FY 2017 CASH CONTRIBUTIONS AND GIFTS

November 20, 2017 Report No. 18-05

EXECUTIVE SUMMARY

SBA's FY 2016 AND FY 2017 CASH CONTRIBUTIONS AND GIFTS

Report No. 18-05

November 20, 2017

What OIG Reviewed

This report presents the results of our evaluation of the Small Business Administration's (SBA's) cash contributions and gifts. The Consolidated Appropriations Acts of 2016 and 2017 (the Acts) granted SBA the authority to accept gifts and to cosponsor activities. The Administrator may solicit and accept gifts on behalf of SBA after proper approvals, including a conflict of interest determination by SBA's Office of General Counsel. The Administrator may provide assistance for the benefit of small business through Agency-sponsored activities, through cosponsored activities with any eligible entity, or through such other activities that the Administrator determines to be appropriate, including recognition events.

The objective of our review was to determine the adequacy of SBA controls over the solicitation, acceptance, holding, and utilization of cash contributions and gifts. To accomplish our objective, we inquired of key SBA employees and reviewed various management and financial records available for FYs 2016 and 2017. We also reviewed applicable laws, regulations, policies, and procedures, and SBA documents such as internal correspondence, financial management system reports, accounting records, and various other documents.

What OIG Found

Our evaluation found that SBA complied with the Acts when holding cash by depositing $105,236.99 to the Business Assistance Trust Fund and making it available to program offices for expenditure. However, SBA could improve its controls over the processes for soliciting and accepting cash contributions, and for utilizing gift funds. Specifically, we noted exceptions regarding the vetting of cosponsors and performing the conflict of interest determinations, complying with SBA and Federal guidance when utilizing gift funds, and tracking gift funds that were allotted to the program offices.

Recommendations

This report contains three recommendations to improve SBA's controls over the solicitation and acceptance of cash contributions and the utilization of gift funds.

Agency Response

SBA management agreed with the findings and recommendations of this report. The Agency plans to take action to address recommendations 1 and 2. Based on the Agency's response to recommendation 3, we consider recommendation 3 to be closed. For recommendation 1, SBA plans to issue an information notice to reinforce guidelines to ensure that cosponsors are properly vetted and determine whether a conflict of interest exists between SBA and those entities. For recommendation 2, SBA intends to issue an information notice to reinforce guidance regarding the tracking and utilization of the Business Assistance Trust Fund.

U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL
WASHINGTON, D.C. 20416

Final Report Transmittal
Report No. 18-05

DATE: November 20, 2017

TO: Linda E. McMahon
Administrator

FROM: Hannibal "Mike" Ware
Acting Inspector General

SUBJECT: *SBA's FY 2016 and FY 2017 Cash Contributions and Gifts*

This report contains the results of our evaluation of the Small Business Administration's (SBA's) fiscal years (FYs) 2016 and 2017 cash contribution and gifts. The objective of our review was to determine the adequacy of SBA controls over the solicitation, acceptance, holding, and utilization of cash contributions and gifts.

We previously furnished copies of the draft report and requested written comments on the recommendations. SBA management comments were considered in finalizing the report. The report contains three recommendations that SBA agreed to address. Based on SBA's response, recommendations 1 and 2 will remain open until the Office of Inspector General receives documentation demonstrating that these recommendations have been addressed. Please provide us within 90 days your progress in addressing these recommendations. We consider recommendation 3 to be closed.

Please contact Jeff Brindle at (202) 205-7490 or me at (202) 205-6586 if you would like to discuss this report or any related issues.

cc: Althea Coetzee, Deputy Administrator
Mary Anne Bradfield, Chief of Staff
Timothy Gribben, Chief Financial Officer and Associate Administrator for Performance Management
Patricia Gibson, Associate Administrator for the Office Communications and Public Liaison
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Introduction

The Consolidated Appropriations Acts of 2016 and 2017 (the Acts) give SBA the authority to accept gifts to carry out its mission.[1] SBA is required to follow specific Federal laws and regulations regarding gifts and donations. All gifts must be used in a manner consistent with the Acts and in a manner consistent with the original purpose of the gift. The Acts, along with SBA regulations in 13 CFR Part 106 govern SBA's gift authority. SBA standard operating procedure (SOP) 90 53, *Gifts to the Agency*, describes the legal authority, policy and procedure for soliciting, approving, accepting, and using cash and in-kind gifts to the Agency, including the procedures for administration of the Business Assistance Trust (BAT) Fund.[2] At the beginning of fiscal year (FY) 2017, the BAT Fund had a starting balance of $208,000, with $105,236.99 in deposits, and expenses of $5,452.85.[3]

Ultimately, several offices must cooperate to approve the solicitation or acceptance of a gift to the Agency. Specifically, the Acts and the CFR state the following:

1. Authorized SBA officials must sign written documentation for each gift solicitation and/or acceptance.

2. SBA's General Counsel or designee must determine whether there is a conflict of interest before soliciting and/or accepting any gift. If it is determined that there is a potential conflict of interest, that gift shall not be solicited or accepted.

3. All cash gifts donated to SBA under the authority cited in 13 CFR 106.500 must be deposited in an SBA trust account at the U.S. Department of the Treasury.[4]

The Acts further authorize SBA to provide assistance to small businesses through cosponsored activities with any eligible entity. Assistance generally includes training, education, or information sharing.

Objective

Our objective was to determine the adequacy of SBA controls over the solicitation, acceptance, holding, and utilization of cash contributions and gifts.

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[1] The Consolidated Appropriations Act of 2017 (P.L. 115-31, May 5, 2017) and The Consolidated Appropriations Act of 2016 (P.L. 114-113, December 18, 2015) grant SBA's Administrator the authority to solicit, accept, hold, administer, utilize, and dispose of gifts, devises, and bequests of cash, certain property, subsistence, and services.
[2] In lieu of cash, SBA and cosponsors may contribute products and services that may be used to provide logistical or administrative support to the cosponsored activity.
[3] We also tested $8,879.31 from FY 2016.
[4] SBA established the Business Assistance Trust Fund as a revolving trust for which all donated funds must be deposited.

Finding: SBA Could Improve Its Oversight for Cash Contributions and Gift Funds

Our evaluation found that SBA complied with the Acts when holding cash gift by depositing $105,236.99 to the BAT Fund and making it available to program offices for expenditure. However, SBA could improve its controls over the processes for soliciting and accepting cash contributions, and for utilizing gift funds. Specifically, we noted exceptions regarding the vetting of cosponsors and performing the conflict of interest determinations, complying with SBA and Federal guidance when utilizing gift funds, and tracking gift funds that were allotted to the program offices.[5] These deficiencies occurred because SBA officials did not fully gather information regarding potential cosponsors, were not diligent in their oversight and monitoring of gift fund activity, and did not adequately train program staff or ensure they were aware of their responsibilities for gift funds. As a result, the Agency did not always comply with the Acts, regulations, and SBA policies, and the Agency may be at risk of these gift funds not being used for authorized purposes.

SBA executed two cosponsorship agreements for activities held during National Small Business Week 2016.[6] The Headquarters Office of Communications and Public Liaison (OCPL) agreement included various activities in Atlanta, Denver, Oakland, Phoenix, and Washington, DC. The Portland District Office agreement was for the Oregon Small Business Week Awards Ceremony. Table 1 shows the SBA sponsoring office, total cash contributions, total expenses paid, funds remaining at the conclusion of the activity after expenses were paid, amount gifted to SBA for future Small Business Week activities and deposited in the BAT Fund, and amount refunded to certain cosponsors.

Table 1. Summary of National Small Business Week 2016 Cosponsored Activities

Sponsoring Office	Total Cash Contributions	Total Expenses Paid	Funds Remaining After Expenses Were Paid	Remaining Funds Gifted to Agency	Remaining Funds Refunded to Cosponsors
Headquarters OCPL	$435,000.00	$452,009.35	$-16,284.57	$0.00	$0.00
Portland District Office	$26,005.00	$23,744.16	$2,260.84	$1,291.93	$968.91

SBA Did Not Adequately Vet and Perform Conflict of Interest Determinations for Potential Cosponsors

SBA may enter into a cosponsorship agreement with any eligible entity with which such partnership would not create a conflict of interest with the Agency. A conflict of interest is a situation in which a person has a duty to more than one person or organization but cannot do justice to the actual or potentially adverse interests of both parties. This includes when an individual's personal interests or concerns are inconsistent with what is best for a customer or when a public official's personal interests are contrary to his/her loyalty to public business. An eligible entity must be a for-profit or not-for-profit entity, or a Federal, State, or local government

[5] Vetting refers to the process of gathering of information about a potential cosponsor in order for the general counsel or designee to make a conflict of interest determination.

[6] A cosponsorship agreement is an approved written document that has been duly executed by SBA and one or more cosponsors. The cosponsorship agreement contains the parties' respective rights, duties, and responsibilities regarding implementation of the cosponsored activity.

official or entity. An individual who is not a government official is not an eligible entity. Certain entities which would otherwise be eligible are rendered ineligible because of their relationship with SBA. For purposes of cosponsorship, there will always be a conflict of interest between the Agency and entities such as a current recipient of 8(a) or HUBZone program certification, or an entity in litigation with the Agency.

An originating office initiates the approval process by sending the draft cosponsorship agreement and signed SBA Form 1615, *Cosponsorship Approval Request Form*, to the Office of Strategic Alliances (OSA). OSA will review all the information it receives from the originating office, including the cosponsorship agreement, attachments, and SBA Form 1615. OSA also will perform a general review of the activity to make sure it is in the best interest of the Agency. All potential cosponsors must be vetted. OSA submits the vetting results and SBA Form 1615 to the Office of General Counsel (OGC), which evaluates the results of the vetting to determine that each potential cosponsor does not exhibit an actual or apparent conflict of interest with the Agency. OGC signs SBA Form 1615 to demonstrate a conflict of interest determination was performed. Once satisfied the required documentation is in order and OGC has determined no conflict of interest exists, OSA seeks approval from the Administrator or designee. Once the agreement is approved, all cosponsors sign the agreement.

Our evaluation found that OSA did not adequately vet two of the nine entities that cosponsored the Portland District Office's Small Business Week 2016 activity. The vetting results included information about the nine entities' prior cosponsorships with the Agency; however, the vetting results did not include relevant information for two of the cosponsors. Vetting results typically include information regarding a bank's active delegated authority status as a lender with SBA's 7(a) Guaranty Loan Program, the loan volume, the outstanding share balance of SBA loans, institutional background, the peer group rating, and enforcement actions, if any, over the past 2 years. The vetting results did not represent that OSA gathered or documented relevant information about two cosponsors. Specifically, we determined by contacting the Office of Capital Access that the two entities were nonprofit certified development corporations (CDCs) that participate in SBA's 504 Guaranty Loan Program. As indicated in Table 2 below, both entities have active status and are certified and regulated by SBA to work with participating lenders to provide financing to small businesses, which we consider relevant to merit a conflict of interest determination. A CDC also works directly with SBA to organize, package, process, and close the 504 loan. The vetting results did not identify these two entities as active CDCs, include entity background, or include the following information regarding the CDCs.

Table 2. CDCs that Cosponsored the Portland District Office's Activity

Name	City	State	Active Loans	Active Balance
Evergreen Business Capital	Seattle	WA	1,044	$525,702,990
Northwest Business Development Association	Spokane Valley	WA	666	$355,546,816

As a result of OSA not identifying these two entities as active CDCs, we believe the vetting results were incomplete, leading to an erroneous conflict of interest determination by OGC. We inquired of OSA officials and were told they perform research to determine certain information about an entity. OSA also indicated they rely on SBA program offices to provide information during the vetting process. It is necessary for OSA to provide an entities legal name to ensure program offices can perform a meaningful review. As an example, the potential cosponsors are vetted through 12 SBA program offices, which should review the list of potential cosponsors and discern whether they have an existing relationship with the Agency.

OSA forwarded the vetting results and cosponsorship agreement back to the originating office. The official in the originating office signed SBA Form 1615 and forwarded it, along with the cosponsorship agreement and vetting results, to OGC, which used these documents to determine whether an actual or apparent conflict of interest existed between those entities and the Agency. OGC subsequently signed the SBA Form 1615 to demonstrate that a conflict of interest determination was performed. Consequently, we believe that OSA did not provide OGC the required additional information or gather sufficient documentation to determine whether the two entities had a business relationship with the Agency that constituted a conflict of interest.

Based on the deficiencies noted above, it is our opinion that vulnerabilities remain in the process for gathering sufficient information to make a conflict of interest determination. Further, cash contributions totaling $6,000 were accepted from the two entities for which we believe an actual conflict of interest existed. While not a per se prohibited source at the time of our review, 3 months after the conclusion of the Portland office's activity, the Agency revised its SOP to add a provision that amongst other nonprofit entities, CDCs were a prohibited source for purposes of a cosponsorship. As such, we believe that because of the existing business relationship that these CDCs had with SBA, these entities had an actual conflict of interest at the time the cosponsorship agreement was executed. As demonstrated by the acceptance of the CDCs cash contributions, we concluded that OSA and OGC did not perform their due diligence for all cosponsors, which resulted in the Agency's noncompliance with the Acts, its regulations, and procedures.

Program Offices Did Not Always Follow Federal and SBA Guidance When Utilizing Gift Funds

During the scope of our review, SBA officials spent $14,332.16 of existing BAT Fund money to support certain Agency outreach activities, such as award and recognition ceremonies, light refreshments following an Administrator's Stakeholders' meeting, business cards for employees, a small business training conference, t-shirts for staff participating in the Administrator's 2016 Main Street Tours, and certain audiovisual equipment at small business events. The disbursement of funds from the BAT Fund shall be made pursuant to applicable Federal law and regulations, as well as pertinent SBA policy, and may be made using the Government purchase card if the purchase is for goods and is for $3,500 or less, or for services and is for $2,500 or less.

We found that purchase cardholders did not always comply with SBA and Federal policy when using the Government purchase card to utilize BAT Fund money. More specifically, SBA paid sales taxes when the Government should be exempt; cardholders and approving officials did not certify to the accuracy of the cardholder monthly bank statements, which should have been completed prior to 30 days when the card provider receives payment; and cardholders did not ensure that funds were timely obligated prior to the purchase. Some funds were obligated more than 30 days after the transaction date when they should have been obligated prior to purchase. We also question $564.21 that was reimbursed to an employee who purchased certain food items from restaurants and Walmart while on travel in Mexico. While our review of the receipts showed what was purchased, the lack of sufficient documentation enabled us to discern that the purpose of these items was to further the Agency's mission. SBA policies require cardholders to maintain adequate documentation of all purchase card transactions.

The noted deficiencies occurred because program managers were not diligent in their oversight and monitoring of purchase card activity. As such, there is a greater likelihood that cardholders may make inappropriate purchases, potentially resulting in an increased risk of fraud and misuse of SBA funds, as well as not utilizing gift funds in accordance with the donor's original intent.

SBA Program Offices Did Not Adequately Maintain Spreadsheets to Track Gift Funds

SBA program offices did not adequately maintain required spreadsheets to reconcile BAT Fund donations (e.g., gift funds) and expenditures. Unlike annual appropriations, BAT Fund monies do not expire and can be used in the year it is received, as well as in subsequent years. While these funds carry over from year to year, each office must make a request to Denver Finance Center to have the funds restored to its individual office BAT Fund account after the close of each fiscal year,. The Agency's budget office provides allotments of BAT Fund money to the program offices. SBA offices must have records sufficient to justify their carryover balances in order to receive the proper budgetary allotment at the beginning of the new fiscal year. To do so, SOP 90 53 requires the originating office to keep a cumulative log recording the amount of the gift, donor, intent of the donor, and the SBA official(s) approving and accepting the gift on behalf of the Agency. The originating office must also maintain a spreadsheet in Excel or similar application to track BAT Fund expenditures for each donation. The spreadsheet(s) provides a simple audit trail. The sum of the balances on all spreadsheets maintained by the originating office should match the balance in Oracle for a particular organization code and fund.

As previously discussed, BAT Fund money was utilized to support certain Agency outreach activities and for other instances. For six program offices that utilized those funds, we requested the spreadsheet they used to track those funds. Based on our review of responses, we found that program offices did not maintain spreadsheets; created a spreadsheet in response to our request that only addressed current year expenditures; did not track the recording of donations and the intent of donor to ensure that funds were used for those purposes, or did not reconcile to the BAT Fund balances the Office of the Chief Financial Officer (OCFO) provided to us. For example, an employee in an SBA district office inquired of their legal counsel whether BAT Fund money could be used to purchase food for a breakfast reception during Small Business Week 2016. The legal counsel stated that use of BAT Fund monies, to the extent possible, must track the original donor's intent for use. The legal counsel further said that for that office's BAT Fund account, it is impossible to track the sources and specific intent or other restrictions on most of the funds currently in the account. We noted that this office did not maintain a tracking spreadsheet that depicted the donations allotted to that office. An obligations availability report that we received from the OCFO shows that this office spent $2,388.65 during FY 2017, which exhausted their available balance. As of June 2017, the report showed an available balance of $362,520 that was allocated to 19 SBA organization codes. Some of these funds have carried over from prior fiscal years, so the risk of SBA not utilizing gift funds in accordance with the donors' original is increased as time goes on.

We concluded that SBA program offices were not adequately tracking gift funds because program staff was not properly trained or aware of the requirement to track the donor's intent of a gift to ensure the funds are used properly. Because SBA program offices did not track the donors' original intent for the use of their gifts, the Agency was not complying with its regulations and policies, and the Agency may be at risk of these funds not being used for authorized purposes.

Recommendations

We recommend the Assistant Administrator for Communications and Public Liaison:

1. Reinforce guidance to ensure that cosponsors are properly vetted and determine whether a conflict of interest exists with those entities and SBA.

2. Reinforce guidance to ensure that BAT Fund money is utilized and tracked in accordance with SOP 90 53, *Gifts to the Agency*.

We recommend the Chief Financial Officer:

3. Update the internal control checklist that is used for senior management's annual assertion of internal controls under the Federal Managers' Financial Integrity Act of 1982 to include a section for the receipt and utilization of BAT Fund monies.

Analysis of Agency Response

SBA management provided comments and substantially agreed with our recommendations.

Summary of Actions Needed to Close the Recommendations

The following provides the status of each recommendation and necessary actions to close the recommendations.

1. Resolved. By December 31, 2017, the Associate Administrator for the Office of Communications and Public Liaison will issue an information notice to reinforce the Agency's guidelines for vetting cosponsors.

2. Resolved. By December 31, 2017, the Associate Administrator for the Office of Communications and Public Liaison will issue an information notice to reinforce the Agency's guidelines for tracking and utilizing BAT Fund money.

3. Closed. The Chief Financial Officer has updated the Agency's internal control checklist that is used for senior management's annual assertion of internal controls under the Federal Managers' Financial Integrity Act of 1982 to include sections for the use of BAT Fund money and cosponsorships.

Appendix: Objective, Scope, and Methodology

Our objective was to determine the adequacy of SBA controls over the solicitation, acceptance, holding, and utilization of cash contributions and gifts. To accomplish our objective, we interviewed key SBA employees and reviewed various management and financial records available for FYs 2016 and 2017. We also reviewed public records, applicable laws, regulations, policies and procedures, and SBA documents such as internal correspondence, financial management system reports and accounting records.

Our scope included an assessment of activity for cash contributions and gifts during FY 2016 and the first 5 months of FY 2017. To identify these transactions, we obtained a download of BAT Fund activity from the OCFO's Denver Finance Center. The Excel file included two worksheets: collections totaling $105,236.99 and expenditures totaling $15,648.49. We filtered the data in the worksheets to identify transactions that occurred during FYs 2016 and 2017.

We tested the applicable transactions in each worksheet to assess whether SBA's controls were effective. Specifically, we verified whether the OSA and OGC cooperated to ultimately approve the acceptance cash contributions for two cosponsored activities. We further determined whether BAT Fund accounts were utilized in accordance with the Acts and SBA policy. We did not find any significant concerns with the effectiveness of controls regarding the areas we tested.

We conducted this evaluation in accordance with the Council of Inspectors General on Integrity and Efficiency quality standards for inspection and evaluation. Those standards require that we plan and perform the evaluation to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our objectives.

Use of Computer-Processed Data

We relied on data prepared by SBA program offices, as well as reports that were generated from the Joint Administrative and Accounting Management System (JAAMS). SBA identified the entities that contributed cash and gifts to the Agency. Additionally, we reviewed JAAMS-produced documentation during our evaluation. We believe the information is reliable for the purposes of this evaluation.

Review of Internal Controls

The Office of Management and Budget (OMB) Circular No. A-123 provides guidance to Federal managers on improving the accountability and effectiveness of Federal programs and operations by establishing, assessing, correcting, and reporting on internal controls.[7]

SBA's internal control systems' SOP 00 02 2 provides guidance on implementing and maintaining effective internal control systems, as required by OMB. SOP 90 53 describes the policy and procedure for soliciting, approving, accepting and using cash and in-kind gifts to the Agency, including the procedures for administration of the BAT Fund. According to OMB, effective internal control systems improve the accountability and effectiveness of Federal programs and operations by establishing, assessing, correcting, and reporting on internal controls.

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[7] M-16-17, OMB Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control* (July 15, 2016).

Prior Coverage

The Office of Inspector General has issued the following reports to enhance SBA controls over cash contribution and gifts.

Evaluation of SBA's 2015 and 2016 Cash Gifts, Report 16-21 (August 23, 2016).

Evaluation of SBA's 2014 and 2015 Cash Gifts, Report 15-08 (March 18, 2015).

Evaluation of SBA's 2013 and 2014 Cash Gifts, Report 14-17 (August 27, 2014).

Evaluation of SBA's 2012 Cash Gifts, Report 13-20 (September 30, 2013).

SBA Enterprise-wide Controls over Cosponsored Activities, Report 13-21 (September 30, 2013).

Review of the SBA's Fiscal Year 2011 Cash Gifts, Report 12-13 (March 30, 2012).