Office of Inspector General
U.S. Small Business Administration

March 2011 Update

Business Loan Programs

Korean National Pleads Guilty

On March 1, 2011, in U. S. District Court, District of New Jersey, a loan broker was charged via a criminal Information and pled guilty to one count of conspiracy to commit bank fraud. The subject was a member of an organized group of Korean nationals that had obtained credit cards and loans from various lending institutions using false identities, documents, and business names. The defendant obtained or brokered 28 loans from various financial institutions for fictitious businesses totaling approximately $1.5 million. Current losses on these loans are approximately $1.1 million. This is a joint investigation with the Internal Revenue Service, Criminal Investigations Division, and the Englewood New Jersey Police Department.

Missouri Man Pleads Guilty to False Statements

On March 3, 2011, a Missouri man pled guilty to a Superseding Information charging him with one count of making false statements for the purpose of influencing the SBA and one count of aiding and abetting in the Western District of Missouri. According to the Superseding Information, two individuals established a corporation in another person's name and recruited this person to obtain a $175,070 loan. The two individuals paid the subject $7,500 for obtaining the loan and used the remainder of the loan proceeds for personal expenses and to pay the outstanding debt of a third party. This is a joint investigation with the Federal Bureau of Investigation (FBI).

Real Estate Agent Sentenced

On March 31, 2011, a former real estate agent was sentenced in the Western District of Missouri to 5 years probation and a $100 special assessment fee. The subject had previously pled guilty to one count of making false statements for the purpose of influencing the SBA. The investigation revealed that the subject was approached by an individual associated with a consulting firm and asked to provide his financial information to the individual in order to obtain a $125,085 loan. The loan was obtained and the proceeds were used to personally benefit the subject and to make payments on the SBA-guaranteed loans of other individuals and business entities. This was a joint investigation with the FBI.

Review of America's Recovery Capital Loans

On March 2, 2011**,** the OIG issued a report on the results of an audit of America's Recovery Capital (ARC) loans disbursed pursuant to the American Recovery and Reinvestment Act of 2009 (Recovery Act). A review of a sample of 120 of 4,559 ARC loans approved between June 1, 2009 and January 31,2010, with gross loan approvals totaling approximately $148 million and at least one disbursement as of January 31,2010, identified material origination and closing deficiencies in 56 of the loans reviewed, resulting in inappropriate loan approvals of approximately $1.8 million. The OIG found that documentation in the loan files was inadequate to ensure borrowers: (1) were viable small businesses, (2) used ARC loan proceeds for existing qualifying small business loans, and/or (3) experienced financial hardship. As of December 22, 2010, the identified deficiencies posed a $1.6 million risk of loss to the SBA, calculated as SBA's share of the outstanding loan balance or the deficiency amount, whichever was less.

Projecting the audit results to the universe of 4,559 loans, the OIG estimated that 2,228 ARC loans made between June 1, 2009 and January 31, 2010, with at least one disbursement as of January 31, 2010, were not originated and closed in compliance with SBA's policies and procedures, resulting in approximately $66.5 million in inappropriate loan approvals.

In order to address the loan deficiencies, the OIG recommended that SBA flag all 56 loans to ensure the deficiencies are properly addressed should the loans default and be submitted for purchase. We also recommended that SBA notify the OIG of any denials, repairs, withdrawals, or cancellations of SBA's guaranties made as a result of the deficiencies identified during purchase review. Further, we recommended that SBA notify the loan servicing center responsible for purchasing defaulted ARC loans of the high number of deficiencies identified and require the center to carefully review all ARC loans for compliance with SBA's requirements during its purchase review.

To prevent the occurrence of similar deficiencies in other SBA-approved loans, we recommended that SBA provide feedback to the SBA loan officers who approved the ARC loans in which deficiencies were identified. Lastly, to ensure the proper estimation of improper payments in the ARC loan program, we recommended that SBA notify the improper payment review team of the high rate of improper ARC loan guaranties identified during this audit.

Disaster Loans

Settlement Reached in NY Civil Complaint
On March 2, 2011, a husband and wife entered into a Stipulation and Order of Settlement and Dismissal in the amount of $90,000 to settle charges filed against them in a Civil Complaint in U.S. District Court for the Southern District of New York. The settlement relates to a $198,000 SBA 9/11 Disaster Loan made to a now defunct New York City company owned by the husband. The charges against the couple related to the misuse of and false statements regarding the loan proceeds. The investigation revealed that $102,000 was transferred from their business bank account into their personal bank account and used for non-business related expenses. The couple has already paid $140,000 as part of a settlement with the SBA during loan liquidation proceedings.

Louisiana man sentenced
On March 3, 2011, in the Eastern District of Louisiana, a disaster loan recipient was sentenced to serve 78 months in prison; 3 years supervised release, and ordered to pay $245,197.17 in restitution and a special assessment fee of $600. The subject had falsified the address of his primary residence during Hurricane Katrina when applying for an SBA disaster loan in the amount of $110,900 and a grant from the Louisiana Road Home Program (LRHP) in the amount of $150,000. The subject received both the SBA loan and the LRHP grant. The sentencing also incorporates penalties for additional charges filed against the subject for unrelated offenses. This was a joint investigation with the FBI and the Housing and Urban Development Office of Inspector General.

Disaster Loan Recipient Sentenced
On March 25, 2011, in U.S. District Court, Southern District of Texas, a Texas woman was sentenced to 5 years probation, $79,478.58 in restitution, and a special assessment fee of $100. She previously pled guilty to knowingly making a material false claim against and upon the SBA for a disaster home loan. The investigation determined that the subject provided false residential, identification, and employment information, as well as fraudulent supporting documentation when applying for disaster related assistance with the SBA, the Federal Emergency Management Agency (FEMA), and the U.S. Department of Labor. As a result of these applications, the subject received nearly $80,000 in disaster-related assistance, including a $40,000 SBA loan. This was a joint investigation with the Department of Homeland Security (DHS) OIG and the Department of Labor OIG.

Government Contracting & Business Development

Effectiveness of the Small Business Administration's Surveillance Review Process
On March 31, 2011, the OIG issued a report on the results of a review of the effectiveness of SBA's Surveillance Review Process. The OIG found that the surveillance reviews conducted by the SBA in FY 2009 did not adequately assess the small business programs of contracting activities. The Agency did not use a systematic and analytical process for establishing review priorities to ensure reasonable coverage of the 3,285 contracting activities. In some cases, the rationale for selecting activities was unrelated to the factors outlined in the SOP and candidates that should have been considered were not recommended because of the limits placed on the number of contracting activities that each area office could recommend for review. Also, in selecting activities for review, the SBA did not consider information in anomaly reports, which are produced to identify discrepancies in small business reporting to FPDS. Lastly, although a major purpose of the surveillance reviews is to monitor 8(a) delegated contract execution authority, little consideration was given to 8(a) activity in selecting procurement centers. The 30 surveillance reviews conducted in FY 2009 were also superficial, limited in scope, poorly documented, and untimely, and thus were inadequate for making determinations about the effectiveness of the contracting activities' small business programs or their compliance with small business rules.

The teams conducting the surveillance reviews also did not consistently or sufficiently gather information needed to conduct their assessments and generally did not evaluate the extent to which small businesses complied with the FAR performance of work requirements. Consequently, teams may have missed deficiencies. Teams also did not assess known problem areas and poorly documented their reviews, leaving it unclear how reported deficiencies were identified. Adequate assessments were not made because management did not give priority or dedicate sufficient resources to conduct more than a minimal number of reviews, and review teams were given wide discretion in determining the scope and content of reviews. As a result, the reviews were not effective as a monitoring tool for determining whether contracting activities complied with small business and 8(a) requirements.

Finally, the SBA did not follow-up on prior recommendations to ensure that deficiencies identified by surveillance review teams were corrected in a timely manner. According to the SBA, a lack of staff resources and competing priorities prevented the agency from doing so.

Based on the collaborative efforts of the OIG and agency management, the SBA took steps to address some of the issues identified in the audit. To further assist the Agency in improving the quality of its surveillance review process, the OIG made 12 recommendations in the report.

Agency Management

Quality of SBA's Recovery Act Data on Public Websites
On March 22, 2011, the OIG issued a report on the results of a review of the effectiveness of the SBA's internal controls to ensure the quality of federal spending information made available to the public. The OIG found that while Recovery Act contract award obligations, Microloans, and Microloan technical assistance grants were reported to Recovery.gov in a relatively accurate manner, the same information was materially underreported to USASpending.gov. Also, information reported by recipients of SBA's Recovery Act funds contained erroneous and/or inaccurate information and did not include sub-recipient information. Lastly, SBA's Division of Procurement and Grants Management (DPGM) officials did not provide adequate oversight of the contractor it hired to perform their data quality reviews.

The deficiencies occurred because the SBA did not have sufficient internal control processes to provide reasonable assurance that reported information was correct. As a result, Recovery Act information was misleading and the SBA was not compliant with (1) provisions of the Federal Funding Accountability and Transparency Act of 2006 and (2) OMB guidance regarding the quality and completeness of information reported on the use of Recovery Act funds.

Review of SBA Controls Over Cash Gifts
On March 18, 2011, the OIG issued a report on the results of a review of SBA controls over cash gifts. This review was conducted in accordance with Section 4(g)(2) of the Small Business Act, which provides that any gift, devise, or bequest of cash accepted by the SBA Administrator be held in a separate account and subject to semi-annual audits by the Inspector General, who shall report the results to Congress.

The audit found that the SBA followed established procedures for soliciting, accepting, holding and utilizing 16 cash gifts totaling $23,050. The SBA substantially complied with the procedures stipulating that donors be properly vetted to assure that no conflict of interest exists. The SBA also deposited cash donations and made the funds available to the Office of Advocacy for expenditure. Lastly, the SBA expended Business Assistance Trust (BAT) Funds for authorized purposes in accordance with the Small Business Act and SBA guidelines.

This update is produced by the SBA OIG,
Peggy E. Gustafson, Inspector General.

The OIG has established an e-mail address, oig@sba.gov that we encourage the public to use to communicate with our office. We welcome your comments concerning this update or other OIG publications. To obtain copies of these documents please contact:

SBA OIG
409 Third Street SW., 7th Floor
Washington, DC 20416
E-mail: oig@sba.gov
Telephone number (202) 205-6586
FAX number (202) 205-7382

Many OIG reports can be found on the OIG's website

http://www.sba.gov/office-of-inspector-general

If you are aware of suspected waste, fraud, or abuse in any SBA program, please report it online at:

http://www.sba.gov/office-of-inspector-general/2662

Or call the OIG Hotline toll-free at (800) 767-0385