



Office of Inspector General U.S. Small Business Administration

June 2003 Update

Business Loan Programs

Iowa Man Charged in an Information. A former banking associate in Davenport, Iowa, was charged in an Information on May 30, 2003, with one count of **making false statements to SBA**. According to the Information, in an effort to cause SBA to pay the SBA-guarantee on a defaulted loan, the defendant fabricated and submitted a letter to SBA purportedly written by an SBA official falsely indicated that an SBA LowDoc loan had been properly approved, when, in fact, it had not met SBA requirements. This investigation was initiated based on a referral from the Cedar Rapids, Iowa, District Office.

Missouri Man Arrested After Failing to Appear in U.S. District Court. A Missouri man was **arrested** in Sedona, Arizona, by U.S. Marshals on May 10, 2003, as a fugitive. He was later charged in a separate indictment on June 4, 2003, for **failure to appear** in U.S. District Court, Western District of Missouri, on previously reported **false claim** and **money laundering** charges involving an SBA-guaranteed loan. The U.S. Marshals led the fugitive investigation and were responsible for his arrest. OIG assisted in the location of the defendant, along with Internal Revenue Service/CI, State, and local authorities.

Maryland Restaurant President and Secretary Plead Guilty to Bank Fraud and Bankruptcy Fraud. The president and secretary (also husband and wife) of a now-closed restaurant in Baltimore, Maryland, pled guilty on June 23, 2003, to one count of **bank fraud** and one count of **bankruptcy fraud** respectively. In 1997, when the president applied for a \$440,000 SBA-guaranteed loan, he completed an SBA form on which he falsely stated he had never been involved in bankruptcy proceedings, when, in fact, he had. During

the investigation, it was also revealed that the couple concealed various assets and properties in the course of a bankruptcy filed in 1999. This investigation was based upon a request from FBI.

Four Texas Convenience Store Owners/Presidents Indicted or Plead Guilty to Making False Statements or Falsely Claiming U.S. Citizenship.

The president of a convenience store and service station in Fort Worth, Texas, pled guilty on June 11, 2003, to one count of **false statement to the SBA**. The Information alleged that the defendant induced a bank and SBA to fund a \$435,000 SBA-guaranteed loan by falsely representing himself as a U.S. citizen on his SBA Form 912. OIG conducted this investigation with the Department of Treasury's OIG for Tax Administration (TIGTA), Department of Homeland Security (DHS), Social Security Administration (SSA), Department of Agriculture (USDA), and the Texas Alcoholic Beverage Commission (ABC).

The owner of a convenience store and service station in Grand Prairie, Texas, pled guilty on June 11, 2003, to one count of **false statement to the SBA**. The Information alleged that he induced a non-bank participating lender and SBA to fund a \$675,000 SBA-guaranteed loan by falsely representing himself as a U.S. citizen on his SBA Form 912. OIG conducted this investigation with TIGTA, DHS, SSA, USDA, and the Texas ABC.

The president of a convenience store and service station in Fort Worth, Texas, was indicted on June 18, 2003, on one count of **false claim of U.S. citizenship**. He was indicted for inducing a bank and SBA to fund a \$1.1 million SBA-guaranteed loan by falsely representing that he is a U.S. citizen on his SBA Form 912. OIG conducted this investigation with TIGTA, DHS, SSA,

USDA, Texas Department of Public Safety (DPS), and the Texas ABC.

The president of a Palestine, Texas, convenience store and service station was indicted on June 18, 2003, on one count of **false claim of U.S. citizenship**. He was indicted for inducing a bank and SBA to fund a \$1.2 million SBA-guaranteed loan by falsely representing that he is a U.S. citizen on his SBA Form 912. OIG conducted this investigation with TIGTA, DHS, SSA, USDA, Texas DPS, and the Texas ABC.

Iowa Banking Associate Pleads Guilty to Making False Statements. A former business banking associate for a Davenport, Iowa, bank pled guilty on June 24, 2003, to **making false statements to SBA**. In his plea agreement, he admitted he made a false statement to SBA to secure a guarantee payment on a bank customer's loan. To cause SBA to pay the guarantee on the defaulted loan, he fabricated and submitted to SBA a letter that was made to appear that it was written by an SBA official and falsely indicated that the loan had been properly approved. This investigation was initiated based on a referral from the Iowa District Office.

OIG Issues Two Audit Reports on Section 7(a) Guaranteed Loans. The objective of both audits was to determine whether the early default of the loans were caused by lender or borrower noncompliance with SBA requirements. The loans were judgmentally selected for review as part of OIG's ongoing program to audit SBA-guaranteed loans charged-off or transferred to liquidation status early.

On June 19, 2003, OIG issued the first audit report concerning a \$1.1 million SBA-guaranteed loan to a manufacturer of plastic cards that defaulted and was transferred to liquidation status within 12 months of approval. OIG determined that the lender contributed to the early loan default by granting a loan to a borrower who lacked both credit worthiness and repayment ability. OIG's review disclosed that the borrower and its affiliates had a history of lawsuits and liens, outstanding past-due Federal and State taxes, outstanding past-due sales and personal property taxes, and a poor payment history with its creditors. OIG's analysis of the borrower's financial statements indicated insufficient cash flow to service the proposed debt. OIG recommended that the District Director take action to seek recovery of \$630,224 plus interest

from the lender. The District Director agreed with the recommendation.

On June 24, 2003, OIG issued the second audit report concerning a \$295,000 SBA-guaranteed loan that was transferred to liquidation status within 7 months of approval. OIG determined that the lender failed to identify false financial information submitted by the borrower, incorrectly computed the borrower's repayment ability, and did not obtain documentation supporting the required equity injection. The lender's use of the false information coupled with loan repayment miscalculations caused SBA to make an erroneous payment of \$225,324 to honor the guarantee. The matter on the borrower's principal was referred to the OIG Investigations Division for consideration of criminal or civil prosecution because of the submission of false financial information in support of the loan application.

Disaster Loan Program

Guam Man Sentenced for Making Material False Statements. A San Vitores Condos, Tumon, Guam, businessman was sentenced on June 4, 2003, to 1 year probation and assessed a \$5,000 fine after pleading guilty to one count of **making material false statements**. He was originally indicted on four counts of the charge, but accepted a plea agreement in which he agreed to plead guilty to one of the counts. He, on behalf of his company, submitted as part of his disaster business loan package a series of invoices for work that he claimed was done after Super Typhoon Paka. The investigation revealed that the invoices submitted were false or altered and that he submitted them to SBA with the intention of inducing SBA to loan him proceeds in excess of \$200,000. This investigation was initiated based on a referral from the Guam Branch Office and was conducted with FBI.

North Carolina Music Company President Sentenced for Money Laundering. The president of a Carolina Beach, North Carolina, music company was sentenced on June 18, 2003, to 10 months confinement, 2 years probation, and a \$5,000 fine for pleading guilty to **money laundering**. The music company received a sentence of \$750,000 in asset forfeitures for its plea of guilty to count two of the second superceding indictment for money laundering. The president's son was also sentenced on June 18, 2003, to 2 years probation and

120 hours community service for pleading guilty to an Information for **money laundering**. The president, former North Carolina Transportation Secretary, acting as attorney in fact for his father, obtained two disaster loans totaling \$617,200 for damages associated with Hurricanes Bonnie and Floyd. OIG's investigation disclosed that the music company was operating an illegal gambling business that would have made them ineligible for the disaster loans. In addition, the president claimed disaster damage for machinery and equipment that was not damaged by the storms. Further investigation disclosed that loan proceeds were used to pay off pre-disaster debt which violated the loan and authorization agreements. All loan proceeds were mailed or electronically transferred to the account of the president's father. On December 21, 2001, the son pled guilty to a one count Information for **money laundering** and agreed to testify against his father and grandfather in lieu of an indictment on SBA charges. Although the president's father was actively involved in the music company he was not indicted due to an onset of Alzheimer's disease. The remaining 275 counts of the indictment against the president and the company were dismissed pursuant to the plea agreement. This investigation was initiated based on a request by FBI and the U.S. Attorney's Office.

Government Contracting and Business Development Programs

Pennsylvania Construction Company President Indicted on Numerous Charges. The president of a defunct Hunting Valley, Pennsylvania, construction company was indicted on June 19, 2003, in a superseding indictment, on one count of **making a material false statement**, two counts of **mail fraud**, five counts of **wire fraud**, one count of **making a false statement to a Federally-insured financial institution**, and four counts of **money laundering**. The money laundering charges related to his transferring \$495,000 from his construction business account ultimately to his personal offshore account in the Bahamas to hide his money from creditors. He did this while he was closing the construction business and abandoning its contracts and subcontractors. He was previously indicted for **mail fraud** and **wire fraud** charges that involved his construction company's bonding company and customers, including the Department of Veterans Affairs (VA). He was also

indicted for making a **false statement to SBA**. The false statement count related to him representing in his SBA Section 8(a) Annual Update Form and attachments that he had relocated to Pennsylvania along with his SBA Section 8(a) certified business and that he controlled the day-to-day operations of the company. The indictment charges that he never relocated to Pennsylvania from Michigan and that he had another man, who was previously charged in an Information, run the daily affairs of the business. This other man was not eligible to participate in the Section 8(a) program because he had already graduated from the program and could not be considered disadvantaged. The other man's identity and role were never made known to SBA or the bonding company. The other man and the defendant obtained bonding for the construction company. The wire fraud charges and one count of mail fraud related to the defendant and the other man creating false financial statements for the construction company that they submitted to the bonding company to obtain the bonding necessary for the company's bids and contracts. As a result of defaults on contracts, the bonding company incurred losses of almost \$6 million. The other mail fraud count charged the defendant with falsely certifying to the VA that he was paying and intended to pay his subcontractors on a timely basis from proceeds he received on a window replacement contract at the VA Medical Center in Coatsville, Pennsylvania. The June 19, 2003, superseding indictment also charged that he submitted several sets of false financial statements to a bank to support a \$300,000 line of credit that the construction company had obtained. This investigation was based upon a request from Naval Criminal Investigative Service (NCIS). OIG conducted the investigation jointly with NCIS, VA/OIG, and the Defense Criminal Investigative Service.

Missouri Contract Company President Executes Settlement Agreement. The president of a Section 8(a) contracting company in Poplar Bluff, Missouri, executed an **Administrative Settlement Agreement (ASA)** with the Department of the Army effective June 17, 2003. Under the terms of this 3-year ASA, he and company agreed to institute a Contractor Responsibility Program, retain an Ombudsman, and pay the Government \$20,000 as partial compensation for related administration and investigative costs. He and the company were previously sentenced in a related criminal case, after pleading guilty to three counts of **mail fraud** involving insurance claims. He was placed on probation for 3 years, ordered to pay approximately \$140,000 in fines

and restitution; the company was placed on probation for 5 years, and ordered to pay a similar amount. The president and the company also previously settled a related civil fraud lawsuit by agreeing to pay the Government \$500,000. A joint investigation by the Department of Labor (DOL) OIG, FBI, and OIG resulted in a 12-count indictment against the president and the company for allegedly receiving illegal kickbacks, mail fraud, false statements to SBA, and major contract fraud against the United States. All counts other than mail fraud were dismissed as part of a plea agreement. Under this agreement, he and the company remain forever barred from participation in any SBA programs. The subsequent civil fraud lawsuit specifically alleged that he and his company made false statements to SBA concerning his claimed social and economic disadvantage in order to be certified as an SBA 8(a) contractor, and thereby received about \$17 million for 17 Federal contracts from various Federal entities, none of which they would have been otherwise qualified to receive. As specified in the lawsuit, he made false statements about his supposed Native American ancestry, and the resulting economic disadvantage suffered as a “proclaimed Cherokee owned company.” This case was initiated based on information received from the DOL OIG. As all related criminal, civil, and administrative proceedings have been settled, the case will be closed.

Agency Management

OIG Issues Audit Report on SBA’s Acquisition, Development, and Implementation of the Joint Accounting and Administrative Management System (JA²MS). OIG issued an audit report on SBA’s acquisition, development, and implementation of JA²MS on June 30, 2003. The audit objectives were to determine whether: (1) the selection methodology and the supporting documentation indicated that the system selected would deliver the most functionality for the least cost; (2) there were adequate management controls over the process of acquiring and implementing JA²MS; and (3) the system performs as expected and meets user requirements.

The audit disclosed the following:

1. SBA’s Business Technology Investment Committee (BTIC) received biased and misleading

information on costs, benefits, and alternatives on which to base its decision to select a new financial accounting system.

2. The JA²MS selection process was not free of inherent bias or conflicts of interest towards one competing product because SBA did not require a separation of duties by contractors in the system selection process, system requirements collection process, and the design and implementation phase of the JA²MS system.
3. SBA did not implement the Oracle database management system that had been demonstrated and approved by the BTIC. Additionally, SBA purchased and bought license updates for software modules that it has never implemented.
4. JA²MS was not fully accredited by the Chief Financial Officer (CFO) prior to being put into production at its permanent site. Additionally, other aspects of JA²MS may not allow for complete confidentiality of sensitive SBA personnel information.
5. JA²MS was placed into production without sufficient and complete testing of functions and interfaces.
6. JA²MS has not fully met JFMIP requirements, even though Oracle Federal Financials is certified as being JFMIP compliant. Additionally, JA²MS does not meet a number of major system requirements including many of the aspects of an Enterprise Resource Planning (ERP) system.

OIG made recommendations to the CFO, Chief Information Officer (CIO), and Chief Operating Officer (COO) to correct the deficiencies identified in the report. The CFO and Acting CIO provided a joint response to the draft report in which they agreed or partially agreed to all but three recommendations in the draft report. We subsequently modified two of our recommendations and dropped one recommendation to address management’s concerns. The COO did not provide a response to the draft report as the position is currently vacant.

The activity Update is produced by SBA/OIG,
Harold Damelin, Inspector General.

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 such documents please contact:

Teresa Clouser, SBA/OIG
409 Third Street SW., 7th Floor
Washington, DC 20416
mail: OIG@SBA.GOV
Telephone number (202) 205-6580
FAX number (202) 205-7382

Many audit and inspection reports can be found
on the Internet at

<http://www.sba.gov/IG/igreadingroom.html>

If you are aware of suspected waste, fraud, or
abuse in any SBA program, please call the:

OIG FRAUD LINE at (202) 205-7151

or

TOLL-FREE FRAUD LINE (800) 767-0385