



## Office of Inspector General Small Business Administration

September 2000 Update

### *Business Loans*

Inspection Advisory Memorandum on Data Issues Regarding the Processing Centers Issued. On September 28, 2000, the Advisory Memorandum was issued with several findings:

- (1) While identification of the approving office is important for defining accountability in risk management systems and for developing activity-based costing, the approving/processing office for many FY 1999 LowDoc loans is not readily apparent in SBA's database;
  - (2) Although SBA certified in its FY 2001 Annual Performance Plan that there are no limitations on the data for the number of loans provided to women, minorities, and veterans, SBA is dependent on the lenders' accuracy in recording the original data. Moreover, there appears to be some uncertainty in the Office of Financial Assistance (OFA) concerning what constitutes adequate data verification; and
  - (3) For approximately 40 percent of FY 1999 LowDoc and Preferred Lender Program (PLP) loans, the name of the individual borrower is not recorded in SBA's database.
- (2) Ensure that SBA field offices understand the requirement to fill in the approving office data field;
  - (3) Work with OCIO to ensure that processing/approving office data is accurate;
  - (4) Align policy and practice for reconsidered LowDoc loans;
  - (5) Correct the Annual Plan certification statement regarding limitations on minority, women, and veterans' data;
  - (6) Work with SBA's Government Performance and Results Act (GPRA) coordinators to ensure that adequate data verification methods are in place; and
  - (7) Require that the name(s) of the borrower(s) be entered into SBA's database.

To improve accountability and risk management, OIG recommended that OFA:

- (1) Clarify responsibility within OFA for providing instructions to the field regarding making changes in data fields;

OIG also suggested that OFA explore ways to extend the term appointments of LowDoc processing centers' staff. OFA generally agreed with the recommendations.

Owner of Defunct New York Bridal Shop Sentenced for Misuse of Social Security Number. The owner of a now-defunct Bronx, New York, bridal shop was sentenced on September 25, 2000, to 4 months home confinement, 4 years probation, and \$50,000 restitution in connection with a non-SBA loan. (Prior to her sentencing, she had agreed to also pay an additional \$100,000 restitution to SBA.) The owner previously pled guilty to **misuse of a Social Security number (SSN)**. First, the owner used the name and SSN of a former employee's sister to obtain a \$100,000 Section 7(a) SBA-guaranteed loan from a certified development

company (CDC) in Albany, New York. Again, the owner used the name and SSN of the former employee's sister to obtain a \$50,000 loan from a CDC in South Bronx, New York. After only a few payments, she defaulted on both loans, causing a total loss in excess of \$150,000. SBA/OIG initiated its case based on a referral from the Social Security Administration's (SSA) OIG and investigated it jointly with that office.

President of Missouri Day Care Center Sentenced for Mail Fraud, Wire Fraud, Making Material False Statements, Using a False SSN, and Impersonating a U.S. Government Officer. The president of a St. Louis, Missouri, company was sentenced on September 7, 2000, to 51 months incarceration, 3 years supervised release, and a \$500 special assessment. He previously pled guilty to **mail fraud, wire fraud, making material false statements, using a false SSN, and impersonating a U.S. Government officer**. The defendant had applied for a \$295,000 SBA-guaranteed loan in March 1999, to purchase and operate a St. Louis, Missouri, day care center. The joint SBA/OIG, Department of Health and Human Services (HHS) OIG, SSA/OIG, and Postal Inspection Service investigation confirmed that mailings were used in his scheme to submit false statements to a lending institution and SBA to obtain the loan. (The lending institution canceled the loan before disbursement.) The indictment charged that the defendant made false statements regarding his educational background, work experience, criminal history, and financial status. SBA/OIG joined the investigation at the invitation of HHS/OIG.

## ***Disaster Assistance***

President of a Louisiana Seafood Company Pled Guilty to Making False Statements. A Grand Isle, Louisiana, seafood company (through its president) pled guilty on September 20, 2000, to one count of **making false statements** to influence SBA to disburse a \$325,600 disaster loan for the business. The seafood company admitted submitting documents that were false because they failed to disclose that the corporation and its president had been indicted for, and subsequently pled guilty to, violations of the Lacey Act. In their Lacey Act

guilty pleas, they admitted participating in the illegal transportation and sale of approximately 6,200 pounds of closed-season red snapper. OIG initiated its investigation based on an anonymous Fraud Line complaint. The seafood company, through its president, is scheduled to be sentenced on December 13, 2000.

## ***Government Contracting and Minority Enterprise Development***

Audit Report on Minority Business Enterprise Legal Defense and Education Fund, Inc. Cosponsorship Expenses and Income Issued September 29, 2000. SBA and MBELDEF entered into a cosponsorship agreement whereby the two would cosponsor training regarding new Section 8(a), HUBZone, and Small Disadvantaged Business (SDB) rules and contracting procedures in 12 major cities from October 1998, through April 1999. As SBA's cosponsor, MBELDEF was responsible for general administration as well as executing and overseeing various contracts for the training events, e.g., curriculum development, marketing, printing of workshop material, workshop logistics, and on-site services. The audit objectives were to determine whether the payments made to MBELDEF for services related to the cosponsorship were justified, to determine MBELDEF's compliance with the terms of the cosponsorship agreement, and to determine whether MBELDEF properly accounted for the fee income it collected.

The auditors found that MBELDEF was paid \$121,394 for unjustified expenses under the cosponsorship. Also, MBELDEF did not provide the amount of in-kind contribution agreed upon in the agreement, and did not provide the auditors with documentation supporting the accuracy of the \$81,545 that it reported as fees collected.

The auditors made four recommendations that SBA should:

- (1) Require MBELDEF to reimburse SBA \$112,316 for unsupported expenses, \$3,807 for duplicate payments, \$3,640 for unrelated expenses, and \$1,631 for claimed expenses that were not incurred;

- (2) Determine what action can be taken against MBELDEF for non-compliance with the cosponsorship agreement terms regarding the shortfall of MBELDEF's in-kind contribution;
- (3) Require MBELDEF to provide a full accounting of the attendee fees collected; and
- (4) Require MBELDEF to pay SBA any fees obtained in excess of the \$81,545 reported.

SBA management officials agreed to seek reimbursement from MBELDEF for the unjustified expenses with the condition that SBA first be allowed to obtain a final accounting from MBELDEF.

In response to the audit, MBELDEF stated that it had appropriate documentation for all expenses incurred and fees collected but did not provide it during the audit or by the required date. Any additional documentation provided by MBELDEF will be evaluated as part of the audit resolution process.

Audit Report on SBA's Administration of the MBELDEF Cosponsorship Issued September 30, 2000. The SDB program provides procurement benefits to small disadvantaged businesses bidding on Federal contracts by giving them up to a 10 percent price preference on their bids. While the SDB program started out as a self-certification program, SBA began certifying SDBs in 1998. In September 1998, SBA entered into a cosponsorship agreement with MBELDEF to conduct a nationwide training of various programs, including the SBA certification process. The purpose of this audit was to determine whether SBA properly managed its cosponsorship agreement with MBELDEF.

The auditors found that SBA did not take appropriate actions both before and after signing the cosponsorship, which committed SBA to disburse up to \$900,000 in Government funds to MBELDEF. The audit reported that SBA:

- (1) Entered into the cosponsorship without determining SBA's authority to disburse Government funds through such agreements;
- (2) Entered into the cosponsorship without ensuring adequate safeguards over the Government's interests;

- (3) Lacked controls to ensure appropriated funds were properly spent;
- (4) Did not raise known significant problems with MBELDEF's handling of the cosponsorship to the appropriate levels; and
- (5) Did not enforce the terms of the cosponsorship in reviewing MBELDEF claimed expenses.

The auditors recommended that the:

- (1) Deputy General Counsel issue an opinion regarding the legality of SBA disbursing funds under a cosponsorship to a cosponsor absent authorized contract, grant, or cooperative agreement procedures;
- (2) Associate Administrator for Business Initiatives (AA/BI) insert a clause in cosponsorship agreements where SBA is disbursing funds to the cosponsor prohibiting disbursement unless and until AA/BI receives a signed legal opinion stating that SBA has the authority to disburse funds to the cosponsor;
- (3) AA/BI incorporate safeguards, such as all provisions of applicable OMB Circulars, into cosponsorships where SBA disburses funds to a cosponsor;
- (4) AA/BI incorporate the requirement that the program official responsible for managing the cosponsorship obtain appropriate training;
- (5) Associate Deputy Administrator for Government Contracting & Business Development (ADA/GC&BD) determine the pro rata share of food costs for non-government attendees versus amount collected;
- (6) AA/BI take the necessary steps to ensure compliance with the requirement in Standard Operating Procedure (SOP) 90 75 2, Cosponsorship Agreements, that the responsible program officials report cosponsorship performance problems to the AA/BI; and
- (7) ADA/GC&BD take steps to ensure that GC&BD employees enforce the terms of cosponsorship agreements for which they are the responsible program official.

Although SBA did not agree with all of the findings, SBA officials generally agreed with all seven recommendations.

Audit Report on Boscart Construction Issued on September 30, 2000. OIG issued an audit report

on Boscart Construction, Inc. (Boscart). The objective of the audit was to determine whether SBA properly evaluated Boscart's initial eligibility for the Section 8(a) program in 1997, ensured the company's continuing compliance with Section 8(a) program requirements, and awarded and administered \$658,000 in contracts to Boscart according to applicable policies and procedures.

The results of the audit revealed SBA's process for evaluating Boscart's initial Section 8(a) program eligibility was flawed because it relied on inaccurate and unverified financial information. Subsequently, the Agency did not ensure the company's compliance with Section 8(a) program requirements by accepting a contract on the company's behalf for which it was not eligible. In addition, SBA did not comply with:

- (1) Its Standards of Conduct regulations by awarding contracts without required approvals; and
- (2) Federal Acquisition Regulations (FAR) by not documenting significant contract actions.

As a result, the Agency has reduced assurance that its programs and operations are achieving their intended purposes, in accordance with prescribed policies, procedures, and ethical requirements.

The auditors recommended that the:

- (1) ADA/GC&BD suspend Boscart from the Section 8(a) program based on the owner's non-disclosure of significant personal liabilities;
- (2) ADA/GC&BD, in conjunction with the Associate Administrator for Field Operations, reinforce the need for staff involved in the acceptance of Section 8(a) awards to ensure that program participants are in compliance with program requirements before accepting awards on their behalf;
- (3) Designated Agency Ethics Official review the Agency's policies and procedures for ensuring compliance with the Agency's Standards of Conduct regulations and revise those policies and procedures as necessary;
- (4) Deputy General Counsel revise 13 CFR §105.201 to clarify that an employee's spouse should be considered a "household member,"

whether or not the spouse resides in the same place of abode with the employee, so long as they are legally married; and

- (5) Assistant Administrator for Administration take appropriate actions and complete the documentation of the contract files for two Boscart contracts to comply with the requirements of the FAR.

SBA officials generally agreed with all five recommendations. They also stated that they had insufficient time to provide a full response.

## ***Surety Bond***

Audit Report on the GPRA Performance Measurement for the Surety Bond Guarantee Program Issued on September 25, 2000. The audit found that the program does not have performance measures to show it is meeting the intended purposes of the authorizing legislation. Further, the performance measures in SBA's FY2000 and FY 2001 performance plans do not address GPRA priorities such as program outcomes, service quality, or cost. The audit also found that although the Surety Bond Guarantee (SBG) program performance data is reliable, improvements in data collection and presentation could be made.

The auditors recommended that the Director, Office of Policy, in conjunction with the Associate Administrator, Office of Surety Guarantees, ensure that:

- (1) SBG program goals include program outcomes, service quality, and program costs, as appropriate;
- (2) SBG program indicators reflect these goals; and
- (3) SBG performance data is complete and accurately presented.

SBA management concurred with the finding and recommendations.

## ***Small Business Investment Companies***

Audit Report on the Implementation of GPRA Issued. On September 7, 2000, an audit report was issued on the implementation of GPRA for the

Small Business Investment Company Program (SBIC). The audit, one of a series being done by the OIG, was performed in response to congressional requests for OIGs to determine how effectively their respective agencies are measuring performance under the Result Act. The audit objective was to determine if:

- (1) Program goals and performance indicators align with the mission;
- (2) The performance indicators focused on the results of the program in terms of efficiency and effectiveness; and
- (3) Reliable supporting data exists.

The audit found that the SBIC program did not have performance goals and indicators to show that the program was meeting the purposes of the Small Business Investment Act. The performance indicators were not outcome-oriented and did not address GPRA priorities, such as customer satisfaction or program cost. Also, some of the underlying data supporting performance measurement was not reliable. Specifically, 26 percent of the number and dollar amount of the financings reported for FY2000 were made in prior years, and data relating to business ownership by women and minorities, as reported by the SBICs, was unsupported.

Program officials concurred with three of the recommendations but non-concurred with the remaining four. The four recommendations will be elevated to the Deputy Administrator for resolution during the audit followup process.

## ***Entrepreneurial Development***

Inspection Report Identifies Ways to Improve Coordination and Performance Measurement in SBA's Entrepreneurial Development Programs. OIG issued an inspection report on September 28, 2000, that examined coordination among Office of Entrepreneurial Development (OED) programs in the field and the methods used for gathering program performance data. In the three markets studied, there was substantial evidence of effective coordination among OED service providers. To further improve coordination in the field, OIG recommended that OED:

- (1) Identify districts lacking an efficient referral process or cooperation among providers; and
- (2) Work with the Office of Field Operations to have relevant District Directors designate and train at least one intake coordinator to route clients to the appropriate service providers.

Regarding program performance measurement, the inspection team found significant differences in the way providers count their clients and services. To ensure consistency and accuracy in service provider reporting, OIG recommends that OED:

- (1) Use the number of clients served and the number of client counseling and training sessions as its principal output measures; and
- (2) Issue specific guidance to providers on how to count clients and client sessions.

To obtain outcome information, such as businesses' expanding sales or employment, OED should develop a client survey to be administered periodically by the Office.

## ***Agency Management & Financial Activities***

Audit Report on the Rhode Island District Advisory Council Issued September 29, 2000. SBA District Advisory Councils are advisory committees established in accordance with the Small Business Act and an approved charter filed with the General Services Administration (GSA), the Library of Congress, and the Small Business Committees of Congress. The Rhode Island District Advisory Council (the RI Council) is one such advisory committee established at the discretion of the SBA Administrator pursuant to the provisions of Federal Advisory Committee Act (FACA) and the Small Business Act. The purpose of this audit was to determine whether the RI Council operated in accordance with governing laws, regulations, and policies. Though under the current charter SBA's District Advisory Councils are only allowed to advise, the RI Council engaged in the following SBA or SBA related activities for non-advisory purposes:

- (1) Soliciting funds and charging fees;

- (2) Maintaining a private checking account;
- (3) Paying expenses for and managing SBA events, e.g. Small Business Week;
- (4) Developing and giving training seminars;
- (5) Developing and maintaining a website; and
- (6) Entering into Memoranda of Understanding (MOUs) and co-sponsorship agreements with SBA and other organizations.

While the OIG audit found that the Agency's SOP does cite non-advisory activities, contradicting the charter and possibly FACA in those areas, FACA and the charter, however, take precedence over the SOP.

To improve its management and oversight of its District Advisory Councils, the auditors recommended that SBA:

- (1) Ensure that District Advisory Councils do not engage in any non-advisory activities unless and until the charter is amended;
- (2) Determine whether impermissible augmentation of SBA's appropriation has occurred and, if so, take appropriate corrective actions;
- (3) Properly dispose of all funds which District Advisory Councils should not possess;
- (4) Ensure that the SOP provides for full compliance with governing laws, District Advisory Council charters, and regulations; and
- (5) Appoint a Committee Management Officer (CMO) to control and supervise the establishment, procedures, and accomplishments of Advisory Councils.

In response to the audit, SBA management indicated that it issued an Information Notice informing all district offices and their advisory councils to cease and desist from all such non-advisory activity. Management also indicated that it is in the process of drafting a procedural notice and new SOPs, and stated that it has announced a position for a CMO. Management did not specifically address the other recommendations in its response and intends to do so in its response to the final report.

[Audit Report on SBA's Planning and Assessment for Implementing Presidential Decision Directive 63 Issued September 26, 2000.](#) Presidential Decision Directive (PDD) 63 calls for a national

effort to ensure the security of the United States' critical infrastructures. Critical infrastructures are the physical and cyber-based systems essential to the minimum operations of the economy and government. This audit report evaluated SBA's planning and assessment activities for protecting its critical cyber-based infrastructure.

The auditors concluded that SBA has made significant progress toward implementing key aspects of PDD 63, but additional actions are still needed. In November 1998, the Agency completed a Critical Infrastructure Protection Plan (CIPP) that identified a number of tasks to be accomplished. Subsequently, however, based on feedback from the Critical Infrastructure Assurance Office, SBA shifted the focus of its information systems security efforts to related areas such as PDD 67 (Continuity of Operations), Year 2000 Contingency Planning, and recommendations made in previous OIG audits of information systems controls. Although these efforts satisfied a number of PDD 63 requirements, the Agency did not complete all of the tasks identified in its CIPP and needs to refocus its efforts toward meeting PDD 63 requirements.

The auditors recommended that the Chief Information Officer (CIO):

- (1) Complete the study to determine what information systems, data, and associated assets constitute the SBA's critical infrastructure;
- (2) Conduct or complete vulnerability assessments on the critical infrastructure;
- (3) Develop remedial plans to address critical infrastructure vulnerabilities;
- (4) Update the CIPP;
- (5) Develop and adopt a multi-year funding plan to remedy the vulnerabilities identified by Vulnerability Assessments; and
- (6) Include infrastructure assurance functions within the Agency's GPRA strategic planning and performance measurement framework.

The CIO agreed with the recommendations.

## ***Office of Inspector General***

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