



Office of Inspector General Small Business Administration

July 2002 Update

Business Loan Programs

Agency Takes Final Action on Three Recommendations Made as a Result of Audit of Preferred Lender Program Oversight Process. The Agency **completed final action on three recommendations** made in Audit Report 1-19, Preferred Lender Program Oversight Process. The report recommended, among other things, that the Office of Financial Assistance: 1) implement a system for identifying lenders that use centralized processing and servicing; 2) define the term “servicing” to include past-due and delinquent loans; and 3) require that the consideration of the Small Business Lending Company examination results be documented in the recommendation packages submitted to the Agency. In response, SBA developed a non-automated system to identify lenders with centralized processing and servicing, changed the definition of “servicing” to include past-due and delinquent loans, and included written comments and a recommendation on all PLP actions involving Small Business Lending Companies in the recommendation package submitted to the Agency. To view the report and its recommendations, please visit our website at <http://www.sba.gov/IG/1-19plp.pdf>

Ohio Small Business Proprietors Indicted for Conversion of Collateral Pledged to SBA. Two small business proprietors from Columbus, Ohio, were each indicted on July 9, 2002, on one felony count of **conversion of collateral pledged to the SBA**. The indictment relates to a \$200,000

SBA-guaranteed loan secured by the couple. The purpose of the loan was to purchase a castle-like house in Sidney, Ohio, that was to be converted to a bed and breakfast business. The couple signed and dated the SBA Loan Agreement that specifically stated that the borrower would provide as collateral the land and buildings, as well as fixtures, furniture, inventory, and general intangibles located in Sidney, Ohio. The investigation revealed that after the couple defaulted on the SBA loan and filed for bankruptcy, they signed a contract with a local contractor to have the interior woodwork removed from the home and sold for personal benefit. The contractor removed the trim, doors, and casings, as well as an elaborate wood fireplace mantel, and a spiral staircase from the house and paid the couple \$10,000 for the woodwork. The couple was scheduled to appear for their initial appearance on July 26, 2002. This investigation was initiated based on a referral from the SBA Columbus District Office.

Oklahoma Rag Producing Corporation Borrowers Agree to Final Settlement. The co-borrowers associated with the re-financing of a rag producing factory in Tulsa, Oklahoma, entered into a final settlement agreement on June 27, 2002, with the U.S. Attorney’s Office. The settlement agreement was reached during a pending SBA/OIG investigation into the alleged **conversion of collateral** that was pledged as security for an SBA-guaranteed loan. The co-borrowers agreed to pay \$101,000 to SBA to conclude the pending investigation. The settlement is not

intended as a pretrial diversion program; instead it is intended to resolve all claims or potential claims against the two. A cashier's check for \$101,000 was submitted with the settlement and has been forwarded to the SBA Denver Finance Center.

Ohio Businessman Pleads Guilty to Making False Statements. A Columbus, Ohio, businessman pled guilty on June 24, 2002, to one count of **making false statements to an FDIC-insured financial institution**, in connection with a \$337,500 SBA-guaranteed business loan. The loan was made to a graphic arts and book binding business owned by the defendant and proceeds were to be used to purchase machinery and equipment for the business. However, the SBA/OIG investigation revealed that he intentionally prepared and submitted false invoices to the bank and SBA to obtain the loan and used loan proceeds to pay for unauthorized business and personal debts. This investigation was initiated based upon a referral from the bank and the SBA Columbus District Office.

Illinois Real Estate Attorney Pleads Guilty to Conspiracy. A Chicago, Illinois, real estate attorney pled guilty on June 12, 2002, to two counts of **conspiracy** in connection with his participation in schemes to defraud the SBA and a non-participating lender and to obstruct and impede justice. As reported previously, five Illinois men (a restaurateur, a loan broker/packager, and three attorneys), and a defunct Illinois corporation were indicted relating to the conspiracy fraud scheme. The eight-count indictment charged the real estate attorney with one count of conspiracy, aiding and abetting, mail fraud, and wire fraud in connection with the 1996 purchase of a restaurant (a business formerly located in Antioch, Illinois). The indictment also charged the attorney with one count of obstruction of justice and a second count of conspiracy in connection with alleged fabricated documents produced to SBA/OIG by the attorney and others in response to grand jury subpoenas. The investigation was initiated based upon referrals from the

Illinois District Office and an anonymous complainant.

Texas Café Owner's SBA Guaranty Obligation Cancelled by Preferred Lender. An SBA preferred lender agreed on July 16, 2002, to **cancel SBA's guaranty obligation** on an SBA Express loan made to a café owner. The defendant and her husband were each indicted on May 1, 2002, for one count of insurance fraud by a District Court Grand Jury in Harris County, Texas. SBA/OIG conducted the investigation jointly with the Bureau of Alcohol Tobacco and Firearms. The investigation determined that the husband disclosed his criminal history in the loan application that should have made the loan ineligible under SBA's Express Program. The outstanding principal balance of the loan in liquidation was \$122,648.40. The bank's decision to release SBA of its 50 percent liability has resulted in a cost savings of \$61,324.20 to the Agency.

Small Business Investment Companies

New York Pension Plan Manager Arrested for Embezzlement. The former pension plan manager for a New York City area utilities company was arrested on June 26, 2002, by special agents of SBA/OIG and the U.S. Department of Labor (DOL) OIG. The arrest was based on a sealed complaint charging him with **embezzlement of employee benefit plan funds**. According to the now-unsealed complaint, from 1997 to March 2001, the defendant had misused a corporate credit card on more than 60 occasions. He double and sometimes triple billed for expenses such as investment publications, computers, and travel. He sought reimbursement for the same expenses from two or more sources, including the utility company and the plan brokers, thus defrauding the company pension plan. The defendant admitted using the money for, among other things, personal expenses in connection with family problems. He was responsible for recommending investments of the utility company pension funds made through various venture capital firms, including a New York City small

business investment company presently in receivership. The U.S. Attorney's Office, Eastern District of New York, had requested SBA/OIG to join DOL/OIG with its ongoing investigation.

Government Contracting and Business Development

Pennsylvania Section 8(a) Program Participant Charged with Conspiracy and Mail Fraud. A former SBA Section 8(a) program participant in Philadelphia, Pennsylvania, was charged in a criminal information filed on July 1, 2002, with one count of **conspiracy** and one count of **mail fraud**. The conspiracy count related to the defendant making material false statements and representations to the SBA that he did not control an SBA Section 8(a) certified construction firm, when in fact he ran the company in the Philadelphia area. The defendant and the man he claimed controlled the company obtained bonding for the construction company from an insurance company through an independent agent. The mail fraud count related to the defendant causing fictitious financial statements to be mailed from the independent agent to the insurance company. The insurance company relied on the false financial statements to issue bonding to the construction company. As a result of the construction company's defaults on contracts, the insurance company paid over \$2.9 million to subcontractors and suppliers in payment bonds and incurred an additional \$3 million in losses on performance bonds to have the contracts completed. SBA/OIG is continuing this joint investigation with the Naval Criminal Investigative Service (NCIS), Department of Veterans Affairs OIG (VA/OIG), the Defense Criminal Investigative Service, and U.S. Customs Service.

Pennsylvania Section 8(a) Company President Sentenced for Mail Fraud and Making False Statements. The president of a defunct Section 8(a) construction company in Huntingdon Valley, Pennsylvania, was sentenced on July 9, 2002, to

serve 2 months in jail and 5 years on probation. He was also ordered to pay \$60,000 in restitution to the bonding company and a \$200 special assessment fee. He previously pled guilty on February 5, 2001, to one count of **mail fraud** and one count of making a **material false statement**. The false statement count related to him representing that he was the 100 percent owner of the construction company on his SBA Section 8(a) application. However, during a deposition, he testified that he owned only 40 percent of the company. The mail fraud count related to falsely reported payments to subcontractors and false progress payment certifications on a \$1.6 million contract for renovations at a Philadelphia-area college library. SBA/OIG conducted the investigation jointly with NCIS and VA/OIG.

Agency Management

SBA Employee Suspended for Fifteen Days. An employee in SBA Headquarters (HQ) was suspended on April 25, 2002, for 15 days for: **(1) being under the influence of alcohol on SBA premises; (2) knowledge of theft of Government property; (3) making false statements in an official matter; and (4) improper use of his Government identification and access card.** The investigation that led to the suspension resulted from a referral to OIG that two computer monitors had been taken from SBA HQ in the early morning of September 2, 2000. The Federal Protective Service, which had primary jurisdiction, conducted an investigation. Facscard records and the building security log showed that the employee and a companion entered SBA at approximately 2:55 a.m. on September 2, 2000, and left the building with two boxes. A security guard working at SBA HQ found a computer monitor on the sidewalk in front of the building. OIG special agents subsequently interviewed the employee and he admitted that his companion stole the monitors, but he denied any involvement in the theft. The employee was unable to explain, however, how his companion removed the monitors from the building without assistance.

Florida Drug Testing Company Grant Terminated as a Result of OIG Investigation. SBA/OIG initiated an investigation to address allegations that a drug testing company in Pinellas Park, Florida, had made **material false statements** on its proposal to obtain an SBA grant. In the proposal, the president certified that none of the principals of the drug testing company had been convicted of a fraud-related crime in the last 3 years. The investigation disclosed, however, that the vice president had been convicted in Florida of a felony scheme with intent to defraud in August 1999. Pursuant to our findings, on January 30, 2002, the director of the grant program terminated the \$234,063 grant prior to the disbursement of any of the funds. The drug testing company subsequently submitted a request for reimbursement of \$122,764 for expenses it reportedly incurred during the first quarter of its grant period. Based on an SBA/OIG review of the documents the company provided to support its claim, SBA advised the company that its documentation was questionable and it would not be reimbursed without verifiable documentation. The company failed to respond by the deadline. On July 8, 2002, the program director advised SBA/OIG that none of the grant funds would be disbursed, resulting in a \$234,063 cost savings.

SBA Employee Found Making False Statements During Hiring Process and Security Background Interview. An SBA employee resigned on July 12, 2002, while under investigation by SBA/OIG for **making false statements** during his hiring process and security background interview. The employee was permitted to resign after being advised that he was going to be terminated during his probationary period. In an effort to qualify for a higher starting salary, he falsely reported earning a salary in excess of \$100,000 at his prior employment with an internet start-up company. The investigation confirmed that he never received any compensation from this company. Based on his false statement, he was hired as a GS-13, step 10, rather than a GS-13, step 1. The investigation also revealed that he may have made false statements to obtain unem-

ployment benefits from the District of Columbia Department of Employment Services. These matters have been referred to the United States Attorney's Office, District of Columbia, Superior Court, for prosecutorial consideration.

The activity Update is produced by SBA/OIG,
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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:

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