
From: Gibson, Fred W.
Sent: Monday, April 13, 2009 5:14 PM
To: LLPComments
Subject: Legacy Loans Program

The governance & management provisions of the Legacy Loan Program (Program) demonstrate the commitment by the FDIC and the others regulators for establishing accountability on the part of the public-private investment funds (PPIFs) participating in the Program. In particular, the requirement that PPIFs must agree to waste, fraud and abuse protections and to provide access to information required by the Special Inspector General of the TARP (SIGTARP) and Government Accountability Office (GAO)--see further discussion below--sends a clear message to those potential Program participants that fraud and other improper acts will not be tolerated.

However, the Program documents that we have seen have not addressed the involvement of the FDIC Office of Inspector General, which has statutory responsibilities for preventing and detecting fraud and abuse (as well as assessing economy and efficiency) in FDIC programs and operations, such as the Program. We note that the FDIC has published Circular 12000.1, Cooperation with the Office of Inspector General, after approval by the Chairman. That Circular applies to FDIC employees and persons and entities providing goods and services to the FDIC as a contractor or subcontractor. According to the Circular, all employees, contractors and subcontractors are to cooperate with OIG by reporting wrongdoing to OIG and by providing OIG with access to the former's records, facilities and personnel. We believe that the Program should incorporate the provisions of Circular 12000.1, so as to make more comprehensive the Program's accountability provisions. By doing so, the FDIC help ensure cooperation with OIG and will also forestall confusion by those who would believe--incorrectly--that by not expressly identifying the FDIC OIG along with SIGTARP and the GAO, the program description was indicating that OIG would not have a part in enforcing the accountability provisions. We have found that cooperation by those involved in FDIC programx is more effective than having OIG employ its other statutory authorities, to include administrative subpoenas, to obtain needed access.

Given that the PPIP involves various types of participants--including banks, investors, asset managers and evaluators, servicers, auctioneers, other contractors and subcontractors, and purchasers--it would be prudent to ensure that Program-related contracts which the FDIC awards incorporate Circular 12000.1.

Regarding coordination among SIGTARP, GAO, and the FDIC OIG, recently passed legislation requires effective coordination between SIGTARP and various other Inspectors General, including the FDIC OIG. Furthermore, under the Inspector General Act as amended, the FDIC OIG is required to cooperate with GAO's activities; and under the Emergency Economic Stabilization Act, SIGTARP duties and responsibilities include those set forth in the Inspector General Act, and likewise must cooperate with GAO.

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