



Office of Inspector General U.S. Small Business Administration

January 2006 Update

Agency Management

Audit of SBA's FY 2005 Financial Statements – Management Letter. On January 18, 2006, the OIG transmitted to the Agency the external auditors' Management Letter, which identified non-reportable conditions that came to the auditors' attention during their audit of SBA's FY 2005 financial statements. The external auditors noted seventeen areas for improvement. The following four areas, which were reported last year, were repeated because the conditions, as well as the need for implementing enhanced controls, continued to exist.

- Accountable Property Controls
- Untimely Recording of Obligations
- Entry to Align Statement of Financing with Statement of Net Cost
- Monitoring of Small Business Investment Company (SBIC) Participating Securities Reimbursement Assumptions

In addition, the auditors noted the following areas needing improvement that were not reported last year.

- Operating Expenses Recorded in the Incorrect Period
- Guarantee and Disaster Loan Charge-Off Controls
- Failure to Retain Supporting Documentation to Substantiate Loan Transactions
- Noncompliance with the Prompt Payment Act
- Obligation Controls
- Guarantee Loan Purchase Controls
- Inadequate Travel Expense Controls
- Validation of Source Data Used in Model
- Intragovernmental Activity and Balances Classification, Confirmation and Reconciliation
- Noncompliance with the Single Audit Act
- Improper Payments Information Act Report Missing Required Disclosures
- Subsidy Realignment Entry

- Accounting structure Standard Operating Procedures (SOP)

One recommendation was directed to the Associate Administrator for Disaster Assistance, one recommendation was directed to the Associate Deputy Administrator for Capital Access, and eighteen recommendations were directed to the Chief Financial Officer, six of which require coordination with various program offices, including the Office of Administration and the Office of Field Operations.

SBA management generally agreed with the auditors' findings and recommendations, and noted that they were pleased with the slight reduction of items reported from the previous year. Management believes that remediation actions already underway will address the issues noted in the report. In addition, management noted that the Office of Disaster Assistance (ODA) is undergoing a transformation of its entire operations that should allow it to address the travel related recommendation in the report.

Agency Completes Final Actions on Two Recommendations Made in Audit of SBA's Procedures for Cash Gifts. The Agency reported that it completed the following actions. The SBA District Office that was the subject of the report 1) provided training on the solicitation and acceptance of cash gifts to all managers, the Administrative Officer, and all staff involved in marketing and outreach, 2) established a Gift Acceptance Group, 3) developed a cash gifts manual for the SBA District Office, 4) adopted in full the Business Assistance Trust Fund (BAT Fund) reconciliation spreadsheet attached to SBA Procedure Notice 2000-667, and 5) provided training to the office staff on the use and understanding of the BAT Fund reconciliation spreadsheet. Final actions have been not been completed on seven other recommendations made in the report.

Business Loan Programs

Restaurant Owner Sentenced. On January 10, 2006, the owner of two restaurants in Austin, Texas, was sentenced to 5 years probation and ordered to pay restitution in the amount of \$1,115,615.40. He had previously pled guilty to three counts of bank fraud, three counts of submitting false statements to a financial institution, and one count of money laundering. The owner had obtained two SBA-guaranteed loans and a line of credit totaling \$1,078,500. In order to influence the financial institutions to approve the loans and the line of credit, he inflated personal property values and net worth. He then utilized financial proceeds from the loans for personal expenses. This case was referred by the SBA San Antonio District Office. The OIG conducted this investigation jointly with the Federal Bureau of Investigation (FBI) and the Internal Revenue Service (IRS).

Disaster Loan Program

Former New York Attorney Sentenced. On January 12, 2006, a former attorney in Mamaroneck, New York, was sentenced in the Southern District of New York to 18 months in prison and 3 years supervised release. In addition, he was ordered to pay \$18,500 in outstanding restitution and a \$200 special assessment. The sentencing followed his guilty plea to an indictment charging him with one count of wire fraud and one count of money laundering. In the wake of the September 11, 2001, terrorist attacks in New York City, the former attorney applied for and received a \$247,000 SBA Disaster Loan for his firm. He claimed the firm lost revenue because it was not able to utilize its downtown office for 6 weeks due to the office's proximity to the World Trade Center. The investigation revealed that the firm was never located at the address provided by the former attorney. The case was originally referred to the OIG by the Grievance Committee of the 9th Judicial District Court of New York. The OIG conducted this investigation jointly with the IRS.

Government Contracting and Business Development

8(a) Contractor Sentenced. On January 25, 2006, the former president of an asbestos and lead abatement and hazardous waste removal contractor in Portsmouth, Virginia, was sentenced in the Eastern District of Virginia to 5 months in prison, 5 months home detention, 3 years supervised release, a \$1,000,000 fine, and a \$100 special assessment fee. Previously, the president and the vice president, who also owned another abatement and removal firm and acted as a subcontractor to the Portsmouth firm, pled guilty to an indictment charging them with one count of conspiracy to defraud SBA and the Environmental Protection Agency (EPA). The contractor was an SBA 8(a) certified firm because the president was qualified as the disadvantaged individual. He and the vice president conspired to make misrepresentations to SBA in order to maintain the firm's 8(a) eligibility. Further, they violated EPA regulations by conspiring to provide false hazardous environmental training certificates on contracts. This case was based on a request from the Department of Justice to join an ongoing investigation. The OIG conducted this joint investigation with the FBI, the Defense Criminal Investigative Service, the EPA Criminal Investigation Division, the U.S. Army Criminal Investigation Division, the National Aeronautics Space Administration OIG, the Defense Contract Audit Agency, and the Virginia Department of Professional and Occupational Regulation. Additional defendants are awaiting sentencing.

Attorney Indicted. On January 11, 2006, an attorney was indicted in the U.S. District Court for the District of Puerto Rico, on one count of conspiracy to commit offenses against the United States, one count of attempting to influence the testimonies of persons in an official proceeding, and one count of attempting to corruptly obstruct, influence and impede an official proceeding. The initial complaint involved the attorney's client, an SBA 8(a) contractor and president of an engineering corporation. The complaint alleged that the 8(a) contractor was requiring other 8(a) contractors to sign non-competition agreements. During the course of the investigation, it was discovered that the contractor was paying kickbacks to a former manager of a restaurant chain in exchange for electrical contracting jobs in the chain's restaurants in Puerto Rico. The investigation determined that the attorney interfered

with, and obstructed, the investigation into illegal kickback payments that were made by his client to the former manager of the restaurant chain. The 8(a) contractor previously pled guilty to one count of conspiracy and is awaiting sentencing. The former manager of the restaurant chain was previously convicted by jury trial of one count of bribery and was sentenced to 1 year and 1 day imprisonment, 2 years of supervised release, and a \$100 special assessment fee. The OIG is conducting this investigation jointly with the General Services Administration OIG and the U.S. Department of Justice, Antitrust Division.

Other

SBA Completes Five Final Actions on Recommendations Made in the Audit of the National Women's Business Council. The Agency reported that it completed the following final actions. SBA's Office of General Counsel (OGC) made determinations which finalized action on five of the report's recommendations. Final actions have now been completed on 23 of 24 recommendations.

Statutory/Regulatory/Policy Reviews

In effort to proactively identify and correct potential Agency inefficiency and management problems at the onset of policy and regulatory development, the OIG reviewed, cleared, and/or provided comments, as appropriate, on six Agency initiatives, including proposed legislation, Agency Standard Operating Procedures, and Agency notices containing directives to its employees.

This monthly update is produced by the SBA OIG, Peter L. McClintock, Acting Inspector General.

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