



## Office of Inspector General U.S. Small Business Administration

March 2006 Update

### *Disaster Loan Program*

Audit of Interface Error Correction Between SBA and FEMA Information Systems. On March 31, 2006, the OIG issued a report, "Audit of Interface Error Correction Between SBA's DCMS and FEMA's MEMIS." Information systems within SBA and the Federal Emergency Management Agency (FEMA) must interface properly to ensure timely and appropriate assistance to disaster victims. An individual requesting assistance initially registers in FEMA's National Emergency Management Information System (NEMIS) and may be referred to SBA's Disaster Credit Management System (DCMS) based upon indications of income, household size, or self-employment, and indications of loss of real or personal property.

Currently, DCMS provides daily file updates (for example, "loss verified," "loan approved" or "loan disbursed") to NEMIS. FEMA uses that information to update NEMIS and determine if the disaster victims are eligible for further FEMA assistance. Our review identified that during data transfers between DCMS and NEMIS complete data controls were not in place to: (1) identify that an error had occurred; (2) flag affected records; and (3) monitor and correct errors through a log and related feedback loop. SBA estimated that, since DCMS was implemented, it has had to review and correct roughly 83,000 update records. The error correction delays have resulted in disaster victims not always receiving needed assistance in a timely manner. We recommended that SBA work with FEMA to improve and formalize the error resolution process between the two systems.

*This review was conducted in conjunction with the President's Council on Integrity and Efficiency (PCIE) as part of its examination of relief efforts provided by the Federal government in the aftermath of Hurricanes*

*Katrina and Rita. As such, copies of the reports have been forwarded to the PCIE Homeland Security Working Group which is coordinating Inspectors General reviews of this important subject.*

President of Telecommunications Firms Sentenced. On March 10, 2006, the president of two New York City telecommunications firms was sentenced to 3 years probation, \$80,000 in restitution, and a \$100 special assessment fee. The sentencing came after the president pled guilty to one count of making material false statements. The guilty plea related to SBA 9/11 disaster loans of \$216,800 obtained for one company and \$80,000 obtained for the other. The president stated on his applications that his companies were located in the World Trade Center on September 11, 2001, and suffered both physical and economic injury as a result of the terrorist attacks. The investigation revealed that both companies had moved out of the World Trade Center in July of 2001. The case was originally referred to the OIG by SBA's Niagara Disaster Office. The SBA OIG conducted this investigation jointly with the U.S. Postal Inspection Service.

Former President of Company Pleads Guilty. On March 17, 2006, the former president of a Nicaraguan mining company with offices in Miami, Florida, pled guilty to a criminal information charging him with one count of accessory after the fact. The charge relates to assistance he provided to the former president and owner of another corporation in negotiating a fraudulently-received two-party check. In the wake of the September 11, 2001 terrorist attacks in New York City, the second man received an SBA disaster loan for his corporation in the amount of \$646,900. SBA issued a two-party check for \$86,200 payable to the corporation and to the mining company, one of the vendors with whom the corporation had outstanding accounts payable. The former president of the mining company admitted that his company was not owed \$86,200, and that the second man only owed him personally approximately

\$12,000. At the second man's request, the former president deposited the check into the mining company's account, kept the \$12,000 that the second man owed him, and wire transferred the remainder of the funds back to him. This case was originally referred to the OIG by former employees of the corporation. The SBA OIG conducted this joint investigation with the U.S. Postal Inspection Service. New York City Woman Sentenced. On March 22, 2006, a Bronx, New York, woman was sentenced to 4 months home confinement, 3 years probation, \$1,668 in restitution, and a \$200 special assessment fee. The sentencing resulted from her indictment and guilty plea to one count of mail fraud and one count of theft of government funds. The charges related to applications the woman filed with the SBA and FEMA for aid in the aftermath of the September 11 terrorist attacks. The woman falsely stated on the applications that she had been residing in the vicinity of the World Trade Center, and that her furniture and car had been destroyed by debris when the towers collapsed. This case was referred to the OIG by SBA's Niagara Disaster Office. The SBA OIG conducted this joint investigation with the Department of Homeland Security (DHS) OIG.

## ***Business Loan Programs***

Three Officers of Utah Company Indicted. On March 15, 2006, two corporate officers of a Salt Lake City, Utah, landscaping company were each indicted on 2 counts of false statements to the U.S. Government and 2 counts of false statements to the SBA. On March 29, 2006, a third officer was indicted on identical charges. The SBA OIG investigation determined that the officers submitted false loan documentation to two different financial institutions in order to obtain two separate SBA loans totaling \$470,100. The officers failed to disclose at the time of their loan applications that they owed between \$160,000 and \$190,000 in delinquent payroll taxes. This case was initiated based on a referral from one of the financial institutions.

President and Secretary of Michigan Company and a Loan Broker Indicted. On March 16, 2006, the president and secretary of a Michigan service station, along with a former loan broker, gasoline supplier, and owner of a Michigan construction company, were indicted. The five-count federal indictment charged

the three defendants with conspiracy and making false statements to obtain a \$1.1 million SBA-guaranteed loan for the service station from a loan company in Troy, Michigan. The indictment alleges that the defendants made or caused false statements to the lender and SBA by claiming that the construction company had completed \$210,000 in repairs and renovations to the service station prior to the loan closing. The service station defaulted on the loan, resulting in SBA paying a claim of over \$789,000. Warrants have been issued for all three defendants. The SBA OIG conducted this investigation jointly with DHS.

Former Owner of Electrical Supply Store Charged. On March 17, 2006, the former owner of an Illinois electrical supply company was charged, by criminal information, with one count of wire fraud. The former owner sold the electrical supply store to two people from Illinois who purchased it by means of a \$1.1 million SBA-guaranteed loan serviced by a small business lending corporation in Colorado. The information alleges that the former owner falsified a tax return, forged his accountant's signature, and sent the tax return via facsimile transmission from Illinois to the lender in Colorado. The loan to the two purchasers went into default and ultimately resulted in a gross principal loss exceeding \$544,000. The information also contains forfeiture allegations demanding the former owner forfeit to the United States any and all title and interest in property which constitutes and is derived from proceeds traceable to the charged offense. The SBA OIG conducted this investigation jointly with the Federal Bureau of Investigation (FBI).

Debarment Actions. As a result of an OIG recommendation, SBA debarred two men as of March 31, 2006, for conversion of government property. The OIG investigation determined that the first man made a false statement to obtain a \$1 million SBA-guaranteed loan to purchase a food mart. The man stated that he would use personal assets to make an equity injection to pay part of the purchase price; however, a majority of the equity injection was loaned him by his brother, who already had a \$632,000 SBA loan. The men previously pled guilty to one count of conversion of government property. The first man was sentenced to 3 years probation and ordered to pay a \$5,000 fine, and his brother was sentenced to 3 years probation and ordered to pay a \$71,000 fine.

Michigan Men Plead Guilty. On March 30, 2006, the president and secretary of a gas station and convenience store in Detroit, Michigan, pled guilty to a superseding information that charged both of them with one count of making false statements to SBA and a lender. The men falsely represented that they had made an equity injection of \$130,000 in order to obtain a \$1,175,000 SBA-guaranteed loan. The president was previously indicted for falsely claiming to be a U.S. citizen. The SBA OIG conducted this joint investigation with DHS, Immigration and Customs Enforcement.

OIG Issues Report on Human Capital Planning. On March 2, 2006, the OIG issued a management advisory report, "Human Capital Planning in SBA's Office of Financial Assistance." The objectives of the review were to determine whether the Office of Financial Assistance (OFA): (1) had assessed the skills, competencies and staffing levels it needs to achieve its current and projected programmatic results; (2) had developed strategies to address the gaps identified; (3) had taken appropriate action to build the capability to support its workforce planning strategies and staffing plans; and (4) was periodically monitoring and reevaluating its human capital needs and goals in light of SBA's changing strategic and program goals, transformation strategy, and human capital plan.

The review found that OFA was not operating with a current staffing plan or documented training plan to ensure that its staff has, retains, and builds the skills and competencies needed for OFA to achieve its current and future goals. We also observed that OFA did not routinely monitor or measure quality assurance in the operation of its loan processing and servicing centers. We recommend that the Associate Administrator for Financial Assistance develop a current staffing plan and training plan that take into consideration the observations outlined in this management advisory report. OFA generally with the OIG's observations and concerns regarding human capital planning in OFA, and stated that it will develop staffing and training plans incrementally for the areas within the organization where transformation has been completed, and add them as it continues to further implement its transformation process.

OIG Issues Audit of Loan to Texas Company. On March 2, 2006, the OIG issued an audit report on an SBA-guaranteed loan to two owners of a Lubbock,

Texas, plumbing company. The audit found the lender did not take prudent measures to ensure that the borrowers made the required equity injection prior to the first loan disbursement and that loan proceeds were used in accordance with the loan authorization. Since neither deficiency was identified during the guaranty purchase process, SBA made an erroneous payment of \$26,413 when it purchased the guaranty. The OIG recommended that SBA seek recovery of \$26,413 from the lender on the guaranty paid.

The lender disagreed with the OIG's finding and recommendation and provided additional documentation for consideration. The documentation, however, did not provide support for the required equity injection or \$7,623 in use of proceeds. SBA generally agreed with the OIG's finding and recommendation and stated that the material injection deficiency warranted full recovery of the guaranty purchase amount.

OIG Issues Audit of Loan to Arkansas Company. On March 20, 2006, the OIG issued an audit of an SBA-guaranteed loan to a North Little Rock, Arkansas, company. The audit found that the lender over-disbursed the CAPLines loan on two occasions and that SBA used the incorrect transcript to determine the purchase amount. As a result, we recommended that SBA seek recovery of \$18,992 from the lender on the guaranty paid. The lender agreed that it over-disbursed the CAPLines loan and SBA agreed that it processed the purchase using the incorrect transcript.

OIG Issues Audit of Loan to Indiana Company. On March 20, 2006, the OIG issued an audit of an SBA-guaranteed loan to a West Lafayette, Indiana, company. The audit found that the lender did not perform the required analysis before making disbursements on the Standard Asset Based (SAB) CAPLines loan and, therefore, over-disbursed the loan by between \$78,210 and \$276,800. In response to the draft report, the lender stated that the borrower corrected the over-disbursements after the first four loan advances and believed only the last disbursement represented an overdraw. The lender further stated that this small variance would not have resulted in any risk to SBA and, therefore, it did not agree that a refund of the guaranty paid was appropriate. SBA agreed that the lender over-disbursed the loan, but stated that SBA did not adequately qualify the lender to make SAB CAPLines loans and, therefore, must share responsibility for the lender's inadequate servicing of the loan. As a result,

we recommended that SBA seek recovery of \$88,269, or 50 percent of the \$176,538 SBA paid the lender when it purchased the guaranty. SBA agreed with the recommendation to seek recovery of \$88,269 from the lender.

Agency Completes Final Action on One Recommendation Made in Audit of an SBA-Guarantied Loan to an Auto Sales Company. OFA reported that it completed the following action: Recovered \$308,960 from the lender on the guaranty paid. There were no other recommendations contained in the report.

## ***Small Business Investment Company Program***

Part Owner of Technology Fund Sentenced. On March 7, 2006, the part owner of a technology fund in Princeton, New Jersey, was sentenced in U.S. District Court, Washington, D.C., to 70 months imprisonment, to be followed by 5 years supervised release. He was also ordered to pay \$1,905,634 in restitution to SBA. The sentencing is a result of a November 2005 conviction on charges of making a false entry in the books, reports, and statements of the technology fund, a Small Business Investment Company (SBIC) licensed by SBA. Investigative efforts revealed that the part owner controlled the day-to-day affairs of the fund, which had received \$32 million in funding from the SBA to invest in start-up businesses. During the year 2000, he converted at least \$5 million that the fund received from SBA for his own personal gain. This case was originally referred by the SBA's Investment Division. The SBA OIG conducted this joint investigation with the FBI.

## ***Government Contracting and Business Development***

OIG Issues Report on Audit of 8(a) Monitoring Compliance. On March 16, 2006, the OIG issued a report, "Audit of Monitoring Compliance With 8(a) Business Development Regulations During 8(a) Business Development Contract Performance." The objectives of this audit were to determine whether (1) Federal agencies ensured that companies complied with 8(a) Business Development (BD) contracting requirements when completing 8(a) BD contracts, and

(2) an 8(a) BD company complied with critical contracting requirements in completing 8(a) BD contracts. The audit was initiated based on a complaint about potential violations by an 8(a) BD company when completing contracts. As we were conducting our review of these violations, we expanded the review to cover SBA's and procuring agencies' monitoring of compliance with 8(a) BD regulations during the performance of 8(a) BD contracts.

While SBA delegated 8(a) BD contract execution authority to 26 procuring agencies, there was no evidence to support that it performed any surveillance reviews to ensure that these agencies effectively monitored companies for compliance with 8(a) BD regulations when they completed 8(a) BD contracts. Neither SBA nor procuring agencies monitored these contracts during contract execution to ensure companies were complying with the regulations. Procuring agencies did not establish guidelines or procedures to monitor adherence to the regulations after contract award. As a result, companies could violate 8(a) BD regulations and government officials would be unaware of the violations. Our review showed that a company appears to have violated various significant regulations on various 8(a) BD contracts, and neither the procuring agency nor SBA was aware of the apparent violations.

We recommend that the Associate Deputy Administrator for Government Contracting and Business Development revise the partnership agreements so that procuring agencies are specifically required to: (1) monitor 8(a) BD companies compliance with specified contract and FAR requirements and 8(a) BD regulations; (2) inform contracting officers and technical representatives of their responsibilities concerning 8(a) compliance; and (3) acknowledge that SBA can take back the delegated authority if it does not adequately monitor 8(a) BD company compliance with 8(a) BD regulations.

We recommend that the Associate Administrator for Field Operations ensure that surveillance reviews of procuring agencies are conducted on a regular basis. These surveillance reviews should ensure that procuring agencies are effectively monitoring for and enforcing compliance with specified 8(a) BD regulations on the contracts they administer.

The Associate Deputy Administrator for Government Contracting and Business Development and the

Associate Administrator for Field Operations agreed with the recommendations made in the report.

Arizona Firm Settles Allegations of Misrepresentation.

An Arizona firm that provides technology products and services to the Government agreed to pay \$1 million to settle allegations that a corporation it purchased in 2002 had falsely certified itself as a small business on its application for GSA's Multiple Award Schedule (MAS). The investigation of the firm was initiated based on a complaint that the firm had unfairly received preference in the award of task orders under the MAS. The two-year investigation, conducted jointly by the SBA OIG, the GSA OIG, and the Department of Justice, concluded that the purchased corporation had indeed misrepresented its size status on its 1996 application and that the firm had unfairly benefited from the small business designation. The Arizona firm withdrew the small business certification in 2005.

OIG Issues Report on 8(a) Eligibility. On March 30, 2006, the OIG issued an audit report, "Review of a Company's 8(a) Business Development Program Eligibility." The objective of the audit was to determine whether an 8(a) BD company was eligible to participate in the 8(a) BD program. The OIG found that the company was ineligible for 8(a) BD participation and, as such, should be removed from the program. The company violated seven of the good causes for termination. When applying and after admittance to the 8(a) BD program, the company's disadvantaged owner violated 8(a) BD eligibility requirements concerning good character, payment of Federal financial obligations, and control of the company. Although required, the company did not inform SBA that it failed to meet eligibility requirements, and the company received a \$9.3 million 8(a) BD contract.

The OIG made one recommendation to SBA's Acting Associate Administrator for Business Development to take the necessary steps to remove the company from the 8(a) BD Program. The Acting Associate Administrator stated that there was cause for the Office of Business Development to initiate termination proceedings and suspend the company from the program. The OIG plans to issue another report describing program weaknesses found with SBA's 8(a) eligibility process.

OIG Issues Report on the Central Contract Registration.

On March 21, 2006, the OIG issued a management advisory report, "The Central Contractor Registration Needs Large Business and Small Business Designation Improvements." The OIG received a congressional request to review whether a Hurricane Katrina related contract was appropriately coded as a small business in the Federal Procurement Data System – Next Generation (FPDS – NG). While reviewing this contract, we noted that the Central Contractor Registration (CCR), developed by the Department of Defense (DOD), allows contradictory information on a contractor's size to be included in the system. This contradictory information can cause contracting officials and others who rely on the CCR database to incorrectly identify contractors as small businesses. We believe that the CCR needs to be modified to include an edit check and additional instructions to correct this problem.

The OIG recommended that SBA's Associate Administrator for Government Contracting continue to work with DOD and GSA to ensure that the CCR is modified to correct the reported problem. The Office of Government Contracting agreed with the OIG's findings and recommendations.

Virginia Firms and Officers Sentenced:

Suspension/Debarment Actions Taken. On February 24, 2006, a Norfolk, Virginia, environmental services company and its president were suspended from future Government contracting by the U.S. Army Procurement Fraud Branch. In addition, the Army recommended that the former president of another environmental services company, located in Portsmouth, Virginia, be proposed for debarment. On March 30, 2006, the former president of the second firm was sentenced to 21 months in prison, 3 years supervised release, a \$1,500,000 fine, and a \$100 special assessment fee. Both firms were sentenced to 5 years supervised release and \$400 special assessment fee. The first firm was also fined \$500,000. The second firm is no longer in operation. The former president of the first firm was previously sentenced to 5 months in prison, 5 months home detention, 3 years supervised release, \$1,000,000 fine and \$100 special assessment fee.

These actions were based upon previous guilty pleas to an indictment charging them with one count of conspiracy to defraud SBA and the Environmental Protection Agency (EPA). One of the companies was an SBA 8(a) certified firm in which the former president



qualified as the disadvantaged individual. The two men conspired to make misrepresentations to SBA in order for the company to maintain its 8(a) eligibility requirements. Further, the two men conspired to provide false hazardous environmental training certificates on contracts in violation of EPA regulations. The case was based on a request from the Department of Justice to join an ongoing investigation against the company. The SBA OIG is conducting this investigation jointly with the FBI, Defense Criminal Investigative Service, EPA/Criminal Investigation Division, Army/Criminal Investigation Division, National Aeronautics Space Administration OIG, Defense Contract Audit Agency, and the Virginia Department of Professional and Occupational Regulation.

Attorney Found Guilty of Conspiracy. On March 22, 2006, an attorney was found guilty in a jury trial of conspiracy to commit offenses against the United States, attempting to influence the testimonies of persons in an official proceeding, and 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 client was requiring other 8(a) contractors to sign non-competition agreements. During the course of the investigation, it was discovered that the client was paying kickbacks to a former restaurant manager in exchange for electrical contract jobs in restaurants in Puerto Rico. The investigation determined that the attorney interfered with and obstructed the investigation into illegal kickback payments made by his client to the restaurant owner. The client previously pled guilty to one count of conspiracy and is awaiting sentencing. The restaurant owner was previously convicted by jury trial of one count of bribery and was sentenced to one year and one day imprisonment, two years of supervised release, and a \$100 special assessment fee. This case was referred to the SBA OIG by the General Services Administration (GSA) OIG. The SBA OIG conducted this joint investigation with the GSA OIG and the U.S. Department of Justice Antitrust Division.

## *Agency Management*

Agency Completes Final Action on Two Recommendations Made in Audit of SBA's FY 2004 Financial Statements (Report 5-05). The Agency reported that it completed the following final actions: The Office of Administration provided Contracting Officer's Technical Representative and Grant Officer's Technical Representative training, covering grants and cooperative agreements, to all interested Agency personnel. All recommendations contained in the report have been completed.

Agency Completes Final Action on Two Recommendations Made in Audit of SBA's Information System Controls for FY 2002 (Report 3-20). The Agency reported that it completed the following final actions: The Office of Chief Information Officer provided procedures for performing the annual review of authorized users of the Agency's accounting system and a copy of the recent review, and provided proof of periodic retraining of security administrators in Oracle security administration. Three recommendation contained in the audit report remain open.

Agency Completes Final Action on Recommendation Made in Latino Coalition Foundation Cooperative Agreement (Report 4-31) As a result of the OIG's finding that the awarding and administration of a cooperative agreement to the Latino Coalition needed improvements, the Agency reported that it completed the following final action: The Office of Administration provided Contracting Officer's Technical Representative and Grant Officer's Technical Representative training, covering grants and cooperative agreements, to all interested Agency personnel. All recommendations contained in the report have been completed.

Agency Completes Final Action on Two Recommendations Made in Audit of SBA's Procedures for Cash Gifts (Report 5-28). In response to the OIG's finding that certain required procedures for soliciting, accepting, and utilizing cash gifts were not performed, the Agency reported that it completed the following actions: In response to one recommendation, the Office of General Counsel (OGC) performed a conflict of interest determination for each of the organizations that donated cash in 2004 and found that one of the organizations, which donated \$7,500, had a conflict of interest. Accordingly, the Acting General

Counsel/Designated Agency Ethics Official recommended that the \$7,500 be withdrawn from the Massachusetts District Office Business Assistance Trust Fund and returned to the donor organization. With regard to another recommendation, OGC determined what information is needed by its attorneys to perform a completed conflict of interest determination on potential gift donors. The required information will be included in a revised SBA Standard Operating Procedure (SOP) 90 75. Final actions have not been completed on five other recommendations in the report.

### ***Statutory/Regulatory/Policy Reviews***

In an 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 seven 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,  
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The OIG has established an e-mail address ([oig@sba.gov](mailto: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 these documents please contact:

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