



Office of Inspector General U.S. Small Business Administration

April 2010 Update

Business Loan Programs

Review of SBA's Job Creation Data Under the Recovery Act. On April 30, 2010, the OIG issued a [report](#) on the reliability of job creation and retention data reported by SBA under the American Recovery and Reinvestment Act of 2009 (Recovery Act). While SBA's two major loan programs, known as the 7(a) and 504 loan programs, are not subject to recipient reporting requirements under the Recovery Act, SBA has reported job creation and retention statistics in its monthly *Recovery Act Program Performance Report* on the Agency's website.

The OIG reviewed a sample of Recovery Act loans and found that Certified Development Companies reported job creation and retention statistics for the 504 program consistent with program guidance. For the 7(a) program, however, SBA did not define or provide lenders with guidance on how jobs retained were to be measured, and lenders generally reported all existing jobs at a borrower's business as "jobs retained." As a result, SBA's reporting of 7(a) job retention was unclear and misleading. The risk of confusion was compounded by the fact that "jobs created/retained" for the 7(a) and 504 loan programs were reported side by side, even though they are not comparable.

The OIG recommended that SBA define "jobs retained" for the 7(a) program, provide justification for the approach, and issue guidance to lenders on this change. In addition, the OIG recommended that SBA disclose any differences in metrics between programs in subsequent monthly *Recovery Act Program Performance Reports* and revise the cumulative "jobs created/retained" metric to reflect any change.

Guilty Pleas for Conspiracy. On April 1, 2010, in the Southern District of Texas, a loan broker, an SBA borrower and undisclosed owner of an investment

company, the owner of an insurance agency, and another SBA borrower pled guilty to conspiracy to commit wire fraud. These four individuals and others participated in a complex loan fraud scheme that involved making false statements and submitting fraudulent documents to SBA-approved lending institutions in order to fraudulently obtain numerous loans. The OIG is conducting this investigation jointly with the Federal Bureau of Investigation (FBI) and the Internal Revenue Service, Criminal Investigation Division (IRS-CID).

Guilty Pleas for Conspiracy and False Statements. On April 5, 2010, in the Southern District of Texas, four individuals entered guilty pleas, as follows.

- An SBA borrower and purchaser of a convenience store pled guilty to conspiracy.
- The president of a company that owns and operates convenience stores pled guilty to making false statements.
- The vice president of the same company pled guilty to conspiracy.
- The president of a title company pled guilty, on behalf of the company, to one count of false statements to a financial institution. The company was also sentenced to a fine of \$25,000 and a special assessment of \$400.

The guilty pleas related to the purchase of a Texas convenience store. The first individual obtained a \$1million SBA-guaranteed loan through an SBA lender and a \$300,000 conventional loan through a bank to finance the purchase of the store from the company operated by the second two individuals. The bank used the title company to close the loans. The defendants represented to the bank that money had been received at closing from the purchaser when, in fact, no funds changed hands. The OIG is conducting this investigation jointly with the FBI.

Government Contracting and Business Development

Report on Irregularities Involving a Tribally-owned 8(a) Company. On April 29, 2010, the OIG issued a [report](#) on the results of a limited review of a Tribally-owned 8(a) company. The review was initiated in response to a referral from the Defense Contract Audit Agency (DCAA) about billing irregularities and company's apparent concealment of the extent of the non-disadvantaged owner's involvement with the firm. The OIG identified a number of irregularities involving the formation of the 8(a) company that indicated the non-disadvantaged owner may have been controlling and operating the company for the benefit of his defense contract business. Most significantly, an agreement signed by the non-disadvantaged owner and the President of the Tribal Council caused the tribe that owned the company to effectively retain only 25 percent of the net profits from 8(a) contract awards. In addition, the non-disadvantaged owner and his other companies earned significant fees from the 8(a) company for rent and other services. As a result, it appeared that the company's primary purpose was to benefit the non-disadvantaged owner, which is contrary to what Congress intended when it allowed firms owned by Indian tribes to participate in the 8(a) program.

The OIG recommended that SBA determine whether the company still met eligibility requirements for the 8(a) program and, if not, initiate termination from the program. The Agency stated that it would conduct a thorough review of the company to determine the firm's compliance with 8(a) Business Development Program rules and regulations.

Disaster Loans

Louisiana Resident Sentenced. On April 8, 2010, a Louisiana resident was sentenced to 12 months and 1 day in prison, 36 months supervised release, restitution to the SBA in the amount of \$122,641, and a special assessment of \$100. She previously pled guilty to one count of theft of Government funds. The investigation disclosed that she forged the signature of a building inspector and submitted forged and/or fraudulent building permits, receipts, and construction contracts to induce SBA to disburse disaster loan funds to which she was not entitled and which she later converted to personal use. The SBA OIG

conducted this investigation jointly with the U.S. Housing and Urban Development (HUD) OIG.

Louisiana Resident Indicted. On April 8, 2010, a Louisiana resident was indicted on one count of wire fraud for allegedly filing a fraudulent application with the SBA for \$108,000 in Hurricane Katrina disaster assistance relating to her home in Baton Rouge. The investigation revealed that she also received assistance from the Federal Emergency Management Agency and the Louisiana Road Home Program. She executed a written "Loan Authorization and Agreement" in which she agreed to use the proceeds of the SBA loan to replace property at her residence that had been damaged by Hurricane Katrina, to obtain written receipts and contracts for all repairs, and to provide them to SBA. It is alleged that she created fraudulent documentation to reflect repair expenses incurred as a result of the storm and transmitted these false documents by means of a facsimile machine in Baton Rouge to SBA's offices in Fort Worth, Texas. The SBA OIG is conducting this investigation jointly with the HUD OIG, the Department of Homeland Security OIG, and the U.S. Postal Service OIG.

SBA Employee Indicted. On April 14, 2010, an SBA employee was indicted on charges of fraud in connection with a major disaster, theft of public money or property, and aggravated identity theft. The investigation revealed that in December 2008, a Texas resident applied for a \$33,600 SBA disaster loan in order to replace personal property damaged as a result of Hurricane Ike. The individual later decided not to take the loan and asked the SBA via telephone to cancel his loan application. A few months later, however, he received a letter from the SBA requesting payment on the loan. An investigation revealed that the SBA employee forged the applicant's signature on loan documents, altered one of her own personal checks by placing the applicants name on it, and made false entries into SBA's Disaster Credit Management System to support loan disbursement to her own personal checking account.

Agency Management

Report on Adequacy of Procurement Staffing and Oversight of Contractors Supporting the Procurement Function. On April 9, 2010, the OIG issued a [report](#) concerning the ability of SBA's Office of Business Operations' (OBO) to effectively plan, execute, and support the Agency's procurement activities, including

Recovery Act contracts. Between July 2009 and February 2010, SBA awarded 29 Recovery Act contracts and processed 740 non-Recovery Act contract actions. During this same period, OBO's workforce decreased from 13 contracting personnel to 7. As a result, the OIG determined that the workforce was insufficient to effectively award, administer, and oversee Recovery Act contracts, as well as other contracts managed by OBO. Without adequate staff to perform contract execution, administration functions, and to oversee contractors supporting OBO, the Agency was exposed to increased risk for mismanagement, improper payments, fraud, waste, abuse.

The OIG recommended that SBA identify and implement an interim solution to augment its acquisition workforce until permanent staff could be hired to ensure that the Agency has adequate oversight of the procurement function and the contracting personnel to support it.

Report on the Accuracy of Recovery Act Contract Award Obligations Reported to the Federal Procurement Database System – Next Generation and Recovery.gov. On April 15, 2010, the OIG issued a [report](#) concerning the accuracy of Recovery Act contract award obligations reported by SBA to Recovery.gov. The Recovery Act requires that, to the maximum extent possible, contracts funded under the Act be awarded as fixed-price contracts through the use of competitive procedures. Agencies are required to report to Recovery.gov contract actions that are not competed or are not fixed price.

The OIG compared data posted on Recovery.gov as of March 19, 2010, with data from the Federal Procurement Data System-Next Generation (FPDS-NG) for the same period. The OIG determined that the Agency inaccurately reported eight Recovery Act contract actions, valued at about \$1.83 million. Six of the eight contract actions reported to FPDS-NG as "not competed under SAP [Simplified Acquisition Procedures]" were not listed on Recovery.gov. In addition, two of the eight contract actions were inappropriately categorized by the Agency in FPDS-NG because the contract values exceeded the simplified acquisition threshold.

The OIG recommended that SBA reconcile Recovery Act contract awards reported to FPDS-NG and Recovery.gov, and report to Recovery.gov all non-competitive contract awards not previously reported.

This monthly update is produced by the SBA OIG, Peggy E. Gustafson, Inspector General.

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SBA OIG
409 Third Street SW., 7th Floor
Washington, DC 20416
E-mail: oig@sba.gov
Telephone number (202) 205-6586
FAX number (202) 205-7382

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