



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

August

2009 Update

### *Business Loan Programs*

OIG Issues Report on the SBA's Management of a Backlog of Post-Purchase Reviews at the National Guaranty Purchase Center. On August 25, 2009, the OIG issued a report on the results of an audit of SBA's management of a backlog of post-purchase reviews at its National Guaranty Purchase Center (NGPC) in Herndon, Virginia. The objectives of the review were to determine whether (1) post-purchase reviews performed by a contractor were effective in identifying lender noncompliance, (2) reviews of charged-off loans performed by the contractor and the NGPC appropriately identified lender noncompliance, and (3) an SBA decision to charge off older loans without performing post-purchase reviews was appropriate.

As of the end of fiscal year (FY) 2007, the NGPC had accumulated a backlog of approximately 3,500 loans, valued at over \$1 billion, that had been purchased from the secondary market. The Center was required to perform a post-purchase review on each loan to evaluate whether the lender materially complied with SBA's rules and regulations in originating, servicing, and liquidating the loans and to recover improper payments for any losses incurred as a result of lender noncompliance. As part of an initiative to eliminate the backlog, SBA contracted with an outside company to conduct post-purchase and charge-off reviews of the loans to identify lender compliance issues. In addition, SBA charged off 313 loans that were purchased prior to 2002 without evaluating lender compliance with origination and closing requirements because it believed the statute of limitations had been exceeded, which would prevent recovery from lenders.

An OIG review of a sample of the loans reviewed by the contractor identified \$1.25 million of improper payments, consisting of \$1,055,455 that was missed in the post-purchase reviews, \$37,624 that was inappropriately charged off, and \$157,009 of

liquidation proceeds that were inappropriately applied. Based on the sample results, the OIG estimated that the contractor did not identify at least \$7.6 million of improper payments resulting from lender noncompliance with loan origination and closing requirements. The OIG also identified \$744,481 of improper payments on 5 loans that were charged off without post-purchase reviews. While the Center performed charge-off reviews on these loans, it did not identify the deficiencies nor recover the improper payments.

The OIG recommended that SBA recover \$1.25 million of improper payments identified by the audit and made other recommendations to improve purchase and charge-off reviews at the Center. SBA agreed to seek recovery of, or request additional documentation from lenders for, about \$1.1 million of the \$1.25 million in improper payments identified for recovery. It did not agree that recovery should be pursued on the remaining balance due to either the age of the loans or prior settlements reached.

Results of Ongoing Investigation. The following case is part of an ongoing investigation, being conducted jointly with the U.S. Secret Service (USSS), relating to a scheme in which a non-bank lender's former executive vice president and others not employed by the lender conspired to fraudulently qualify loan applicants for SBA-guaranteed loans.

- On July 27, 2009, an Illinois businessman was sentenced to 27 months imprisonment and immediate restitution of \$1,037,978.55, plus a \$100 special assessment fee. He had previously pled guilty to one count of wire fraud. Along with three other businessmen, he was indicted in connection with schemes to defraud the SBA and its preferred lender. These schemes included \$2,540,000 in loans to an Illinois corporation for its purchase of a hotel property in Memphis,

\$295,000 in order to receive additional funds for his personal use.

## *Disaster Loan Program*

Louisiana Business Owner Sentenced. On August 13, 2009, the co-owner of a Louisiana learning center was sentenced to 36 months probation, a \$1,500 fine, and a \$100 special assessment fee. Prior to his sentencing, he made full restitution in the amount of \$119,727.64 to SBA. He had previously pled guilty to one count of wire fraud. He applied for and received an SBA disaster home loan of \$94,000 and an SBA disaster business loan of \$125,500, claiming damages from Hurricane Katrina to his residence and his wife's day care business, which was located at the same address. He transmitted, via facsimile, bogus inflated receipts to the SBA as supporting documentation for repairs completed. Based upon these fraudulent receipts, SBA approved additional installment payments from the approved loans and transferred more funds into their checking accounts. The OIG is conducting this investigation jointly with the Hurricane Katrina Fraud Task Force.

Texas Trio Sign Diversion Agreements. During July 2009, a business development officer with a Texas bank, his wife, and a business associate, respectively, signed pre-trial diversion agreements, which were approved in the U.S. District Court, Northern District of Texas, Dallas, Texas. The business development officer and his wife were indicted on February 18, 2009, on two counts of accepting a bribe by an officer of a financial institution, one count of aiding and abetting, and one count of criminal forfeiture. The business associate was indicted on three counts of bank fraud, two counts of aiding and abetting, and one count of criminal forfeiture. The business associate and another co-conspirator devised a scheme to defraud the Texas bank by fraudulently procuring an SBA-guaranteed loan for \$980,000 from the bank for the purchase of three convenience stores. The business development officer was charged for accepting a \$1,500 check in exchange for influencing the award of the loan. He negotiated the check, which was made out to his wife. The OIG is conducting this investigation jointly with the Federal Bureau of Investigation (FBI).

Maryland Restaurant Owner Charged. On August 31, 2009, the vice president and an owner of a Korean restaurant in Maryland was charged with one count of conspiracy, one count of making false statements, one count of making false statements to the SBA, and two counts of aiding and abetting. He had obtained an SBA-guaranteed loan in the amount of \$417,000 through a small business finance company to perform construction/renovation work for leased space and purchase equipment and inventory for his new restaurant business. On his SBA Form 4, Application for Business Loan, he certified the cost of the construction work to be \$295,000, even though he had already entered into an agreement with a construction company for the work to be performed for \$145,000. He conspired with the construction company to falsely represent that that the total cost for the project was

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