



**U.S. SMALL BUSINESS ADMINISTRATION  
OFFICE OF INSPECTOR GENERAL  
WASHINGTON, D.C. 20416**

**Oversight Framework for the American Recovery and  
Reinvestment Act of 2009 (P.L. 111-5)**

The American Recovery and Reinvestment Act of 2009 (Recovery Act) provides for reduced loan fees, higher guaranties, new SBA credit programs, secondary market incentives, and enhancements to current SBA programs to help unlock credit markets and begin economic recovery for the nation's small business sector. In order to provide unprecedented levels of transparency and accountability, the Recovery Act and related Office of Management and Budget (OMB) guidance require increased financial reporting on, and oversight of, programs, grants, and projects funded under the Act to deter and detect fraud, waste and abuse, and ensure that program goals are met.

To meet its oversight responsibilities under the Recovery Act, the OIG is developing oversight plans for deploying additional resources to provide "real-time" monitoring, evaluation, and reporting of SBA's implementation of the Act. Since the Act provides very short time frames for obligating funds, there will be significant pressure on SBA to expedite and maximize financial assistance to small businesses. Past experience, such as SBA's response to the 9-11 terrorist attacks and the 2005 Gulf Coast hurricanes, has shown that this pressure can significantly increase the vulnerability of SBA's programs to fraud and unnecessary losses. Therefore, the OIG's oversight efforts will focus heavily on assessing controls and detecting and deterring fraud, waste and abuse in Recovery Act programs. The OIG's oversight plans will include both immediate and longer-term actions.

Immediate OIG Recovery Oversight Actions:

- Establish internal OIG recovery oversight teams and processes, including reporting and cost tracking procedures, as well as an OIG recovery oversight website.
- Meet with responsible agency officials and establish regular meetings and other communication processes to monitor and provide recommendations on development of agency Recovery Act actions before they are implemented.
- Review all agency proposed controls (regulations, operating procedures, notices, etc.) relating to Recovery Act initiatives prior to issuance and provide recommendations to reduce potential waste, fraud, abuse and inefficiencies.
- Review and provide recommendations on agency risk mitigation planning activities.
- Review unimplemented audit recommendations and provide the agency with recommendations on unresolved internal control weaknesses that may affect Recovery Act initiatives.
- Identify key fraud indicators that may increase potential losses in Recovery Act programs and issue a written notice to agency employees and loan program participants.
- Contact trade associations and other outside entities to conduct fraud outreach efforts and identify potential oversight activities.
- Issue solicitation and job announcements to obtain contracting and temporary personnel to conduct recovery oversight activities.
- Prepare a detailed audit work plan for recovery oversight activities.

Longer-term OIG Recovery Oversight Actions:

The table below summarizes potential risks related to SBA’s implementation of the Recovery Act and provides a framework for potential additional OIG activities to address these risks.

Risks Associated With The Recovery Act (RA)	Potential OIG Activities
<p><i>RA Section 501 – Fee Reductions:</i> Elimination or reduction of borrower fees in the 7(a) and 504 loan programs.</p> <p><i>RA Section 502 – Economic Stimulus Lending Program for Small Businesses:</i> 90 percent guaranty for qualifying small business loans made by eligible lenders.</p> <p><i>RA Section 504-Stimulus For Community Development Lending:</i> Loans under the 504 Program for debt refinancing and borrower expansion.</p> <p><u>Risks:</u></p> <p>Lenders will have greatly reduced risk on the loans and may not diligently underwrite loans, investigate fraud indicators at loan origination, or exert sufficient effort to liquidate and collect outstanding debt on defaulted loans. Result: greater potential for losses and fraud.</p> <ul style="list-style-type: none"> <li>• Increased risk of improper payments (guaranty purchases) stemming from higher loan activities and resource constraints.</li> <li>• Improper 504 refinancing and expansion loans could lead to government losses.</li> <li>• SBA’s oversight processes may not effectively identify red flags in loan applications given the public pressure to expedite lending, leading to increased losses.</li> <li>• In the past, SBA has run out of money in operating subsidy-based financial assistance programs, leading to caps on, or interruptions in, lending. Also, subsidy model re-estimates and modifications could result in cost overruns in new loan programs.</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct periodic “real-time” reviews and performance reporting in the following areas: <ul style="list-style-type: none"> <li>➤ SBA and lender underwriting and closing of loans under the 7(a) and 504 programs (including refinancing and expansion loans).</li> <li>➤ SBA’s purchase decisions and oversight of CDC and lender liquidation of 7(a) and 504 loans to determine if appropriate efforts are being made to prevent improper payments on defaulted loans and recover liquidated collateral.</li> <li>➤ Early default 7(a) loans to determine quality of underwriting.</li> </ul> </li> <li>• Review SBA’s management and oversight of appropriated funds and lending activity.</li> <li>• Expand the scope of the financial statement audit to address the change from a zero-subsidy to a fully subsidized program and to incorporate new loan programs.</li> <li>• Identify areas most susceptible to fraud, issue preventative guidance, and conduct criminal investigations of loan program participants.</li> </ul>

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<p><i>RA Section 503 – Secondary Market Guaranty Authority for 504 Loans:</i> New program allowing SBA to issue guaranties for the sale of first lien position loans under the 504 program and to develop a secondary market for the purchase of these loans or pools of loans.</p> <p><u>Risks:</u></p> <ul style="list-style-type: none"> <li>• Since SBA is required to issue implementing regulations on an expedited basis, it may not establish effective controls. Result: potential for increased fraud and losses and programmatic inefficiencies.</li> <li>• SBA is greatly increasing its exposure by guaranteeing not only the 40-percent debenture it normally guarantees, but also the 50-percent first lien position on 504 loans (increasing exposure from 40 percent to 90 percent of these financing packages). Result: potential losses.</li> <li>• Lenders that hold first liens on 504 loans are expected to act prudently in underwriting and servicing their loans. The sale of these loans would allow lenders to avoid losses, thus reducing incentives for lenders to prudently underwrite their loans. Yet, under current regulations, SBA has no recourse against these lenders, unlike the remedies it can pursue with 7(a) lenders. Result: increased potential fraud and losses and less accountability.</li> <li>• Subsidy model re-estimates and modifications could result in cost overruns in new loan programs.</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct OIG reviews of the following areas: <ul style="list-style-type: none"> <li>➤ SBA regulations and operating procedures to identify control weaknesses.</li> <li>➤ Sales of 504 first-lien position pools to third- party investors.</li> <li>➤ SBA oversight of lenders, certified development companies (CDCs) and other participants in the program.</li> </ul> </li> <li>• Expand the scope of the financial statement audit.</li> <li>• Identify areas most susceptible to fraud, issue preventative guidance, and conduct criminal investigations of loan program participants.</li> </ul>
<p><i>RA Section 505 – Increasing Small Business Investment:</i> Increase of maximum leverage for Small Business Investment Companies (SBICs).</p> <p><u>Risks:</u></p> <ul style="list-style-type: none"> <li>• Increased leverage increases the risk to SBA, particularly if SBA does not exercise adequate oversight.</li> </ul>	<ul style="list-style-type: none"> <li>• Determine whether SBICs are appropriately using the increased leverage and whether SBA is conducting appropriate oversight.</li> </ul>

Risks Associated With The Recovery Act (RA)	Potential OIG Activities
<p><i>RA Section 506 – Business Stabilization Program:</i> New program allowing SBA to make 100-percent guaranties on loans of up to \$35,000 to viable small business concerns that have qualifying small business loans and are experiencing immediate financial hardship.</p> <p><u>Risks</u></p> <ul style="list-style-type: none"> <li>• Lenders will have no risk exposure on the loans and may not diligently underwrite loans, investigate fraud indicators at loan origination, or exert sufficient effort to liquidate and collect debt on defaulted loans leading to increased losses and potential fraud.</li> <li>• Lenders will be originating loans used to pay debts owed to them, which may lead to a conflict in interest.</li> <li>• SBA’s oversight processes may not effectively identify red flags in loan applications given the public pressure to expedite lending, leading to increased losses.</li> <li>• Subsidy models re-estimates and modifications could result in cost overruns in new loan programs.</li> </ul>	<ul style="list-style-type: none"> <li>• Assess program implementation, including: <ul style="list-style-type: none"> <li>➤ Reviews of program regulations, operating procedures and other controls.</li> <li>➤ Ongoing “real-time” reviews of underwriting and closing of loans made under the program.</li> <li>➤ Ongoing “real-time” reviews of purchase and liquidation processes to determine if SBA is appropriately recovering improper payments and exercising adequate oversight of lender liquidation of collateral.</li> <li>➤ Reviews of SBA’s oversight of lender compliance with loan program requirements.</li> </ul> </li> <li>• Expand the scope of the financial statement audit.</li> <li>• Identify areas most susceptible to fraud, issue preventative guidance, and conduct criminal investigations of loan program participants.</li> </ul>
<p><i>RA Title V – SBA Appropriations:</i> Increased funding for Surety Bond Guaranty Programs; <i>RA Section 508 – Surety Bonds:</i> – Increased Guarantees.</p> <p><u>Risks:</u></p> <ul style="list-style-type: none"> <li>• Efforts to expedite surety bond assistance in order to stimulate the economy and the increase in levels of authorized surety bond guaranties increases the potential for losses and fraud.</li> </ul>	<ul style="list-style-type: none"> <li>• Audit surety bond guarantee underwriting and guarantee purchase review processes.</li> </ul>

Risks Associated With The Recovery Act (RA)	Potential OIG Activities
<p><i>RA Section 509 – SBA Secondary Market Lending Authority:</i> New program allowing SBA to make loans to SBA broker-dealers who operate in the secondary market with no limit on the size of the loans.</p> <p><u>Risks:</u></p> <ul style="list-style-type: none"> <li>• Since this is an entirely new SBA program, and since SBA is required to issue implementing regulations on an expedited basis, the Agency may not establish effective controls or adequate underwriting criteria to determine borrower “repayment ability.” Result: Increased fraud and losses and programmatic inefficiencies.</li> <li>• Allowing loans of unlimited size greatly increases the potential for losses.</li> <li>• SBA may not diligently enforce compliance with loan program requirements. Result: increased losses and lack of accountability.</li> <li>• Subsidy model re-estimates and modifications could result in cost overruns in new loan programs.</li> </ul>	<ul style="list-style-type: none"> <li>• Assess program implementation, including: <ul style="list-style-type: none"> <li>➤ Reviews of new program regulations and operating procedures to assess the adequacy of controls.</li> <li>➤ Real-time reviews of SBA underwriting (repayment ability calculations), closing, servicing and liquidation of loans made under this program to determine if SBA is diligently implementing these activities.</li> <li>➤ Reviews of the use of loan proceeds by broker-dealers to determine if the money is being used for the required purposes.</li> </ul> </li> <li>• Review the award and management of any contracts issued by SBA for performance of program functions.</li> <li>• Identify areas most susceptible to fraud and conduct criminal investigations of loan program participants, including broker dealers.</li> <li>• Expand the scope of the financial statement audit.</li> </ul>
<p><i>RA Title V – SBA Appropriations – Microloan Program – Grants for Marketing, Management, and Technical Assistance:</i> \$24 million for grants for intermediary provision of marketing, management, and technical assistance to microloan borrowers.</p> <p><u>Risks:</u></p> <ul style="list-style-type: none"> <li>• Ineffective use of funds.</li> </ul>	<ul style="list-style-type: none"> <li>• Review SBA’s administration of these grants.</li> <li>• Assess whether required technical assistance is being provided to program participants.</li> </ul>
<p><i>RA Title V – SBA Appropriations – Microloan Program-Direct Loans:</i> \$6 million for the cost of direct loans, which SBA plans to leverage to make up to \$50 million in loans to microlenders.</p> <p><u>Risks:</u></p> <ul style="list-style-type: none"> <li>• Losses if microlenders engage in poor underwriting practices.</li> </ul>	<ul style="list-style-type: none"> <li>• Review loan origination and closing to determine compliance with SBA program policies and procedures.</li> <li>• Review adequacy of agency controls and agency oversight.</li> </ul>

Risks Associated With The Recovery Act (RA)	Potential OIG Activities
<p><i>RA Title V – SBA Appropriations – Information Technology:</i> \$20 million for improving, streamlining, and automating information technology systems related to lender processes and lender oversight.</p> <p>Risks:</p> <p>Ineffective use of funds and mismanagement of the system acquisition process may result in potential cost overruns and schedule delays, and inability to deliver needed system capabilities.</p>	<p>Review SBA’s efforts to develop and upgrade IT systems related to loan programs and financial reporting to ensure that schedule, cost and performance risks are mitigated.</p>
<p><i>RA Title V – SBA Appropriations – Contracting.</i> Possible use of recovery funds to fund contracts for assistance in administering and overseeing programs established by the Act.</p> <p>Risks:</p> <ul style="list-style-type: none"> <li>• Ineffective use of funds, cost increases, delays in the delivery of services, and inability to deliver needed services.</li> </ul>	<ul style="list-style-type: none"> <li>• Review SBA’s procurement efforts to ensure that awards result in meaningful and measurable outcomes and that funds are put to the best possible use.</li> </ul>
<p><i>OMB Memorandum 09-10, Initial Implementation Guidance (Sections 1.5, 2.1- 2.13) – Agency Plans and Public Reporting.</i> To meet the accountability and transparency objectives of the Recovery Act, OMB is requiring eight different levels of reporting on how recovery funds will be applied and managed.</p> <p>Risks:</p> <ul style="list-style-type: none"> <li>• Information reported may not be complete or accurate.</li> </ul>	<ul style="list-style-type: none"> <li>• Assess whether the Agency has developed plans and reports in accordance with Recovery Act requirements and is timely in its submissions to OMB.</li> <li>• Evaluate data quality controls to ensure reporting is complete and accurate.</li> </ul>

Risks Associated With The Recovery Act (RA)	Potential OIG Activities
<p><i>OMB Memorandum 09-10, Initial Implementation Guidance (Sections 4.1 – 4.16) – Budget Execution. Agencies must (a) create Treasury Appropriation Fund Symbols to record and report the execution of their Recovery Act budgets, and (b) determine how to apply Recovery Act funds for fixed administrative costs associated with existing activities that are funded by prior appropriations.</i></p> <p>Risks:</p> <ul style="list-style-type: none"> <li>• Co-mingling of Recovery Act and non-Recovery Act funds, impacting transparency in financial reporting.</li> <li>• Misuse of Recovery Act funds for fixed administrative support costs.</li> </ul>	<ul style="list-style-type: none"> <li>• Review whether SBA has adequate controls in place to provide reasonable assurance that Recovery Act funds are properly controlled and expended in accordance with applicable requirements.</li> </ul>