



SBA Information Notice

TO: All Employees

CONTROL NO.: 9000-1810

SUBJECT: Comments and FAQs from the SBA
and Office of Inspector General
regarding Recovery Act Oversight

EFFECTIVE: 7/17/ 2009

In our implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act), the Small Business Administration (SBA) is fully dedicated to delivering effective programs that support the SBA's mission of increasing access to capital for small businesses, while also balancing the SBA's responsibilities to manage program integrity, mitigate risks to the Agency, and administer public resources.

In order to ensure adequate transparency and accountability, the Recovery Act and related Office of Management and Budget (OMB) guidance require agencies to increase financial reporting on, and oversight of, programs funded under the Recovery Act to deter and detect fraud, waste and abuse, and to ensure that program goals are met. The Office of Inspector General (OIG) has been developing oversight plans to provide monitoring, evaluation, and reporting of SBA's implementation of the Act.

This notice and attached frequently-asked questions (FAQs) are intended to clarify how these Recovery Act oversight activities by the Inspector General may affect our participating lenders, as well as small business borrowers in order to ensure clear understanding and expectations about these routine activities. The SBA expects that both lenders and borrowers will fully cooperate with OIG audits and other reviews.

For any questions, please contact your local SBA district office.

Eric R. Zarnikow,
Associate Administrator for Capital Access

Peter L. McClintock,
Acting Inspector General

EXPIRES: 7/1/2010

PAGE 1 of 4

SBA Form 1353.3 (4-93) MS Word Edition; previous editions obsolete
Must be accompanied by SBA Form 58

FAQs for SBA Employees, Lenders and Borrowers regarding Office of Inspector General Audits of Recovery Act Programs

What is the function of an Office of Inspector General?

Most Federal agencies within the Government, including the Small Business Administration (SBA), have an independent office, created by statute, known as the Office of Inspector General (OIG). OIGs are charged with responsibility for conducting and supervising audits, inspections, and investigations relating to their Agency's programs and supporting operations; detecting and preventing waste, fraud, and abuse; and promoting economy, efficiency, and effectiveness in the administration and management of the Agency's programs.

What is the difference between an audit and an investigation by the Inspector General?

The SBA OIG has two main operating divisions: the Auditing Division and the Investigations Division. The primary role of the SBA OIG Auditing Division is to perform audits, in compliance with Federal auditing standards, of SBA programs and participants in such programs to determine whether programs are free from waste, fraud and abuse, and are operating in an efficient and effective manner. The SBA OIG Auditing Division issues audit reports of its findings and makes recommendations to SBA for corrective actions. The SBA will then review the audit recommendations and make a determination on the appropriate action, if any.

The primary role of the SBA OIG Investigations Division is to conduct criminal investigations and refer instances of identified fraud to the Department of Justice for prosecution. The vast majority of cases that are investigated involve fraudulent statements by borrowers and third parties such as loan agents in obtaining loans through SBA financial assistance programs. Frequently, the SBA OIG investigators work closely with banks on these cases; both SBA and the lender are the victims of this fraud and will recover according to their pro-rata share from any restitution that is ordered upon a guilty plea or conviction.

What is the role of the SBA OIG relating to the Recovery Act?

The American Recovery and Reinvestment Act of 2009 (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 Recovery Act to ensure that appropriate expenditures are made. As part of this effort, Congress has also directed OIGs to perform oversight of Recovery Act spending, and has provided additional funding to a number of OIGs to deter and detect fraud, waste and abuse, and to promote program efficiency and effectiveness. These oversight efforts do not arise out of any specific allegations of wrongdoing.

In passing the Recovery Act, Congress provided for reduced SBA 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 connection with its work on these programs, the SBA OIG has established a Recovery Oversight plan to conduct oversight of SBA Recovery Act programs. Part of this plan will entail reviewing statistical samples of lender loan files. Additional information on the SBA OIG's plan can be found by accessing the Office's Recovery Oversight website: <http://www.sba.gov/ig/recovery/index.html>.

Consistent with OMB guidance on the Recovery Act and congressional expectations, the SBA OIG will review randomly selected lenders' loan files early on in the loan life-cycle, and prior to any default. If the OIG identifies material problems with a lender's underwriting or servicing of the loan, the SBA OIG will notify the SBA Office of Capital Access (OCA) so that the loan is flagged. This will not result in any automatic denial of SBA's guaranty on the loan, but OCA may either request information from the lender or consider the OIG's information during its review of the guaranty purchase request should the loan default.

What should lenders/borrowers expect if contacted by the Inspector General?

Lenders and borrowers should understand that information requests from SBA OIG auditors relating to Recovery Act loan programs are part of a *routine* oversight process, and do not imply any guilt or wrongdoing on their part. If you are contacted by a representative from the OIG, the representative will identify himself or herself as an OIG employee and will identify what, if any, information the OIG is seeking. In connection with auditing activities, the SBA OIG will send a letter to the lender identifying the loan files that the SBA OIG is seeking and will provide a reasonable amount of time (generally one to two weeks) for the lender to provide the files or complete copies, or to make the files available for review during normal operating hours. Typically, the OIG will ask for a complete copy of the loan file and may follow up if there are questions on any of the documents.

Will an audit from the Inspector General mean that my loan guarantee will result in a repair or denial?

Not necessarily -- the OIG has no authority to issue repairs or denials; this is OCA's responsibility. The OIG's role is limited to making appropriate recommendations for any needed corrective actions. SBA program officials will then decide whether to implement the OIG's recommendations, including any potential repairs and denials. OIG audit reports generally summarize decisions made by SBA management regarding the implementation of the OIG's recommendations.

What is my obligation to comply with a request for information from the Inspector General?

SBA regulations provide that an SBA lender and other participants in SBA programs must allow SBA's authorized representatives, including representatives authorized by the OIG, during normal business hours, access to its files to review, inspect, and copy all records and documents, relating to SBA-guaranteed loans or as requested for SBA oversight (13 C.F.R. § 120.1010).

What SBA resources could help me if I have questions or concerns during an Inspector General audit?

You can call the SBA OIG at 202-205-6586, you can call your local SBA District Office, or you can call the SBA Ombudsman at 202-205-2417.

If a lender suspects that a borrower or other party on an SBA-assisted loan has committed fraud, how can they report this?

SBA regulations at 13 C.F.R. § 120.197 require all lenders and borrowers to notify the SBA OIG of any information which indicates that fraud may have occurred in connection with a 7(a) or 504 loan. Lenders should either call the OIG Hotline at (800) 767-0385, file an online complaint at http://web.sba.gov/oigcss/client/dsp_welcome.cfm, or contact the SBA OIG Investigations

Office in their area (go to the SBA OIG website
at <http://www.sba.gov/ig/AboutUs/offices/investigationsdivision/index.html>).