



Office of Inspector General U.S. Small Business Administration

May/June 2010 Update

Business Loan Programs

Former Business Owner Sentenced. On May 27, 2010, the former owner of a frozen custard stand in Amarillo, Texas, was sentenced to serve 5 years probation and pay restitution of \$91,885. She previously pled guilty to a superseding information charging her with one count of false statements. The charge relates to her providing false information about her criminal record when she applied for an \$80,070 SBA-guaranteed loan from a lender in Dixon, Missouri. Additional charges against her father, a former SBA Branch Manager in Springfield, Missouri, in connection with this loan are pending. The OIG is conducting this investigation jointly with the Federal Bureau of Investigation (FBI).

Indiana Entrepreneur Indicted. On June 9, 2010, an Indianapolis, Indiana entrepreneur was charged with one count of submitting false information to a financial institution in connection with a scheme to defraud SBA and the lender. He applied for SBA-guaranteed loans and other forms of credit for his electrical contracting firm. It is alleged that at the time of his loan application he falsely reported that he had no criminal history and concealed numerous arrests and felony convictions. He has since defaulted on loans having a principal balance totaling \$564,341, and has filed for bankruptcy.

Louisiana Resident Indicted. On June 9, 2010, a Louisiana man was indicted on nine counts of wire fraud, one count of money laundering, one count of making a false statement to a financial institution, and two counts of filing false tax returns. It is alleged that he created a fraudulent commission agreement that was used at the closing of a \$916,000 SBA-guaranteed loan in order to circumvent the equity injection requirement. The OIG is conducting this investigation jointly with the FBI, the Louisiana State Attorney

General's Office (LSAGO), and the Internal Revenue Service (IRS).

Illinois Entrepreneur Charged. On June 9, 2010, a Springfield, Illinois entrepreneur pled guilty to one count of submitting false information to a financial institution and one count of wire fraud. He obtained SBA-guaranteed bank loans totaling \$121,695 from two Springfield-area banks to purchase Egyptian artifacts for two art-exhibition companies he created. It is alleged that he submitted false invoices and letters to both banks supporting purchases of collateral artifacts that were never finalized. It is also alleged that nearly all the loan proceeds were wired or otherwise diverted to his personal accounts and were used to support a lavish lifestyle, which included multiple trips to Colombia, South America, and purchases of a new home, a Ferrari automobile, and a Harley Davidson motorcycle. The OIG is conducting this investigation concurrently with FBI and the Drug Enforcement Administration investigations.

Utah Businessmen Indicted. On June 30, 2010, the president/owner of a Sandy, Utah, financial services company and his business partner were charged with a total of 24 counts, including aggravated identity theft, aiding and abetting, false statements to the SBA, false loan application, bank fraud, and money laundering. The indictment alleges that they recruited "straw borrowers" and used the borrowers' names and good credit to fraudulently obtain four SBA loans and two bank loans totaling \$335,000. It is further alleged that they caused the straw borrowers, on the promise of future rewards, to submit documents indicating that they owned thriving businesses when, in fact, the businesses only existed on paper. This case was initiated based on a referral from the SBA Utah District Office. The OIG is conducting this investigation jointly with the IRS Criminal Investigations Division.

Government Contracting and Business Development

New York Businessman Indicted. On June 10, 2010, the president/CEO of a Service-Disabled Veteran Owned (SDVO) business was charged with one count of mail fraud, three counts of major fraud against the United States, one count of false statements, and one count of tampering with a victim, witness or informant. The indictment resulted from a complaint alleging that he was falsely claiming SDVO status for his company, which had been awarded one Veteran-Owned set-aside contract in the amount of \$5,698,000 and three SDVO set-aside contracts totaling \$10,980,690. The SBA OIG is conducting this investigation jointly with the Department of Veterans Affairs OIG and the Department of Army, Criminal Investigations Division.

Disaster Loans

Louisiana Man Sentenced. On May 12, 2010, a Louisiana resident was sentenced to 3 years probation and a \$1,500 fine. He previously pled guilty to one count misprision of a felony for concealing knowledge of a felony committed by his wife, who previously pled guilty to two counts of theft of government funds and is awaiting sentencing. The guilty pleas related to misrepresentation of damage to their residence after Hurricane Katrina and use of loan proceeds for reasons other than making repairs to the home. The couple was approved for an SBA disaster loan in the amount of \$38,800 and a Louisiana Road Home Program (LRHP) grant in the amount of \$150,000. The investigation disclosed that altered, false, fictitious and fraudulent contractor receipts and statements of work were submitted in support of SBA disaster loan disbursements, and false statements regarding damages and related repairs were made in support of LRHP disbursements. The SBA OIG is conducting this investigation jointly with the U.S. Department of Housing and Urban Development (HUD) OIG.

Florida Resident Charged. On June 15, 2010, a Florida resident was charged with making a false statement for the purpose of obtaining an SBA disaster loan. He allegedly filed an application for disaster assistance using an address that was not his primary residence at the time of Hurricane Wilma. It is also alleged that he submitted fraudulent documents to induce the SBA to increase the original loan amount

from \$119,600 to \$143,700, and that he used the majority of the loan funds to repair pre-existing damage and pay-off a pre-existing debt.

Louisiana Couple Indicted. On June 18, 2010, a Louisiana couple was indicted on three counts of theft of government funds. It is alleged that they applied for a \$50,000 SBA disaster loan using the address of another property that they owned, but did not occupy, and misrepresented it to be their primary residence. The indictment also alleges that they made false statements in order to receive benefits from the National Flood Insurance Program and the LRHP. The SBA OIG is conducting this investigation jointly with the HUD OIG, the U.S. Department of Homeland Security OIG, and the FBI.

Texas Truck Driver Indicted. On June 9, 2010, a sole-proprietor truck driver in Houston, Texas, was indicted on eight counts of wire fraud and two counts of false statements. The investigation revealed that he applied for an SBA disaster loan in the amount of \$196,300 in order to replace machinery and equipment allegedly lost during Hurricane Rita. The indictment charges that he submitted invoices, estimates, and receipts in support of the SBA loan that did not match bank records. The only item he purchased with SBA loan proceeds was a freight liner truck for \$34,069. The remaining loan funds have not been accounted for.

Florida Businessman Pleads Guilty. On June 1, 2010, the manager of North Palm Beach, Florida construction company pled guilty to one count of making a false statement to the SBA. He applied for a \$239,300 SBA economic injury disaster loan for the construction company claiming that his business cash flow was negatively affected by Tropical Storm Fay. He misrepresented the status of several pending foreclosures in order to get approved for the disaster loan and then provided SBA with altered title reports to hide those foreclosures, as well as other undisclosed adverse items. The OIG is conducting this investigation jointly with the FBI.

Agency Management

SBA's Planning and Award of Recovery Act Information Technology Contracts. On June 29, 2010, the OIG issued reports on two audits of SBA's planning and award of selected Information Technology contracts funded under the American Recovery and Reinvestment Act of 2009 (Recovery

Act). The purpose of the audits was to determine whether, in making the contract awards, SBA: (1) adopted acquisition plans for the procurements that promoted competition and provided for measurable outcomes; (2) ensured contractors were qualified and that contracts contained required Recovery Act provisions; and (3) properly posted the solicitations and contract awards to meet transparency requirements of the Recovery Act.

The OIG found that three contracts, totaling over \$6 million, were awarded without approved acquisition plans. In addition, while the procurements were sole-sourced to 8(a) companies, which is allowed under Recovery Act guidance, one of the contracts did not qualify for an 8(a) award because it was basically a “pass through” contract to purchase Microsoft software and licenses. Because this award did not comply with small business rules for 8(a) procurements, the Agency should have publicized the solicitation for the contract. The OIG also determined that, while SBA incorporated the required Recovery Act contract clauses into the contracts and ensured that the contractors were qualified, measurable outcomes with which to evaluate the procurements were not established for two of the contracts.

The OIG recommended that the Agency: take steps to ensure that no procurement actions are taken prior to required approval of acquisition plans; provide training to SBA contracting officers regarding ostensible subcontracting and non-manufacturer rules; ensure that the contract awarded to procure software licenses is excluded from SBA calculations used to determine the number of 8(a) program contracts and small business contracts for FY 2009; establish measurable outcomes for the identified contracts; and revise Agency procedures to clarify that “pass through” contracts to purchase products from large businesses are not allowed unless the small business or 8(a) contractor makes changes or revisions to the product which add demonstrable value.

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

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