

United States Senate

WASHINGTON, DC 20510

June 14, 2011

The Honorable Eric Holder
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Holder:

Through a report released by the Small Business Administration's Inspector General (SBA IG), it has come to our attention that the Department of Justice (DOJ) has declined to prosecute cases referred by the SBA IG. These cases involve serious crimes including theft, embezzlement, conspiracy, counterfeiting, corruption, bank fraud, and more. Despite the SBA IG's work in identifying these cases, the DOJ has not brought these alleged criminals to justice.

The report provided by the SBA IG (which is attached) shows that, between October 2010 and March 2011, 17 cases were investigated by the SBA IG and deemed significant enough to be passed on to DOJ. In every single instance, the DOJ declined to prosecute these cases, allowing individuals accused of defrauding the Small Business Administration (SBA) and the American taxpayer to walk free, allowing them to continue to commit crimes. In fact, in one instance, the SBA IG's office referred a single case containing all of the following alleged crimes: false claims, false entries, false statements, forgery, passing bad checks, counterfeiting, mail fraud, and wire fraud. Despite the eight alleged crimes cited, the DOJ declined this case.

Out of a total estimated outlay of \$3.818 trillion this year for the federal government, only \$985 million of that is budgeted for the SBA – but this small agency plays a critical role in helping small businesses obtain capital, contracting opportunities, and counseling. Small businesses create two of every three new jobs in America, spur economic growth, and spark new industries across the country. As the economy continues to struggle and unemployment again rises above nine percent, it is vital that the SBA's mission is not compromised by fraud.

With this in mind, it is imperative that DOJ partner with the SBA IG to protect the SBA's program integrity. Every possible loss recovery must be attempted, and crimes against the SBA and the American taxpayer, must be punished.

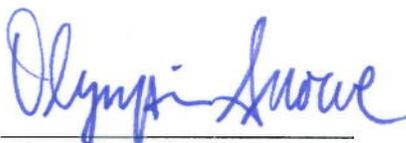
If would-be criminals know there is a threshold amount of money they can steal, or a number of offenses they can commit, without facing justice from the SBA or DOJ, this will create a serious moral hazard, and jeopardize the taxpayers' investment in SBA programs. As we continue to conduct oversight of the SBA and DOJ in our respective committees, we look with concern upon the cases that DOJ declined or deemed unsubstantiated. Please provide the following information to assist in our oversight efforts:

- 1) What factors caused the DOJ to decline prosecuting the cases in the attached report? (Please specify the factors in each individual case attached.)
- 2) Did the SBA IG convey how much money the SBA was defrauded in these cases?
 - o If so, how much?
- 3) Is there a threshold dollar amount that the DOJ uses when considering whether or not to prosecute cases referred to it by the SBA IG?
 - o If so, what is that threshold?
 - o If not, what is the lowest dollar amount recovery that the DOJ has made in a successfully prosecuted case from 2000 to the present?
- 4) Prosecuting false statement crimes may be of less consequence to other agencies, but for the SBA they can lead to seriously misappropriated funds. Does DOJ consider false statement cases to be lower priority than other crimes commonly perpetrated against other agencies?
 - o If not, what efforts has the DOJ made to facilitate the prosecution of these cases?
- 5) What actions, aside from increased staffing, could Congress potentially take to help ensure that those who defraud the SBA are prosecuted and brought to justice?

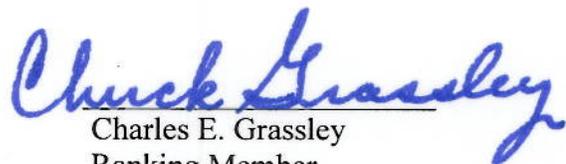
As the Ranking Members of the U.S. Senate committees responsible for oversight of the SBA and the DOJ, we are concerned that the SBA may not be receiving fair consideration by the DOJ. This may be due to SBA's comparatively smaller recoverable amounts than might be possible in cases referred by, for example, the Departments of Defense or Health and Human Services. We hope that as you navigate the challenge of balancing the DOJ's priorities despite a limited budget, you will place a high priority on prosecuting cases submitted by the SBA IG.

Thank you for your cooperation and attention to this matter. We would appreciate a response by June 24, 2011. Please contact James Gelfand on Ranking Member Snowe's staff at 202-224-7884 and Chris Lucas on Ranking Member Grassley's staff at 202-224-5225 with any questions.

Sincerely,



Olympia J. Snowe
Ranking Member
Small Business and
Entrepreneurship Committee



Charles E. Grassley
Ranking Member
Judiciary Committee

CLOSED CASES 10-1-2010 TO 3-31-2011 NOT PUBLICLY REPORTED

CASE NUMBER	ALLEGATION 1	ALLEGATION 2	ALLEGATION 3	ALLEGATION 4	DISPOSITION
W-BL-10-0236-I	False Statements				Unsubstantiated
W-DL-08-0310-I	Theft/Embezzlement/Corruption				Declined by DOJ
W-DL-08-0168-I	False Statements				Declined by DOJ
W-OT-08-0108-I	False Statements	Mail Fraud/Wire Fraud			Declined by DOJ
W-BL-05-0083-I	False Statements				Declined by DOJ
W-BL-07-0339-I	False Statements				Declined by DOJ
W-BL-07-0078-I	False Statements				Declined by DOJ
W-BL-08-0233-I	Conspiracy	False Statements	Bank Fraud		Unsubstantiated
W-BL-07-0359-I	False Claims/False Entries/Overevaluation	False Statements			Declined by DOJ
E-CC-09-0074-I	False Claims/False Entries/Overevaluation				Declined by DOJ (criminal & civil)
S-DL-10-0239-I	False Statements				Unsubstantiated
S-DL-10-0299-I	False Statements				Declined by DOJ
S-DL-09-0493-I	False Claims/False Entries/Overevaluation	Forgery/Passing Bad Checks/Counterfitting	Mail Fraud/Wire Fraud		Declined by DOJ

CASE NUMBER	ALLEGATION 1	ALLEGATION 2	ALLEGATION 3	ALLEGATION 4	DISPOSITION
S-DL-06-0213-I	Theft/Embezzlement/Corruption				Declined by DOJ
C-BL-09-0391-I	False Statements	Bank Fraud			Declined by DOJ
C-BL-09-0021-I	False Statements				Declined by DOJ
C-BL-09-0388-I	Bank Fraud	Theft/Embezzlement/Corruption			Declined by DOJ
C-BL-07-0370-I	Conspiracy	False Statements	Loan Packager Fraud	Bank Fraud	Declined by DOJ
W-BL-10-0241-I	False Statements				Declined by DOJ
W-BL-10-0039-I	False Statements				Unsubstantiated
E-CC-08-0287-I	False Statements				Declined by DOJ