

COMPLIANCE REPORT

SBA'S FY 2018 AND 2019 CASH CONTRIBUTIONS AND GIFTS





EXECUTIVE SUMMARY

Report Number
19-14

June 19, 2019

SBA's FY 2018 AND 2019 CASH CONTRIBUTIONS AND GIFTS

What OIG Reviewed

This draft compliance report presents the results of our review of the Small Business Administration's (SBA's) cash gifts. For fiscal years (FYs) 2018 and 2019, Congress granted SBA the authority to accept gifts up to \$4 million. Employees may solicit and accept gifts on behalf of SBA after proper approvals, including a conflict of interest determination by SBA's Office of General Counsel. The Consolidated Appropriations Acts of 2018 and 2019 provide that any gift, devise, or bequest of cash accepted by the Administrator shall be held in a separate account and shall be subject to semiannual audits by the Inspector General, who shall report his or her findings to Congress.

The objective of the review was to determine whether SBA had adequate controls over soliciting, accepting, holding, and utilizing cash contributions and gifts. To accomplish our objective, we interviewed key SBA employees and reviewed various management and financial records available for FYs 2018 and 2019. We also reviewed applicable laws, regulations, policies, procedures, and SBA documents such as internal and external correspondence, financial management system reports, accounting records, and various other documents.

What OIG Found

SBA complied with the Acts regarding soliciting and accepting cash contributions and gifts. SBA's Office of Communications and Public Liaison obtained proper approval from the Office of General Counsel for the 2018 National Small Business Week cosponsored activity. The 21 entities that cosponsored 2018 National Small Business Week, with cash contributions, were properly vetted through SBA program offices to ensure no business relationships existed that would cause a conflict of interest.

Also, the Agency accepted a \$100,000 unsolicited gift and determined the donor had no conflict of interest with the Agency. The funds were deposited and held in the Business Assistance Trust Fund. Further, the Agency utilized gift funds in accordance with SBA regulations and policy. However, we determined that the Office of Strategic Alliances did not implement adequate controls to oversee and monitor cash held on account by its National Small Business Week fiscal agent on behalf of the Agency. As a result, cash held by the fiscal agent may be vulnerable to the risk of mismanagement, loss, or unauthorized use.

OIG Recommendations

This report contains three recommendations to improve SBA controls over cash held by its fiscal agent.

Agency's Response

SBA management agreed with the findings and plans to take final action on the three recommendations by October 1, 2019.



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

Final Compliance Report
Report Number: 19-14

DATE: June 19, 2019

TO: Christopher M. Pilkerton
Acting Administrator and General Counsel

FROM: Hannibal "Mike" Ware 
Inspector General

SUBJECT: SBA's FY 2018 and 2019 Cash Contributions and Gifts

This compliance report contains the results of our review of the Small Business Administration's (SBA's) fiscal year (FY) 2018 and 2019 cash contributions and gifts. The objective of our review was to determine whether SBA had adequate controls over soliciting, accepting, holding, and utilizing cash contributions and gifts.

We previously furnished copies of the draft report and requested written comments on the recommendations. SBA management provided informal comments that were considered in finalizing the report. The report contains three recommendations that SBA agreed to address. Recommendations 1, 2, and 3 will remain open until OIG receives documentation demonstrating that these recommendations have been addressed. Please provide us within 90 days your progress in addressing these recommendations.

Please contact me if you would like to discuss this report or any related issues.

cc: Dorrice Roth, Acting Chief Financial Officer and Associate Administrator for Performance Management
Jim Billimoria, Associate Administrator for Communications and Public Liaison
Martin Conrey, Attorney Advisor, Legislation and Appropriations
LaNae Twite, Director, Office of Internal Control
Michael Simmons, Attorney Advisor

Table of Contents

Introduction.....	1
SBA Gifts Authority	1
SBA Cosponsored Activities	1
Objective.....	2
Results.....	3
SBA Needs to Improve Its Monitoring and Oversight of Cash Held by Its NSW Fiscal Agent	3
Conclusion	4
Recommendations.....	5
Analysis of Agency Response.....	5
Summary of Action Necessary to Close the Recommendations.....	5
Appendix I: Objective, Scope, and Methodology.....	6
Use of Computer-Processed Data.....	6
Review of Internal Controls	6
Prior Coverage	7
Appendix II. Summary of BAT Fund Expenditures by SBA Office	8

Introduction

SBA Gifts Authority

The Consolidated Appropriations Acts of 2018 and 2019 (the Acts) give the Small Business Administration (SBA) the authority to accept gifts to carry out its mission.¹ SBA is required to follow specific federal laws and regulations regarding gifts and donations. All gifts must be used in a manner consistent with the Acts and any terms imposed by the donor. The Acts, along with SBA regulations in 13 CFR 106 subpart E and SBA's standard operating procedures (SOP) govern SBA's gift authority. The Acts authorize SBA to provide assistance to small businesses through cosponsored activities with any eligible entity. Assistance generally includes training, education, or disseminating information.

Ultimately, several offices must cooperate to approve the solicitation or acceptance of a gift to the Agency. Specifically:

1. Authorized SBA officials must sign written documentation for each gift solicitation or acceptance.
2. SBA's General Counsel or designee must determine whether there is a conflict of interest before soliciting or accepting any gift. If it is determined that there is a potential conflict of interest, that gift shall not be solicited or accepted.
3. All cash gifts donated to SBA under the authority cited in 13 CFR §106.500 must be deposited in an SBA trust account at the U.S. Department of the Treasury.²
4. Any gift, devise, or bequest of cash accepted by the Administrator shall be held in a separate account and shall be subject to semiannual audits by the Inspector General, who shall report her findings to Congress.

SBA SOP 90 53, Gifts to the Agency, describes the legal authority, policy, and procedure for soliciting, approving, accepting, and using cash and in-kind gifts to the Agency, including the procedures for administration of the Business Assistance Trust Fund (BAT Fund).³

SBA Cosponsored Activities

SOP 90 75 4, Outreach Activities, stipulates that all potential cosponsors must be vetted by SBA's Office of Strategic Alliances (OSA) for the General Counsel or designee to determine whether a conflict of interest exists. Per the SOP, certain entities are ineligible to cosponsor activities with SBA. For all other entities, the General Counsel or designee must sign SBA Form 1615, Cosponsorship Approval Request, to acknowledge approval of the activity after performing a conflict of interest determination. OSA is the administrative office with the authority and responsibility to coordinate the development, implementation, and oversight of SBA's cosponsored activities. OSA receives the cosponsorship agreement from the originating office, and once satisfied

¹The Consolidated Appropriations Acts of 2018 and 2019 grant SBA's Administrator the authority to solicit, accept, hold, administer, utilize, and dispose of gifts, devises, and bequests of cash, certain property, subsistence, and services.

² SBA established the Business Assistance Trust Fund as a revolving trust for which all donated funds must be deposited.

³ In lieu of cash, SBA and cosponsors may contribute products and services that may be used to provide logistical or administrative support to the cosponsored activity.

the required documentation is in order, it will seek approval from the Administrator or designee.⁴ Once the agreement is approved, the originating office will have all cosponsors sign the agreement. SBA adds new cosponsors not included on the cosponsorship agreement with a joinder agreement.

The OSA director, as the responsible program official for SBA's National Small Business Week (NSBW), must make the necessary arrangements to ensure this cosponsored activity is conducted in the manner agreed to in the cosponsorship agreement, that all cosponsorship funds are collected and expended appropriately, and the activity stays within the established budget. In accordance with the NSBW 2018 cosponsorship agreement, the fiscal agent is responsible for promptly depositing all funds in a separate banking account designated as the NSBW cosponsorship account (or a similar name), collecting and expending all cosponsorship funds, and is subject to oversight by SBA. OSA is responsible for maintaining the official cosponsorship file.

Objective

Our objective was to determine whether SBA controls over soliciting, accepting, holding, and utilizing cash contributions and gifts were adequate during FYs 2018 and 2019.

⁴ The cosponsorship agreement is an approved document that contains the parties' respective rights, duties, and responsibilities for planning and implementing the cosponsored activity.

Results

Our review found that SBA complied with the Acts when soliciting, accepting, and utilizing cash contributions and gifts. In 2018, SBA received \$326,000 in cash contributions from 21 donors to defray costs for NSBW 2018, which took place at SBA Headquarters and three regional offices. The Office of Strategic Alliances (OSA) vetted and General Counsel determined that the donors did not have a conflict of interest with SBA. The Agency also received a \$1,678 refund that was added to the total cosponsorship cash contributions. Of the total \$327,678 cash contributions received to support this activity, the Agency spent \$326,086. The excess \$1,592 cash contributions at the conclusion of NSBW remained in the custody of the fiscal agent.⁵ The Agency also accepted a \$100,000 unsolicited cash gift to further the Agency's mission with an emphasis on workforce development strategies, veterans' education, and rural initiatives. OSA vetted the donor and General Counsel determined that a conflict of interest did not exist. The gift was timely deposited and held in the BAT Fund. None of the gift had been expended at the time of our review. Further, the Agency utilized \$4,044 to support SBA outreach activities. (See appendix II.) These funds were spent in accordance with SBA regulations and policy.

SBA Needs to Improve Its Monitoring and Oversight of Cash Held by Its NSBW Fiscal Agent

Despite the Agency's timely deposit and holding of the \$100,000 unsolicited gift, we found that SBA needs to improve its monitoring and oversight of cash held in the custody of its NSBW fiscal agent. Specifically, the Agency has not developed robust controls to monitor the effectiveness of assigned processes performed by its NSBW fiscal agent. Because cash is a vulnerable asset, absent effective internal control, the cash held by its fiscal agent may be at risk of mismanagement, loss, or unauthorized use.

As previously discussed, at the conclusion of NSBW 2018, the excess \$1,592 in cash contributions remained in the custody of the fiscal agent. Prior to 2016, SBA's SOP stipulated that when excess cash remained at the conclusion of a cosponsored activity, that money could either be gifted to the Agency or refunded to the cosponsors according to their pro rata share of income received. In 2016, SBA revised its SOP adding a third option where there will be a related SBA cosponsored activity, such as NSBW, in which the sponsor will be a cosponsor and the fiscal agent will remain the same, the cosponsor may request SBA to direct its pro rata share of excess cash contributions to the fiscal agent, provided that the fiscal agent agrees to make those funds available to that related cosponsored activity. In making this revision, the Agency circumvented the purpose of the BAT Fund, which was created as a perpetuity depository for cash gifts to the Agency. SBA management still retains its fiduciary and performance responsibilities for excess cosponsorship cash because these responsibilities should not be delegated to a third party.

Under the Office of Management and Budget (OMB) Circular No. A-123, if the processes provided by a third party are significant to an agency's internal control objectives, then the agency is responsible for establishing controls that complement the third-party organization's controls.⁶ The agency retains overall responsibility and accountability for all controls related to the processes provided by a third party and must monitor the process as a whole to make sure it is effective (e.g., funds are properly controlled). To fulfill SBA's responsibilities over excess cosponsorship cash, we were told that OSA personnel reviews monthly reports of all income and expenses from the

⁵ Excess cosponsorship funds are the contributed cash that are left over after expenses are subtracted from income. The fiscal agent reported \$1,592 excess cash contributions in its NSBW 2018 final accounting report.

⁶ OMB M-16-17, OMB Circular No. A-123, Management's Responsibility for Enterprise Risk Management and Internal Control (July 15, 2016).

cosponsorship account. We were also told that fiscal agents are not required to maintain a separate bank account for NSBW because it is not explicitly required in the SOP, and the fiscal agent fulfills its obligation by showing cash received and expenses paid in their final report to SBA. Conversely, as previously stated, responsibilities for the fiscal agent under the executed 2018 NSBW cosponsorship agreement stipulated that the fiscal agent would promptly deposit all funds including registration fees, in a separate bank account designated as the “Small Business Week Cosponsorship Account” (or a similar name). Consequently, there is a disparity between requirements included in SOP 90 75 4 and the NSBW cosponsorship agreement.

Based on the responses provided, we concluded that SBA did not ensure that the fiscal agent properly accounted for excess cosponsorship cash held on account. While SOP 90 75 4 was revised in 2016, it does not include prescriptive and rigorous controls for SBA to ensure that cash in the NSBW cosponsorship bank account were collected and retained appropriately.

For this review we estimated the cash balance held by the fiscal agent to be nearly \$300,000. Additionally, SBA had a \$97,282 balance in the BAT Fund account for NSBW. Therefore, it is unclear why the fiscal agent needs to separately accumulate and hold nearly \$300,000 for NSBW. We believe that cash held in the custody of the fiscal agent is at risk due to lack of SBA monitoring and oversight. For example, OIG previously reported the following:

- SBA fiscal agents used cash held on account for unauthorized purposes.
- SBA circumvented the law by allowing excess cash to remain in the custody of its fiscal agent instead of being gifted to the Agency or refunded to cosponsors.
- At the conclusion of a cosponsored activity, \$36,941 remained in a bank account held by the fiscal agent. The fiscal agent invested various increments of the cash. SBA should have ensured that the excess funds from this activity were returned to the cosponsors pro rata or gifted to the Agency.

Conclusion

Given the Agency’s focus on increasing its marketing and outreach responsibilities with its lenders, stakeholders, and small business concerns, correction of the issue in this report is imperative. Implementing sound and rigorous controls to plan, carry out, and report on NSBW activities is essential in meeting these responsibilities. Key to this is ensuring that staff, who plan these cosponsored activities, are trained and knowledgeable regarding their fiduciary responsibilities including the laws, regulations, and policies that govern cosponsored activities. Responsible program officials have a responsibility to oversee and account for all funds collected in support of their respective cosponsored activities. Further, responsible program officials and the designated fiscal agent must ensure the disposition of excess cosponsorship funds in accordance with SBA guidance. However, SBA did not implement adequate controls to oversee and monitor cash held on account by its NSBW fiscal agent on behalf of the Agency, and as a result, cash held by the fiscal agent may be vulnerable to mismanagement, loss, or unauthorized use.

Recommendations

We recommend that the Administrator direct the Associate Administrator for the Office of Communications and Public Liaison to:

1. Develop and implement prescriptive and rigorous controls to oversee and monitor excess cash held by the fiscal agent for recurring activities such as NSBW on behalf of SBA and in accordance with the requirements of OMB Circular No. A-123. These controls should be incorporated into SOP 90 75 4 and include the receipt and recurring review of bank statements for cash held on account.
2. Obtain bank records (starting in 2016) from its fiscal agent for NSBW and reconcile those transactions to OSA's official cosponsorship file.
3. Implement a process to ensure that responsibilities stipulated in the NSBW cosponsorship agreement are aligned with requirements in SOP 90 75 4.

Analysis of Agency Response

SBA management provided informal comments where they agreed with our recommendations, and its planned actions resolve our recommendations. The final action for each of the recommendations is planned for October 1, 2019.

Summary of Action Necessary to Close the Recommendations

Recommendation 1: Resolved. The Office of Communications and Public Liaison (OCPL) intends to update SOP 90 75 4 to prohibit the use of holding cash for future related activities, except for the Headquarters NSBW cosponsored activity. The update will include prescriptive and rigorous controls to oversee and monitor excess cash held by the NSBW fiscal agent and will be completed by October 1, 2019.

Recommendation 2: Resolved. OCPL has reached out to the fiscal agent and requested bank records dating back to 2016. OCPL plans to complete the reconciliation of the bank records to the OSA official cosponsorship files by October 1, 2019.

Recommendation 3: Resolved. OCPL intends to update SOP 90 75 4 to prohibit the use of holding cash for future related activities, except for the Headquarters NSBW cosponsored activity. This update will ensure that there will only be one cosponsorship agreement where funds are held for future, related activities. This final action is planned for October 1, 2019.

Appendix I: Objective, Scope, and Methodology

Our objective was to determine whether SBA controls over soliciting, accepting, holding, and utilizing cash contributions and gifts were adequate during FYs 2018 and 2019. To accomplish our objective, we interviewed key SBA personnel and reviewed various management and financial records available for FYs 2018 and 2019. We also reviewed applicable laws, regulations, policies, procedures, and SBA documents such as internal and external correspondence, financial management system reports and accounting records, and various other documents.

Our scope included an assessment of activity for cash contributions and gifts during FYs 2018 and 2019. To identify these transactions, we assessed an account analysis of BAT Fund activity. We filtered the data to identify obligations, deposits, and expenses during FYs 2018 and 2019. We tested the applicable transactions to assess whether SBA's controls were adequate. Specifically, we verified whether OSA and General Counsel cooperated to ultimately approve the acceptance of \$326,000 in cash contributions for NSBW 2018. We also assessed whether the program offices adequately collaborated with the Office of the Chief Financial Officer to obligate BAT Funds prior to expenditure. We further determined whether BAT Funds were spent in accordance with SBA regulations and policy.

We conducted this review in accordance with the Council of Inspectors General on Integrity and Efficiency quality standards for inspection and evaluation. Those standards require that we plan and perform the evaluation to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our objectives.

Use of Computer-Processed Data

We relied on data prepared by SBA program offices, as well as reports that were generated from the Joint Administrative and Accounting Management System (JAAMS). SBA identified the entities that donated cash and gifts to the Agency. Additionally, we reviewed JAAMS-produced documentation during our review. We believe the information is reliable for the purposes of this evaluation.

Review of Internal Controls

OMB Circular No. A-123 provides guidance to federal managers on improving the accountability and effectiveness of federal programs and operations by establishing, assessing, correcting, and reporting on internal controls.⁷ SBA SOPs provide guidance on implementing and maintaining effective internal control systems, as required by OMB.

⁷ OMB M-16-17, OMB Circular No. A-123, Management's Responsibility for Enterprise Risk Management and Internal Control (July 15, 2016).

Prior Coverage

Between 2012 and 2018, OIG issued the following reports related to the Agency's gift authority.

Evaluation of SBA Controls Over FY 2017 and 2018 Cash Contributions and Gifts (SBA OIG Report 18-25, September 20, 2018)

Evaluation of SBA's FY 2016 and 2017 Cash Contributions and Gifts (SBA OIG Report 18-05, November 20, 2017)

Evaluation of SBA's FY 2015 and 2016 Cash Gifts (SBA OIG Report 16-21, August 23, 2016)

Evaluation of SBA's 2014 and 2015 Cash Gifts (SBA OIG Report 15-08, March 18, 2015)

Evaluation of SBA's 2013 and 2014 Cash Gifts (SBA OIG Report 14-17, August 27, 2014)

Evaluation of SBA's 2012 Cash Gifts (SBA OIG Report 13-20, September 30, 2013)

SBA Enterprisewide Controls Over Cosponsored Activities (SBA OIG Report 13-21, September 30, 2013)

Review of the SBA's Fiscal Year 2011 Cash Gifts (SBA OIG Report 12-13, March 30, 2012)

Appendix II. Summary of BAT Fund Expenditures by SBA Office

Program Office	Description/Use of Funds Source	Amount
Office of Communications and Public Liaison	Fifteen dozen pom-poms for National Small Business Week 2018 kickoff at Headquarters	\$224.84
	Six DocuSign subscriptions and support for National Small Business Week	\$1,041.42
South Florida District Office	Awards for 2018 National Small Business Week	\$1,480.80
	Light refreshments for district office open house	\$1,297.00
	Total	\$4,044.06