



Audit Report



Report Number: OIG-SBLF-14-007

STATE SMALL BUSINESS CREDIT INITIATIVE:
American Samoa's Administrative Expenses and Reporting
March 26, 2014

Office of
Inspector General

Department of the Treasury

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Abbreviations

ARRA	American Recovery and Reinvestment Act of 2009
ASESRO	American Samoa Economic Stimulus Recovery Office
ASG	American Samoa Government
OFFP	Office of Federal Programs
OIG	Office of Inspector General
OMB	Office of Management and Budget
SSBCI	State Small Business Credit Initiative
The Act	Small Business Jobs Act of 2010

*The Department of the Treasury
Office of Inspector General*

March 26, 2014

Don Graves, Jr.
Deputy Assistant Secretary for Small Business, Housing, and
Community Development

This report presents the results of our audit of administrative expenses incurred by American Samoa in its administration of its State Small Business Credit Initiative (SSBCI) program. Treasury awarded American Samoa \$10.5 million in January 2012, and later that month the Territory received its first disbursement of approximately \$3.5 million¹ of the awarded funds. As of June 30, 2013, the Territory had not obligated or spent any SSBCI funds for credit support, but incurred approximately \$50,000² in administrative expenses.

Because no funds had been used for credit support, we limited the scope of the audit to determining whether administrative costs incurred were reasonable, whether the territory was fully positioned to extend credit, and whether the territory was in compliance with the program's reporting and certification requirements. To accomplish our objective, we sought to ensure that all of the expenses complied with the requirements and prohibitions of the Small Business Jobs Act of 2010 (the Act) and OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Government*. During September 2013, we conducted an off-site review of American Samoa's administrative costs. We also interviewed Treasury SSBCI program staff and

¹ Rounded up from \$3,465,000.

² Rounded down from \$50,307.

reviewed communication between Treasury and American Samoa to determine whether Treasury had evaluated the Territory's readiness to extend credit to small businesses, and to identify any compliance issues related to the annual reporting and certification requirements.

We performed our audit from September 2013 to January 2014, in accordance with *Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained to address our audit objectives provides a reasonable basis for our findings and conclusions.

Results in Brief

We identified \$49,155 in unsupported personnel and travel expenses that should be disallowed and excluded from "funds used" that the Territory claims in its future *Quarterly Reports*. We also noted that although 2 years have passed since American Samoa was awarded SSBCI funds, it has used none of the awarded funds to provide small businesses in the Territory with access to credit. Moreover, American Samoa has not provided Treasury with records that would allow the Department to determine whether the Territory is "fully positioned" to provide credit support to small businesses, as required by its Allocation Agreement.

Further, American Samoa continued to violate key terms of its Allocation Agreement, as it:

- Did not obtain Treasury's prior approval for three changes to the entity designated to administer the SSBCI funds;
- Did not submit two of its quarterly reports or its 2012 annual report to Treasury on time, causing Treasury to declare a general event of default of American Samoa's *Allocation Agreement*; and

-
- Incorrectly certified the accuracy of two quarterly reports to Treasury and did not certify the accuracy of three other quarterly reports.

Despite these factors, Treasury has been slow to hold American Samoa accountable for its noncompliance and to render a decision as to whether to reduce, suspend, or terminate future disbursements. If Treasury concludes that American Samoa is not fully positioned to “provide the credit assistance for which it was approved,” or has defaulted again on its *Allocation Agreement*, it must reduce, suspend, or terminate future funding to the Territory. If Treasury decides to disburse additional funds, it should first require full compliance of the Territory, and modify the Territory’s *Allocation Agreement* to change the entity designated to administer SSBCI funds and the participating program.

Treasury agreed with the audit findings and recommendations, stating that it will disallow the \$49,155 in unsupported administrative costs. Treasury also stated that it will determine whether American Samoa has again defaulted on its *Allocation Agreement* for the reasons listed above, and what form of remedy may be appropriate. Treasury will consider the Territory’s latest request to modify its *Allocation Agreement*, and require that the Territory first comply with its *Allocation Agreement* if additional funds are to be disbursed.

American Samoa stated that it has removed the disallowed administrative costs from its SSBCI program, but does not believe that the recommendation to terminate the Territory’s participation or to impose other sanctions is supported by the facts. American Samoa maintains that it is now compliant with all Treasury regulations and guidance and fully positioned to provide small businesses in the Territory with credit assistance. Formal written responses from Treasury and American Samoa are included in their entirety in Appendix 2.

Background

SSBCI is a \$1.5 billion Treasury program that provides participating states, territories, and eligible municipalities with funds to strengthen Capital Access Programs and other credit support programs that provide financial assistance to small businesses and manufacturers. Capital Access Programs provide portfolio insurance for business loans based on a separate loan loss reserve fund for each participating financial institution. Other credit support programs include collateral support, loan participation, loan guarantee, credit support, and venture capital programs.

Each participating state or territory is required to designate specific departments, agencies, or political subdivisions to implement the programs approved for funding. The designated state entity distributes SSBCI funds to various public and private institutions, which may include a subdivision of another state, a for-profit entity supervised by the state, or a non-profit entity supervised by the state. These entities use funds to make loans or provide credit access to small businesses.

Primary oversight of the use of SSBCI funds is the responsibility of each participating state or territory. To ensure that funds are properly controlled and expended, the Act requires that Treasury execute an *Allocation Agreement* with participants setting forth internal controls and compliance and reporting requirements before allocating SSBCI funds. Treasury disburses SSBCI funds to participants in three allocations: the first when the Secretary approves the state or territory for participation, and the second and third after the participant certifies that it has obligated, transferred, or spent at least 80 percent of the previous allocation. In addition, the participant is required to certify that it has complied with all applicable program requirements.

American Samoa's Participation in SSBCI

On January 12, 2012, Treasury approved American Samoa's application for participation in SSBCI, awarding it \$10.5 million. The

Allocation Agreement between American Samoa and Treasury was signed on January 26, 2012. That same month, Treasury disbursed the Territory's first allocation of approximately \$3.5 million. As of September 30, 2013, American Samoa had not obligated or spent any of the first allocation for credit support programs, except for administrative expenses, and no other funds have been disbursed.

American Samoa designated its Office of Federal Programs (OFF), in the Office of the Governor, to implement the American Samoa Small Business Credit Initiative, and planned to allocate funding to the American Samoa Collateral Support Program. In January 2013, a new Territorial administration took office, and in March 2013, American Samoa informed U.S. Treasury that the Territory's SSBCI program had been moved to American Samoa's Treasury Department.

Two months later in May 2013, SSBCI was returned to the Office of the Governor under a newly created Office of Grants Oversight and Accountability. In July 2013, American Samoa moved SSBCI again to the Department of Commerce, and made the Director of the Department of Commerce the administrator and point of contact for the SSBCI program. However, American Samoa's Treasury Department retained management of the SSBCI funds.

In August 2013, American Samoa informed Treasury that it would submit a formal program modification to replace its collateral support program with a venture capital program.

Personnel and Travel Costs Are Not Supported

The American Samoa Economic Stimulus and Recovery Office charged approximately \$50,307 in administrative costs to its SSBCI program as of February 16, 2013, but only \$1,151 of this amount, which was spent on expenses other than personnel and travel costs, was supported. Of the remaining \$49,156, \$38,250 was for program personnel salaries and \$10,906 was for travel costs. Although American Samoa provided employee timesheets to support its personnel costs, it could not demonstrate how the employees, who worked on multiple programs, allocated their time to SSBCI. Further,

documents provided by American Samoa indicate that only \$21,803 of the \$38,250 in personnel costs was actually spent.

Additionally, as of December 31, 2013, American Samoa had spent \$10,906 in travel costs for three employees to attend an SSBCI conference held by Treasury in San Francisco, California. In March 2012 the three employees submitted travel authorization forms, which estimated their travel costs to attend the meeting in San Francisco, and all received expense checks before the conference. OMB Circular A-87 states that the costs incurred must be adequately supported by documentation. Also, the *American Samoa Government Territorial Office of Fiscal Reform Travel and Transportation Policy Manual* requires employees to file an expense report, along with expense receipts (meals and incidentals not included), used airline tickets, and proof of attendance at the meeting, within 30 days after travel.

Although Treasury confirmed that the employees had attended the conference, none of the employees filed expense reports following the conference or produced receipts to show that the travel was accomplished, expenses were supported by receipts, and that they had attended the conference. Therefore, the \$49,155 in personnel and travel costs did not meet OMB Circular A-87's requirement that administrative costs be allocable, allowable, and reasonable, and should be disallowed by Treasury. Treasury will also need to ensure that such costs are excluded from funds reported as used in the Territory's future *Quarterly Reports*.

American Samoa May Not Be Fully Positioned to Provide Credit Support to Small Businesses and Continued to Violate Key Terms of Its Allocation Agreement

Although 2 years have passed since Treasury awarded American Samoa \$10.5 million in SSBCI funds, the Territory has used none of the awarded funds to provide small businesses access to credit. The only expenditures to-date have been for administrative expenses. American Samoa also has not provided Treasury with all of the evidence needed for the Department to determine whether the

Territory is fully positioned to provide credit support to small businesses.

Further, American Samoa defaulted on its *Allocation Agreement* in March 2013 for late reporting of program activity and did not bring itself into compliance until January 2014 – 9 months after an April 8, 2013, deadline set by Treasury. Since the March 2013 default, the Territory has continued to violate its agreement by failing to seek Treasury’s prior approval of changes in its SSBCI program, not complying with reporting requirements, and providing materially inaccurate compliance certifications.

American Samoa May Not be Fully Positioned to Provide Credit Support to Small Businesses

According to Treasury officials, as of January 2014 (2 years after SSBCI funds were awarded), American Samoa had not provided sufficient evidence to show that it is “fully positioned” to provide credit support to small businesses, as required by its *Allocation Agreement*. Section 4.5 of the *Allocation Agreement* requires the Territory to be fully positioned within 90 days after the January 26, 2012, date of its agreement, “to act on providing the type of credit support that the Approved State Program was established to provide using the allocated funds.” Treasury considers a state or territory to be “fully positioned” if it possesses all necessary staff, has executed all necessary contracts, has made all required forms available to the public, and is marketing the program to lenders and investors.

On March 11, 2013, Treasury sent a letter to American Samoa noting that the Territory had not committed or disbursed any funds to small business borrowers or investees, and giving it until March 25, 2013, to provide records showing that it was fully positioned to provide credit support to small businesses. The letter cautioned that a failure to provide the evidence could result in Treasury again declaring a general event of default. American Samoa provided some of the requested records on March 26, 2013, which enabled Treasury to review the program structure, relationships between proposed

implementing entities, and qualifications of the staff members.

On April 30, 2013, Treasury sent a letter requesting more information, but as of February 2014 – 10 months after American Samoa’s first response to Treasury’s first notice – Treasury officials told us they still lack sufficient evidence to determine whether American Samoa is fully positioned to provide credit support to small businesses. Because American Samoa was unable to demonstrate that it was fully positioned to provide credit support by the 2012 deadline noted in its *Allocation Agreement*, and 2 years later still has been unable to provide sufficient evidence, Treasury should consider whether the Territory has again defaulted on its *Allocation Agreement* for not being fully positioned to provide credit assistance, and whether future disbursements should be reduced, suspended, or terminated.

American Samoa Did Not Request Approval Before Changing Management of its SSBCI Program

American Samoa did not seek Treasury’s prior approval when shifting program responsibility from the Governor’s office to the American Samoa Treasury Department, back to the Governor’s office, and ultimately to the American Samoa Commerce Department. The *Allocation Agreement* between American Samoa and Treasury states that Treasury may declare a general event of default and reduce, suspend, or terminate funding if the Territory makes substantial changes to its SSBCI program without Treasury’s prior approval. Treasury guidance³ requires a written amendment to the *Allocation Agreement* when changes are made in the designated state agency implementing the SSBCI programs.

The *Allocation Agreement* designated OFP in the American Samoa Governor’s Office to administer the SSBCI program. On January 14, 2013, the Governor signed an executive order eliminating OFP, moving the Territory’s SSBCI program from the Governor’s Office to

³ *Proposed Modifications to Approved State Programs that Require Amendments to Allocation Agreement; Procedures for Requesting Approvals of Modifications*, June 27, 2011 (revised November 22, 2013, and December 17, 2013).

the American Samoa Treasury Department, and changing the program's point of contact.

It was not until February 3, 2013, that American Samoa sent an email notifying U.S. Treasury that SSBCI had been moved to the American Samoa Treasury and the point of contact for SSBCI had changed. In response to these developments, in a letter on March 11, 2013, Treasury asked American Samoa to clarify whether it was seeking Treasury's approval for changes in how American Samoa's SSBCI program is managed and to reply by March 25, 2013. Treasury also requested that American Samoa not expend, obligate, or transfer SSBCI funds until Treasury had received the Territory's assurances regarding the safety of the SSBCI funds and has determined that American Samoa has the ability to carry out the SSBCI program. American Samoa responded, confirming they were seeking Treasury's approval for a change in the entity, but did not provide sufficient information needed for approval.

American Samoa changed the designated entity for its SSBCI program two more times without Treasury's prior approval. On May 31, 2013, SSBCI was returned to the Governor's Office under a newly created Office of Grants Oversight and Accountability. On May 30, 2013 (one day before changing its designated entity), American Samoa wrote to Treasury informing it that it planned to select a different agency to administer the SSBCI program, but it did not identify the agency nor secure Treasury's approval of the change.

Subsequently, on July 25, 2013, American Samoa moved SSBCI again, to the Department of Commerce, and made the Director of that Department the administrator and point of contact for the SSBCI program, without obtaining Treasury's approval. On August 19, 2013, American Samoa sent U.S. Treasury a formal request to modify its SSBCI program to have its Department of Commerce manage the program, among other changes. On August 27, 2013, Treasury again asked American Samoa for more information. American Samoa provided more information on September 10, 2013, and on October 10, 2013, Treasury informed the Territory that it could not approve the modification. American Samoa submitted a revised modification

proposal on December 14, 2013. As of January 30, 2014, Treasury had not approved the modification.

American Samoa Did Not File Quarterly or Annual Reports in a Timely Manner

On March 11, 2013, Treasury declared that American Samoa was in general default of its *Allocation Agreement* because the Territory did not submit a quarterly report on time as required for the quarter ending December 31, 2012. Treasury's *Allocation Agreement* with American Samoa requires the territorial government to submit quarterly reports within 30 days after the end of a calendar quarter. The declaration stated that Treasury may reduce or terminate the portion of the allocation that had not yet been transferred to American Samoa if it did not correct the default by April 8, 2013. The deadline passed without American Samoa correcting the default, and in November 2013 American Samoa ultimately submitted the missing quarterly report.

While American Samoa was already in default of its Allocation Agreement, the Territory continued to violate the reporting requirements of its *Allocation Agreement*. In addition to the December 2012 quarterly report, the Territory did not timely submit its 2012 annual report that was due by March 31, 2013, nor correct quarterly reports for the quarters ending December 31, 2012, March 31, 2013, June 30, 2013, and September 30, 2013. Therefore, although the instances of non-compliance with the reporting requirements could be considered additional general events of default, Treasury made no additional declarations of default.

It was not until January 2014 that Treasury received correct versions of all of the missing quarterly reports, as well the 2012 annual report.

American Samoa Incorrectly Certified the Accuracy of Two Reports and Did Not Certify Three Reports

Additionally, American Samoa incorrectly certified the accuracy of two quarterly reports to Treasury and did not certify the accuracy of three

quarterly reports, as required by its *Allocation Agreement*. Submissions of reports for the quarters ended June 30, 2012, and September 30, 2012, provided inaccurate certifications stating that the information in the reports was correct. Both reports were inaccurate because they did not list all of the costs incurred. The June 2012 report omitted \$1,170 in advertising, material, and travel costs, and the September 2012 report omitted \$283 in travel costs.

American Samoa also did not certify the accuracy of its reports for the quarters ended December 31, 2012; March 31, 2013; and June 30, 2013. Section 6.1 of the *Allocation Agreement* states that Treasury may find American Samoa in a general event of default if "... any representation or warranty set forth in any document, report, certificate, financial statement or instrument ... is found to be inaccurate, false, incomplete, or misleading when made, in any material respect." Therefore, Treasury should decide whether American Samoa's failure to accurately and completely certify the accuracy of its reports constitutes a general event of default; and if so, take appropriate action.

Conclusions

Despite American Samoa's interest in the SSBCI program, the Territory has not used any of its disbursed funds to extend credit to small businesses. With three changes in the entity designated to manage the program, it is unclear whether the Territory is fully positioned to operate a viable program or able to effectively oversee the administration of SSBCI funds. The audit's finding that \$49,156 in administrative expenses that American Samoa incurred were not properly supported by documentation reinforces that concern. Moreover, American Samoa violated several key terms of its *Allocation Agreement* with Treasury.

Treasury has already declared a general event of default of American Samoa's *Allocation Agreement* for late filing of reports, but there is ample evidence to support Treasury declaring additional defaults for three other violations of the *Allocation Agreement*:

-
1. American Samoa was not fully positioned to provide small businesses with credit support in April 2012, and as of January 2014 American Samoa was still not fully positioned.
 2. American Samoa made substantial changes to its SSBCI program without prior approval from Treasury.
 3. American Samoa incorrectly certified the accuracy of two quarterly reports to Treasury and did not certify the accuracy of three quarterly reports.

The *Allocation Agreement* provides that if Treasury declares that the Territory defaulted, then Treasury can withhold disbursements or reduce, suspend, or terminate funding. Treasury is to be commended for instructing American Samoa in March 2013 and again in January 2014 to halt further expenditure of SSBCI funds, effectively suspending the Territory's program. However, the Department must decide whether to declare additional general defaults of its *Allocation Agreement*, and reduce, suspend, or terminate American Samoa's funding.

While Treasury is allowed to merely withhold disbursements until the Territory corrects the default, all of the noncompliance issues, taken collectively, suggest that Treasury should terminate SSBCI funding to the Territory. However, Treasury has been slow to hold American Samoa accountable for its noncompliance and recently stated it plans to review American Samoa's participation in June 2015. We believe Treasury has more than sufficient information to make a determination now to terminate the Territory's funding. If Treasury concludes that the Territory is not fully positioned to properly administer the program or is again in default of its agreement, then the Department should act expeditiously to terminate funding to the Territory. As provided by the Small Business Jobs Act, any portion of the Territory's allocated SSBCI funds that has not been transferred to the Territory 2 years after funds were awarded (which Treasury subsequently extended to September 2015) shall be returned to the Treasury's General Fund.

If additional funds are disbursed, Treasury should first require that the

Territory comply with all of the terms of its *Allocation Agreement* and modify the agreement to change the entity designated to administer the SSBCI funds.

Recommendations

We recommend that the Deputy Assistant Secretary for Small Business, Housing and Community Development:

1. Disallow the \$49,155 in personnel and travel costs identified by the audit that were not supportable and ensure the costs are excluded from subsequent *Quarterly Reports*.
2. Immediately determine whether American Samoa has again defaulted on its *Allocation Agreement* for (a) not being fully positioned to provide credit support, (b) not seeking Treasury's prior approval for changes in management of its SSBCI program, or (c) not making accurate and complete reporting certifications. If such an event or events have occurred and have not been adequately cured, determine whether a reduction, suspension, or termination of future funding to the Territory is warranted.
3. If American Samoa's SSBCI funding is not terminated, require that the Territory first comply with the terms of its *Allocation Agreement*, and approve the agreement modifications, before disbursing additional funds.

Management Comments and OIG Response

We provided a draft of this report to Treasury on March 13, 2014, and received formal written comments on March 26, 2014. Treasury agreed with the audit findings and recommendations. In response to Recommendation 1, Treasury stated it disallowed the \$49,155 in unsupported administrative costs and will deduct that amount from future disbursements, if any. Treasury also agreed to determine whether American Samoa has again defaulted on its *Allocation Agreement* for the reasons listed in Recommendation 2, and whether

to reduce, suspend, or terminate future funding to the Territory. In response to Recommendation 3, Treasury agreed that if it does not find that American Samoa has again defaulted, it will require that the Territory comply with the terms of its *Allocation Agreement* before disbursing additional funds. We believe Treasury's planned actions to be fully responsive to the recommendations.

American Samoa accepted Recommendation 1 and removed the disallowed administrative costs from the program, but objected to the recommendations to terminate, suspend, or reduce funding. American Samoa noted that it has filed with Treasury all missing quarterly and annual reports and has hired consultants to design and implement a compliance program for the Territory's SSBCI effort. American Samoa also said that Treasury should approve the program modification changes it has requested. American Samoa maintains that its SSBCI program complies with all Treasury regulations and guidance and that it is now fully positioned to provide small businesses in the Territory with credit assistance. Formal written responses from Treasury and American Samoa are included in their entirety in Appendix 2.

We appreciate the courtesies and cooperation provided to our staff during the evaluation. If you wish to discuss the report, you may contact me at (202) 622-1090, or Clayton Boyce, Audit Director, at (202) 927-5642.

/s/

Debra Ritt

Special Deputy Inspector General for

Office of Small Business Lending Fund Program Oversight

Appendix 1: Objective, Scope, and Methodology

The scope of our audit of the Territory of American Samoa's administration of its State Small Business Credit Initiative (SSBCI) program was limited to determining whether administrative costs incurred were reasonable, whether the territory was fully positioned to extend credit to small businesses, and whether the territory was in compliance with the program's reporting and certification requirements. To accomplish our objective, we sought to ensure that all of the expenses complied with the requirements and prohibitions of the Act and OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Government*. We also interviewed Treasury SSBCI program staff and reviewed communication between Treasury and American Samoa to determine whether Treasury had evaluated the Territory's readiness to extend credit to small businesses, and identify any compliance issues related to the annual reporting and certification requirements.

During September 2013, we conducted an off-site review of American Samoa's administrative costs and interviewed Treasury SSBCI program staff to determine whether any additional guidance about quarterly and annual reporting procedures had been provided to the Territory. As of September 30, 2013, American Samoa had received its first disbursement of \$3,465,000 but had not obligated or spent any SSBCI funds for credit support. American Samoa had incurred approximately \$50,000 in administrative expenses as of September 30, 2013.

To test compliance with SSBCI program requirements, we reviewed a full population of administrative expenses incurred by the program up until September 30, 2013, but noted that all administrative costs were charged in 2012. The administrative expense testing sought to ensure all of the expenses complied with the requirements and prohibitions of the Act and OMB Circular A-87.

During September 2013, we conducted an off-site review of American Samoa's administrative costs from our offices in Washington, D.C., and compared the documentation to specific requirements and prohibitions of the Act and associated Treasury guidelines. We also interviewed Treasury SSBCI program staff to determine whether any additional guidance had been provided to the Territory on quarterly and annual reporting procedures.

We corresponded by email with management and staff designated by American Samoa that were responsible for administering, managing, accounting for, and reporting on the SSBCI funds to assess whether American Samoa had documentation supporting (1) administrative expenses charged to the SSBCI program, such as personnel costs, and (2) hotel and other travel costs.

We conducted our audit between September 2013 and January 2014, in accordance with *Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained to address our audit objectives provides a reasonable basis for our findings and conclusions.

Appendix 2: Management Response



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

March 26, 2014

Debra Ritt
Special Deputy Inspector General for
Office of Small Business Lending Fund Program Oversight
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Ms. Ritt:

Thank you for the opportunity to review the Office of the Inspector General's (OIG) draft report entitled *State Small Business Credit Initiative: American Samoa's Use of Funds for Capital Access and Other Credit Support Programs* (the Report). This letter provides the official response of the Department of the Treasury (Treasury).

The Report identifies instances of non-compliance in the documentation of administrative expenses and makes two recommendations to Treasury. In response, with your consent, Treasury transmitted a copy of the Report to American Samoa program officials on March 12, 2014. Treasury directed American Samoa to submit a written reply describing the remedial measures American Samoa has taken or plans to take to address the deficiencies noted in the Report.

In its reply, enclosed, American Samoa objects to the OIG's recommendation to terminate the funding and states that a majority of the issues raised in the OIG Report took place prior to the term of the current American Samoa Government (ASG). The new ASG Administration has taken steps to develop a "new SSBCI plan which, if approved would become the engine of our economy and provide significant benefit and demonstration benchmarks...".

ASG accepted the findings in recommendation 1 and has removed the costs with the personnel and travel costs associated with the SSBCI Program. Treasury accepts the recommendation and will disallow the \$49,155 in administrative costs.

Treasury also accepts recommendations 2 and 3. Treasury will determine whether ASG has defaulted on its *Allocation Agreement* for the reasons identified in the Report and what type of remedy may be appropriate. ASG notified Treasury of its intent to modify its SSBCI program in the spring of 2013. ASG has made a number of modification requests to Treasury for review and comment. Treasury is actively considering the latest version submitted by ASG in February 2014. If ASG's funding is not terminated, Treasury will not disburse additional funds before requiring that the Territory first comply with the terms of the Allocation Agreement.

Thank you once again for the opportunity to review the Report. Treasury appreciates our work together throughout the course of the SSBCI program.

Sincerely,

A handwritten signature in black ink, appearing to read "Cliff Kellogg", enclosed in a thin black rectangular border.

Cliff Kellogg
Director of the State Small Business Credit
Initiative

Enclosure



Lolo M. Moliga
Governor

Lemanu Peleti Mauga
Lt. Governor

DEPARTMENT OF COMMERCE

American Samoa Government
Pago Pago, American Samoa 96799
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Kenisell Faalupe Lafaale
Director

Atuatasi Lelei Peau
Deputy Director

Uili Leauanae
Deputy Director

In reply refer to:
Serial No: DOC:1135

March 17, 2014

Clifton Kellogg
Director
State Small Business Credit Initiative
U.S. Department of the Treasury
1500 Pennsylvania Ave NW
Washington, DC 20220

Subject: Amended Response to Draft , U.S. Treasury OIG SSBCI Audit Report
OIG-SBLF-14-XXX

Dear Mr. Kellogg:

We are in receipt of an email from Mr. Rixter, dated March 14, 2014, subject as above, and have attached our original response to the OIG Report submitted to Ms. Debra Ritt, Special Deputy Inspector General for the Office of Small Business Lending Programs Oversight on January 30, 2014.

This letter and the attached response to the Office of the Inspector General will serve as our direct official response to you as Director, State Small Business Credit Initiative Program, and it is requested that it be made a part of our Plan Modification request. With your permission, we would like to put the overall issues in context. We do note the differences between the initial draft OIG audit report and the formal draft. With all the work we've done with the SSBCI Director and staff, we were somewhat taken aback with the harshness and severity of the positions taken in the Formal OIG report, especially given our understanding that we had now complied with all requirements to be in compliance with SSBCI legislation, rules, regulations and program objectives.

First and foremost, we're talking about \$50,000.00 in potentially unsupported cost (which the Governor has already disallowed). Second, we're talking about the SSBCI grant awarded under the previous ASG Administration, which Treasury itself did not believe was viable. Third, the economic floor collapsed for the mainland States, and devastated the economies of the Territories, necessitating flexibility and changes to stimulus plans. Fourth, we are unaware of any other OIG recommendation to terminate any other State or Territory from the SSBCI program for the type infractions listed in the ASG SSBCI Treasury OIG Audit Report. Every State and Territory has had

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difficulty with their SSBCI and other lending programs given the business climate faced by the Banking industry, which as everyone knows, was one of the primary reasons the initial SSBCI Plan submitted by the previous Administration was not viable and had to be rewritten. Fifth, the OIG reports does not reflect (in part because they may not have been aware of) significant organizational issues facing the Governor which necessitated his decision with respect to the location and management of this vital program. In large part, based on discussions and communications with the Federal SSBCI program, and in the interest of meaningful, effective organizational efficiency (the ASG Department of Commerce is best equipped to manage business development and jobs creation activities), the Governor relocated the SSBCI Program while at the same time directing that I take immediate steps to engage with SSBCI on all levels to fully inform them of activities and our rationale for the changes being made. To the best of our knowledge, Treasury SSBCI supported the decision made by the Governor, as demonstrated by the significantly improved level of positive and progressive activities and cooperation undertaken by the Treasury and ASG during the past eleven (11) months. We also note that a significant number of States have not spent half the funds allocated to them over two years ago. As proposed, we will be positioned to allocate and/or obligate the vast majority of our allocation in the areas enunciated in our Plan, with the key being “successfully and sustainable”.

Contained in the February 5, 2014 letter to you from both the Governor and myself, were the consolidated answers to all questions asked of us, including those related to the OIG Report.

However, for purposes of clarity the following is submitted for consideration:

1. The quarterly reports issues have been resolved and are current.
2. Consistent with previous meetings, conference calls and written responses to questions American Samoa is positioned to successfully carry out the ASG SSBCI Modification when approved (please refer to the February 5, 2014 SSBCI Modified Allocation Agreement Plan)
3. To the best of our knowledge and given our answers to your questions, and a stated rationale and explanation, you have approved the organizational transfer of the SSBCI Program from ASG Treasury to ASG Department of Commerce.
4. We are in compliance with respect to your instructions not to obligate and/or expend any SSBCI funds until we receive written approval and authorization to do so.

Further, as reflected in our Plan Modification, we have retained the services of Mr. Jack Martin, Chairman, Martin, Arrington, Desai & Myers, P.C. Certified Public Accountants and Consultants to fulfill multiple roles for the ASG. One of these roles is the design, development, implementation and oversight function of all SSBCI Compliance functions under the direct guidance of ASG DOC Director and ASED Board Member Lafaele. We have attached a copy of the resume of Mr. Martin, former Chief Financial Officer, Chief Acquisition Officer and Acting Assistant Secretary for the U.S. Department of Education. We’re certain that you will agree that he has the skills sets, and the Governor and Director of Commerce have given him the support and appropriate level of responsibility to assist us with all SSBCI “Compliance, Reporting and Fiscal Issues”.

Under Finding 1 Personnel and Travel Cost not supported, Mr. Martin has recommended and the Governor has approved and ordered these cost to be removed from cost associated with the SSBCI Program.

Under Finding 2 American Samoa may not be fully positioned to Provide Credit Support. We have affirmatively addressed that issue in our Final Modification Plan. The Bank of Hawaii will remain in American Samoa until such time that we stand up our own Bank. Further, we have provided additional information which addresses our ability to provide credit support for the ASG SSBCI Program. We have also provided an audited financial report for 2012 as requested.

In closing, we would like to present the fact that a vast majority of the issues raised in the OIG Report took place prior to the term of this Administration. We recognize the seriousness of the issues and have taken appropriate steps to rectify and correct mistakes of the previous Administration, and set forth plans to ensure those mistakes are not repeated under this Government. We also submit that letters to the President and Secretary Lew, were general purpose government letters, designed to inform and in some cases request assistance as many States (with Republican and Democratic Governors) have done when assuming office in the midst of a national economic crisis affecting its business base, jobs, healthcare and the lives of its citizens (and non, to my knowledge had been hit by a Tsunami which took out half the Samoan power grid, destroying thousands of jobs, and dislocating hundreds of our people).

American Samoa has during the past eleven months, with the support and assistance of the SSBCI Director and Outreach Manager, significantly improved its Program and substantially increased its prospects for providing support to create and sustain new and existing businesses. In summary, sixteen years of a previous Administration, the loss of one employer who employed approximately 20% of the working population, a Tsunami, an SSBCI plan which was not viable, a national economic crisis affecting the entire country (especially the banking community), a new ASG Administration and the immediate task of literally trying to save the lives of American Samoans (without an accredited Hospital), while developing a new SSBCI plan which, if approved would become the engine of our economy and provide significant benefit and demonstration benchmarks should U.S. Treasury decide its usefulness to other States and/or Territories. Respectfully, termination (or other additional sanction) recommendations by the OIG SSBCI Report are not supported by the facts on the ground.

The new SSBCI Plan as submitted by our Governor, is of such unique character, that successful implementation could (as Deputy Assistant Secretary Graves has reflected) be used as a model for other SSBCI programs in other States across the country. The impact on new and existing businesses, especially in the medical, health and health related fields could be enormous.

Thanking you again for your time, consideration, support and assistance, and in anticipation of your affirmative action with respect to our application, I remain,

Sincerely,



Keniseli Lafaele

cc: Honorable Lolo M. Moliga Governor
David Rixter, US SSBCI Outreach Manager



Lolo M. Moliga
Governor

Lemanu Peleti Mauga
Lt. Governor

DEPARTMENT OF COMMERCE

American Samoa Government

Pago Pago, American Samoa 96799
Tel: (684) 633-5155 FAX: (684) 633-4195



Keniseli Faalupe Lafaele
Director

Lelei Peau
Deputy Director

In reply refer to:
Serial No: DOC: 1054

January 30, 2014

Ms. Debra Ritt
Special Deputy Inspector General for Office of Small Business Lending Fund Program Oversight
US Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Ms. Ritt,

In receipt of the draft audit report by the US Department of the Treasury's Office of Inspector General (OIG), submitted herewith is American Samoa's official response to the audit's draft findings.

Overview

I request to officially note at the outset that at the beginning of 2013, a new gubernatorial administration took over after 16 years of essentially the same gubernatorial administration being in power. Upon learning of the discrepancies with the State Small Business Credit Initiative (SSBCI) Program and in receipt of the US Treasury's letter of March 11, 2013, the new administration immediately embarked on an undertaking that would both address the programmatic deficiencies and the fundamental nature of American Samoa's SSBCI Program. This is due to the planned departure of Bank of Hawaii, the only US-based bank operating in American Samoa, with Australian-based ANZ Amerika Samoa Bank being the only other local financial institution. As noted in the audit report, American Samoa's existing SSBCI Program only consists of a collateral support program, and without financial institutions that are willing to participate, the collateral support program could not be implemented.

In the US Treasury's March 11, 2013 letter, the following four items were highlighted for American Samoa to address:

- 1) General event of default occurred with American Samoa's SSBCI Program due to the lack of quarterly reports;
- 2) Records request relating to American Samoa being fully positioned;
- 3) Request relating to change in entity implementing the SSBCI Program, and
- 4) Request not to expend, obligate, or transfer any SSBCI funds

Upon changing administrations, the Office of Federal Programs, the initial administrator of American Samoa's SSBCI Program, was dissolved due to the lack of an approved budget from the Legislature of American Samoa, and administrator responsibilities were transferred to the local Department of the Treasury for the time being pending further review of the American Samoa Government's (ASG) executive branch's overall structure.

On March 26, 2013, the local Treasury responded to the March 22, 2013 letter. In the US Treasury's response that followed on April 30, 2013, the US Treasury acknowledged problems American Samoa experienced with the SSBCI reporting system on the US Treasury's website, offered assistance to American Samoa in completing required SSBCI reports, and gave American Samoa up to May 30, 2013

for American Samoa to submit more information on aforementioned item numbers 2 & 3. The US Treasury's letter of April 30, 2013 also acknowledged assurances from American Samoa that all SSBCI funds other than administrative expenses already expended prior to the start of the new administration were safe and secure in an existing bank account.

On May 30, 2013, the local Treasury requested a time extension to submit the required information for aforementioned items 2 and 3 and noted that American Samoa will be working closely with In-Tek, Inc., a Washington, DC-based consulting firm, in articulating American Samoa's SSBCI Program to the US Treasury. On July 23, 2013, the US Treasury granted American Samoa 60 days from July 23, 2013 to submit the required information. On July 25, 2013, Governor Lolo Moliga, upon completing a review of the executive branch's structure, advised the US Treasury of American Samoa's amended SSBCI Program administrator, ASG's Department of Commerce (DOC), and DOC has remained the administrator since.

Towards the end of the 60-day extension on September 19, 2013, American Samoa submitted its request to modify its SSBCI Program and allocation agreement to include a Venture Capital Program. Throughout all this time, American Samoa kept in close contact with US Treasury officials via conference calls, electronic mails, and face-to-face meetings through our consultant, In-Tek, Inc. As a result of these constant contacts which allowed all parties involved to understand the full scope of the undertakings that have been taking place, the US Treasury granted up to December 2013 to provide additional information on our request for a venture capital program.

On December 14, 2013, American Samoa submitted its proposed modification program where it demonstrated that it is fully positioned to administer the SSBCI Program as well as formalizing and substantiating the need for DOC as the local SSBCI Program administrator.

In light of these events, American Samoa requests that any references towards American Samoa taking 9 months or more to put together a request to the US Treasury for a modification of its existing SSBCI Program reflect close consultations with and approval by the US Treasury for timelines in which to make submissions to achieve this goal. Copies of all these correspondences have been submitted to OIG.

Finding 1: Personnel and Travel Costs Are Not Supported

In regards to travel costs, all 3 employees who traveled on SSBCI funds no longer work for ASG. Nevertheless, ASG has been trying to locate these individuals, who might have left the islands, for purposes of substantiating their travel costs. American Samoa does acknowledge this finding but remains hopeful that consideration will be given to the fact that these occurred prior to the start of this administration.

Finding 2: American Samoa May Not Be Fully Positioned to Provide Credit Support...

As explained in the Overview section, American Samoa has petitioned the US Treasury for a modification of its SSBCI Program to allow for a venture capital program due to the reluctance of local financial institutions (only two of them exist but one is leaving the American Samoa market) to participate in the SSBCI collateral support program; the lack of participation of the local banks is out of ASG's control. American Samoa's request for modification, which is currently under US Treasury review, provides a list of entities with proven track records, financial background and extensive experience to administer the SSBCI Program.

I would also like to stress that the draft audit report and findings do not account for problems American Samoa faced with the SSBCI reporting system provided in the US Treasury website as acknowledged by the US Treasury in its letter of April 30, 2013. We acknowledge the inaccuracies contained in quarterly reports that ended in June 2012 and September 2012.

As of today, we'd already modified these 2 reports and subsequent reports thereafter due to the change in total cumulative expenses, but are unable to upload the revised quarterly reports into the

SSBCI reporting system because there is no option provided by the reporting system to revise such reports. In uploading our December 2013 quarterly report, we noted in the reporting system that we would not adjust the cumulative totals because once the revised reports from previous quarters are uploaded, the cumulative totals should automatically change to reflect the correct amounts. All these revised reports have been emailed to the US Treasury.

We'd also like to note that the lack of certifications on page 9 for reports ending in December 2012, March 2013, and June 2013 is inaccurate since these certifications had already been uploaded into the reporting system. Nevertheless, revising these reports has necessitated the need to redo these certifications, which have already been submitted via email; the US Treasury will also need to allow American Samoa to upload these revised certifications into the reporting system due to the same problem we experienced when trying to upload the revised quarterly reports.

In regards to the 2012 annual report, an error message appeared after several attempts to upload this report into the reporting system, so the annual report has been emailed to the US Treasury as well.

Conclusion

We fully acknowledge discrepancies in American Samoa's SSBCI Program from past years, and we fault only ourselves for these shortcomings even though these mistakes took place under a different administration. Nevertheless, I hope it will be looked upon favorably the efforts of this administration to fully comply with requirements guiding the SSBCI Program. As our Governor stated in his request of December 14, 2013 to Honorable Treasury Secretary Jack Lew, this is one of the very few ways American Samoa could revive its economy and create successful small business opportunities and jobs for the people of American Samoa.

In light of this information and our efforts in bringing American Samoa into full compliance with SSBCI Program regulations, I sincerely request that our position and recommendations be included in their entirety in the final audit report.

Sincerely,


Keniseli Lafaale
DIRECTOR

xc: Clayton Boyce, Audit Director, US Treasury OIG SBLF
Safal Bhattarai, US Treasury OIG SBLF
Hon. Lolo M. Moliga, Governor of American Samoa
Hon. Lemanu P. Mauga, Lieutenant Governor of American Samoa
Iulogologo Joseph Pereira, Governor's Executive Assistant
Steven Watson, Governor's Legal Counsel
Alfonso P. Galeai, TOFR Director
Falema'o Phil Pili, Treasurer
Jerome Jerome, Administrator, Office of Grants Oversight & Accountability
Blanche Lulu Barber, Treasurer's Executive Assistant
Taafili Te'o, TOFR Grants Analyst
Uili Leauanae, DOC Deputy Director

Appendix 3: American Samoa SSBCI Timeline

January 13, 1995	American Samoa creates the Office of Federal Programs to manage federal grants.
March 6, 2009	American Samoa creates the American Samoa Economic Stimulus Recovery Office (ASESRO) to manage funds provided by U.S. Treasury in accordance with the American Recovery and Reinvestment Act of 2009 (ARRA).
December 19, 2011	American Samoa designates the Office of Federal Programs (OFP) in the Office of the Governor to handle SSBCI, and the OFP Executive Director to be point of contact. OFP and the OFP Executive Director also manage ASESRO and ARRA funds.
January 12, 2012	U.S. Treasury approves American Samoa's application for participation in SSBCI, awarding it \$10.5 million.
January 26, 2012	The SSBCI <i>Allocation Agreement</i> between American Samoa and Treasury is signed.
January 30, 2012	American Samoa receives its first disbursement of approximately \$3.5 million in SSBCI funds.
March 8 and 9, 2012	Three American Samoa employees attend a U.S. Treasury SSBCI conference in San Francisco, California.
January 3, 2013	A new Governor's administration takes office in American Samoa.
January 14, 2013	American Samoa Governor's Executive Order moves ASESRO and management of ARRA programs from the Governor's Office to the American Samoa Treasury Department. The American Samoa Treasurer takes the place of the Executive Director of ASESRO, who is also Executive Director of OFP and Director of SSBCI programs.
February 3, 2013	Email from ASG Treasury Department informs U.S. Treasury that management of SSBCI is moving to the ASG Territorial Office of Fiscal Reform in ASG

Treasury Department, and requests a meeting “to revisit the previously submitted agreement which led to the current guidelines and the parameters imposed on this agreement.”

February 7, 2013

American Samoa employee emails U.S. Treasury, stating that the Territory’s Treasury Department has taken over management of SSBCI and all OFP employees except the OFP Executive Director have been terminated.

March 11, 2013

U.S. Treasury letter to ASG Treasurer includes:

- Notification of Non-Compliance with Quarterly Reporting Requirement;
- Request for records showing ASG is “fully positioned;”
- Instructions on seeking change in entity managing SSBCI and change in SSBCI point of contact (because Territorial Office of Fiscal Reform, where SSBCI is managed, “is now under ASG Treasury;” and
- Request not to expend, obligate, or transfer SSBCI funds.

March 22, 2013

Governor’s letter to U.S. Treasury says that he has designated ASG Treasury to manage SSBCI and ASG Treasurer to be U.S. Treasury’s point of contact.

March 26, 2013

ASG Treasurer responds to U.S. Treasury’s March 11, 2013, Non-Compliance letter, supplies documents in support of “fully positioned,” states that Treasury’s Territorial Office of Fiscal Reform will manage SSBCI, and names an SSBCI Program Manager and SSBCI Compliance Officer.

April 30, 2013

U.S. Treasury responds to March 26, 2013, letter, requesting:

- Additional records showing American Samoa is “fully positioned” to provide credit support.
- Letter by May 30, 2013, describing change and documentation supporting change in entity.

May 29, 2013

U.S. Treasury and ASG Treasury hold a telephone conference meeting.

May 30, 2013	Letter from American Samoa Treasurer to U.S. Treasury responds to U.S. Treasury requests made on April 30, 2013, and requests a 60-day extension for complying with them. Letter says, "Unfortunately, in AS an actionable program does not yet exist." American Samoa also asks U.S. Treasury SSBCI staff to meet in Washington, D.C., with American Samoa's "technical assistance" consultants from a Washington, D.C., consulting firm.
May 31, 2013	Executive Order moves SSBCI back to the Governor's Office under the newly created Office of Grants Oversight and Accountability. The new office replaces the function of OFP in the Governor's Office and OFP is eliminated.
July 23, 2013	U.S. Treasury letter grants 60-day extension to its requests of American Samoa.
July 23, 2013	ASG Treasurer's internal memo requests that ASG officials prepare a letter designating a new SSBCI administrator.
July 25, 2013	Governor names ASG Department of Commerce Director as administrator and point of contact for SSBCI. Treasury remains recipient of funds.
August 19, 2013	In an email, American Samoa notifies Treasury that its Department of Commerce will manage the Territory's SSBCI program and will replace with its Collateral Support Program with a Venture Capital Program.
August 26, 2013	Letter from Governor asks President Obama to forbid federal agencies from taking any adverse action against American Samoa.
August 27, 2013	U.S. Treasury letter acknowledges American Samoa's plan to add a Venture Capital Program to its SSBCI offering. Treasury instructs the Governor on the requirements for adding a Venture Capital Program and gives the Territory until September 23, 2013, to formally request the change and present information on the program for approval.

September 10, 2013	Letter from American Samoa to U.S. Treasury formally asks to amend its <i>Allocation Agreement</i> to add a Venture Capital Program.
October 10, 2013	U.S. Treasury letter informs Governor: <ul style="list-style-type: none">• More information is needed about the Venture Capital Program.• American Samoa must demonstrate that the Venture Capital Program supports the 1:1 leveraging requirement and the 10:1 leveraging expectation.• More information is required to demonstrate it is fully positioned.• American Samoa can submit a revised modification request by December 15, 2013.
December 13, 2013	U.S. Treasury receives revised modification proposal.
January 8, 2014	U.S. Treasury letter asks for additional information about the proposed modification, and again requests that American Samoa not expend, obligate, or transfer SSBCI funds or charge administrative funds until the U.S. takes action.

Appendix 4: Major Contributors

Debra Ritt, Special Deputy Inspector General

Clayton Boyce, Audit Director

Lisa DeAngelis, Audit Director

Safal Bhattarai, Auditor

Saeedat Epemolu, Referencer

Appendix 4: Distribution List

Department of the Treasury

Deputy Secretary
Office of Strategic Planning and Performance Management
Risk and Control Group

Office of Management and Budget

OIG Budget Examiner

United States Senate

Chairman and Ranking Member
Committee on Small Business and Entrepreneurship

Chairman and Ranking Member
Committee on Finance

Chairman and Ranking Member
Committee on Banking, Housing, and Urban Affairs

Chairman and Ranking Member
Committee on Homeland Security and Governmental Affairs

Chairman and Ranking Member
Appropriations Subcommittee on Financial Services and General
Government

United States House of Representatives

Chairman and Ranking Member
Committee on Small Business

Chairman and Ranking Member
Committee on Financial Services

Chairman and Ranking Member
Committee on Oversight and Government Reform

Chairman and Ranking Member
Appropriations Subcommittee on Financial Services and General
Government

Government Accountability Office

Comptroller General of the United States