



Issue Date September 17, 2010

Audit Report Number 2010-DP-0003

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FROM: Hanh Do, Director, Information Systems Audits Division, GAA

SUBJECT: Review of the Effectiveness of HUD's Data Quality Review Processes for the American Recovery and Reinvestment Act of 2009

HIGHLIGHTS

What We Audited and Why

We audited the U.S. Department of Housing and Urban Development's (HUD) internal control structure for ensuring that American Recovery and Reinvestment Act of 2009 (Recovery Act) recipient data are reported completely, accurately, and in a timely manner. We also determined whether material omissions and significant errors were identified correctly. We conducted this audit as part of a joint effort among the Inspector General community under oversight of the Recovery Accountability and Transparency Board.

What We Found

HUD established the Recovery Implementation Team (Recovery Team), within the Office of Strategic Planning and Management, to monitor and maintain Recovery Act funding and reporting. The Recovery Team's accomplishments as of the March 31, 2010, reporting period are as follows:

1. Developed policies and procedures for validating recipient reporting,
2. Completed several rounds of validation checks of recipient data,

3. Successfully assisted approximately 99 percent of the prime recipients (4,849 of 4,911) to meet report requirements, and
4. Met with the Office of Inspector General (OIG) on a monthly basis to discuss Recovery Act activities.

The overall quality assurance process completed by the Recovery Team has proven to be successful with HUD's high recipient reporting rate. However, we determined that the Recovery Team should provide additional and updated guidance to HUD program offices pertaining to enforcement actions for non reporting. In accordance with Office of Management and Budget (OMB) Memorandum 10-17,¹ Federal agencies have additional requirements to ensure that recipients report in a timely manner. The Recovery Team needs to ensure that program offices have implemented this new memorandum and request updated enforcement action procedures from the program offices.

What We Recommend

We recommend that the Senior Program Manager for the Office of Strategic Planning and Management develop guidance for the program offices to ensure the implementation of OMB Memorandum 10-17. This guidance needs to request that each of the program offices provide the Recovery Team clear enforcement procedures so that the enforcement actions take place within 20 business days of when the non reporting was identified in quarterly reports. The Senior Program Manager should inform the recipients in writing of the specific consequences of current and continued noncompliance with the Recovery Act, Section 1512, reporting responsibilities. Also, the Recovery Team needs to ensure that it has a central repository for all enforcement action procedures from each of the program offices.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

We provided a draft of the audit report to the Recovery Team on September 7, 2010. The Recovery Team informally responded by email and a follow up phone call on September 13, 2010 with minor verbiage changes. The Recovery Team agreed with our decision to issue the final report with no formal written comments included.

¹ OMB Memorandum, 10-17, "Holding Recipients Accountable for Reporting Compliance under the American Recovery and Reinvestment Act," dated May 4, 2010.

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BACKGROUND AND OBJECTIVES

On February 13, 2009, Congress passed the American Recovery and Reinvestment Act of 2009 (Recovery Act), and President Obama signed it into law 4 days later. This act was a direct response to the economic crisis and has three immediate goals:

- Create new jobs and save existing ones,
- Spur economic activity and invest in long-term growth, and
- Foster unprecedented levels of accountability and transparency in government spending.

The Recovery Act intends to achieve those goals by

- Providing \$288 billion in tax cuts and benefits for millions of working families and businesses;
- Increasing Federal funds for education and health care as well as entitlement programs, such as extending unemployment benefits, by \$224 billion;
- Making \$275 billion available for Federal contracts, grants, and loans; and
- Requiring recipients of recovery funds to report quarterly on how they are using the money. All of the data are posted on Recovery.gov so the public can track the recovery funds.

The Recovery Act includes \$13.61 billion for projects and programs administered by the U.S. Department of Housing and Urban Development (HUD). The Recovery Act mandates transparency and accountability in the use of the funds. To accomplish this transparency and accountability, the Recovery Act requires quarterly reporting on the part of agencies and grantees.

The overall audit objective was to determine whether HUD had fully implemented an internal control structure that is effective in ensuring that recipient data are reported completely, accurately, and in a timely manner. We also reviewed whether HUD had identified and corrected any material omissions and/or significant errors.

This audit was conducted as part of a joint effort among the Inspector General community under oversight of the Recovery Accountability and Transparency Board (RAT Board). The RAT Board was created by the American Recovery and Reinvestment Act of 2009 to provide transparency of ARRA funds, and to prevent fraud, waste and mismanagement.

The participating Inspectors General provided the results of their reviews to the U.S. Department of Agriculture (USDA) Office of Inspector General (OIG), which compiled the results and developed a consolidated audit report. To assist in accomplishing the audit objectives, USDA provided the participating OIGs with a matrix of 21 questions. We provided our response to those questions to USDA OIG in May 2010.

RESULTS OF AUDIT

Finding 1: HUD's Recovery Team Did Not Provide Updated Guidance to Program Offices on Enforcement Actions

The Recovery Team had taken appropriate enforcement actions and implemented additional sanctions and remedies toward recipients that repeatedly failed to submit a report during the report submission period set forth in the Recovery Act, Section 1512. However, it did not provide additional guidance to the program office on the updated Office of Management and Budget (OMB) Memorandum 10-17. The Recovery Team did not provide additional guidance to program offices because they distributed OMB Memorandum 10-17 and thought distribution was adequate guidance. The Recovery Team needs to ensure that each program office updates its current enforcement actions to include what specific actions will be taken and a timeline for when the action will be taken. Also, a central repository of enforcement actions from each of the program offices to address recipient noncompliance needs to be implemented so HUD can ensure compliance with the Recovery Act. The Recovery Team was only aware of the program offices enforcement actions through e-mail correspondence. The Recovery Team's current process has proven to be effective; however, guidance needs to be updated. If the Recovery Team does not require the HUD program offices to develop new procedures, enforcement actions may not be properly initiated in a timely fashion as mandated by the updated OMB memorandum.

The Recovery Team Has Taken Enforcement Action for Non reporters

The Recovery Team has taken appropriate action regarding recipients that have not been compliant with Recovery Act reporting requirements. Prime recipients of all programs identified in the list of Federal programs subject to Section 1512 of the Recovery Act are responsible for reporting the following information:

- 1) The total amount of recovery funds received from that agency,
- 2) The amount of recovery funds received that was expended or obligated to projects or activities,
- 3) A detailed list of all projects or activities for which recovery funds were expended or obligated, and
- 4) Details on subcontracts or sub grants awarded by the recipient.

Recipients that fail to submit a Section 1512 report as required by the terms of their award are considered to be noncompliant. Noncompliant recipients, including those that are persistently late or negligent in their reporting obligations,

are subject to Federal action, up to and including the termination of Federal funding or the ability to receive Federal funds in the future.²

For the first quarter reporting period ending March 31, 2010, HUD reported that 62 of 4,911 prime recipients failed to comply with reporting requirements. Of the 62, there were only 4 recipients that continued to be noncompliant for 2 or more consecutive reporting periods.³ The Recovery Team provided the program offices with a list of non reporting recipients, and the program offices directly contacted all recipients, including repeat non reporters, that failed to report and generated a notification or warning letter to each of the recipients. In addition to the warning letters, for specific cases, the program offices imposed restrictions in HUD's funding systems to prevent recipients from withdrawing funds until they reported. Other notable accomplishments as of the March 31, 2010, reporting period are as follows:

- Developed policies and procedures for validating recipient reporting,
- Completed several rounds of validation checks of recipient data, and
- Met with OIG on a monthly basis to discuss Recovery Act activities.

The Recovery Team Had Not Requested Updated Procedures From Program Offices

The Recovery Team had not requested that the program offices update their enforcement action procedures based on OMB Memorandum 10-17, "Holding Recipients Accountable for Reporting Compliance under the American Recovery and Reinvestment Act," issued May 4, 2010. The memorandum highlights additional steps beyond existing policies and procedures that OMB has determined necessary to carry out the President's directive for more aggressive action in addressing recipient noncompliance and requires that

- 1) Federal agencies contact recipients that have not reported in previous quarters and pursue consistent and comprehensive follow-up to obtain reporting,
- 2) Noncompliant recipients be reported to OMB within 5 days, and
- 3) Enforcement actions be taken within 20 days for two-time non reporters.

Enforcement sanctions and remedies differ among the program offices. Actions are up to the discretion of HUD program offices and vary due to legal differences among programs. The Recovery Team distributed the OMB memorandum to the program offices but had not provided additional guidance on the memorandum or requested that program offices update their enforcement actions. The Recovery

² OMB Memorandum M-10-08, "Updated Guidance on the American Recovery and Reinvestment Act – Data Quality, Non-Reporting Recipients, and Reporting of Job Estimates," dated December 18, 2009.

³ Recovery Act reporting periods ending September 30, 2009, December 31, 2009, and March 31, 2010.

Team did not request updated enforcement actions because they distributed the OMB memorandum to the program offices and left the enforcement actions to the judgment of the program offices. The Recovery Team is ultimately responsible for recipient reporting, so they need to review the actions to ensure that procedures address all requirements of OMB Memorandum 10-17. The updated enforcement procedures developed by the program offices need to detail how the new OMB requirements will be implemented and a timeline for when actions will be taken.

The Recovery Team Needs To Implement a Central Repository of Enforcement Procedures

HUD program offices are responsible for developing their own enforcement procedures based on their program specifications. To ensure that each program office does its due diligence to promote recipient reporting and follow up on non reporters, the Recovery Team needs to maintain a copy of each program office's enforcement procedures in a centralized location. The Recovery Team was only made aware of enforcement actions via email correspondence with the program offices.

Conclusion

The Recovery Team needs to improve its guidance to the program offices or more adequately document responsibilities of the program offices to enforce actions. The intent of the funds made available to these recipients is to promote economic growth and transparency in HUD spending. Without the proper enforcement of reporting, HUD cannot fully account for the Recovery Act funds.

Recommendations

We recommend that the Senior Program Manager for the Office of Strategic Planning and Management

- 1A. Require program offices to develop clear enforcement procedures that comply with OMB Memorandum 10-17. Specifically, program offices should ensure that appropriate action is taken within 20 business days to address recipients that are noncompliant for two or more consecutive reporting periods and that the repeat noncompliant recipients are reported to OMB within 5 days.
- 1B. Maintain a copy of all enforcement action policies and procedures from each of the program offices in a central repository.

SCOPE AND METHODOLOGY

The review was performed between March and June 2010 at HUD headquarters, Washington, DC. We reviewed first quarter recipient data for 2010. This period included data from January 1 to March 31, 2010. We used the USDA matrix provided to the Inspector General community to accomplish our objectives. We conducted the audit in accordance with generally accepted 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 provides a reasonable basis for our findings and conclusions based on our audit objectives. Specifically, we

- Evaluated HUD’s policy and procedures for reviewing quarterly Recovery Act data and compared those to the following OMB guidance:
 - OMB Memorandum 10-08, “Updated Guidance on the American Recovery and Reinvestment Act – Data Quality, Non-Reporting Recipients, and Reporting of Job Estimates,” dated December 18, 2009;
 - OMB Memorandum 10-14, “Updated Guidance on the American Recovery and Reinvestment Act,” March 22, 2009; and
 - OMB Memorandum 10-17 “Holding Recipients Accountable for Reporting Compliance under the American Recovery and Reinvestment Act,” May 4, 2010.
- Obtained and reviewed supporting documents to determine whether HUD program offices provided guidance and assistance to recipients.
- Interviewed HUD’s Recovery Team regarding its process used in performing data quality reviews.
- Performed analyses of documents provided by the Recovery Team to determine the reporting status of HUD’s grant recipients.
- Reviewed HUD’s grant award agreements procedures and enforcement plan to determine whether HUD had an adequate process in place to remediate systemic or chronic reporting problems.
- Reviewed relevant Federal laws and regulations, including Recovery Act guidance issued by OMB.

INTERNAL CONTROLS

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objectives:

- Up-to-date written policies and procedures,
- Compliance with Federal requirements, and
- Design and implementation of policies and procedures.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiencies

We evaluated internal controls related to the audit objectives in accordance with generally accepted government auditing standards. Our evaluation of internal controls was not designed to provide assurance on the effectiveness of the internal control structure as a whole. Accordingly, we do not express an opinion on the effectiveness of the HUD Recovery Team's internal control.

Appendix A

AUDITEE COMMENTS AND OIG'S EVALUATION

We provided a draft of the audit report to the Recovery Team on September 7, 2010. The Recovery Team informally responded by email and a follow up phone call on September 13, 2010 with minor verbiage changes. The Recovery Team agreed with our decision to issue the final report with no formal written comments included.