



City of Houston Housing and
Community Development
Department, Houston, TX
Community Development Block Grant
Disaster Recovery

**Office of Audit
Fort Worth, TX**

**Audit Report Number: 2022-FW-1001
January 4, 2022**



OFFICE OF INSPECTOR GENERAL
U.S. Department of Housing and Urban Development

To: Jessie Handforth-Kome, Director, Office of Block Grant Assistance, DGB

//signed//

From: Kilah S. White,
Assistant Inspector General for Audit, GA

Subject: The City of Houston, Houston, TX, Faced Challenges in Administering Its Hurricane Harvey Program and Risked Losing Its Funding

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the City of Houston's Hurricane Harvey Community Development Block Grant Disaster Recovery subrecipient grant.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, appendix 8M, requires that OIG post its reports on the OIG website. Accordingly, this report will be posted at <https://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call Audit Director Danita Wade, at 817-978-9309.

Office of Audit

451 7th Street, SW, Room 8180, Washington, DC 20410
Phone (202) 708-0364, Fax (202) 708-1783

Visit the Office of Inspector General website at <https://www.hudoig.gov>.

Highlights

What We Audited and Why

We audited the City of Houston's Hurricane Harvey Community Development Block Grant Disaster Recovery (CDBG-DR) program. We initiated this audit as part of our commitment to helping the U.S. Department of Housing and Urban Development (HUD) address its top management challenges and to support HUD's strategic objective to support effectiveness and accountability in long-term disaster recovery. Further, Congress has expressed strong interest in HUD's disaster programs.

Our objective was to assess the efficiency and effectiveness of the City's Hurricane Harvey CDBG-DR program.

The City of Houston, Houston, TX, Faced Challenges in Administering Its Hurricane Harvey Program and Risked Losing Its Funding

What We Found

The City of Houston faced challenges in administering its Hurricane Harvey CDBG-DR program efficiently and effectively. Specifically, 3 years after Hurricane Harvey, the City had spent only 1.8 percent of its suballocated grant funds, which substantially delayed assistance to participants. Further, it had assisted only 297 of 8,784 housing program participants, leaving affected Houstonians without the help they needed. This weak performance contributed to HUD's designating the Texas General Land Office (Texas GLO) as a slow spender. These conditions occurred due to significant disagreements between the City and the Texas GLO over how to implement the City's programs. Also, the Texas GLO did not provide programmatic benchmarks in its contract to hold the City accountable. As a result, the City's slow performance risked its missing HUD's spending deadlines, recapture of the Texas GLO's grant funds, and potential loss of the City's \$1.275 billion in suballocated Hurricane Harvey grant funds.

What We Recommend

We recommend that the Director of the Office of Block Grant Assistance require the Texas GLO to ensure that (1) it includes milestones and appropriate consequences for not meeting them in future subrecipient agreements and (2) processes are in place to assist participants transitioning from the City's programs to the Texas GLO's programs. With HUD's approval of action plan amendment 8, we recommend that the Director require the Texas GLO to also (1) provide its plan to continuously monitor the City's pace and performance in its remaining program and take appropriate action to ensure that program goals are met, (2) set performance and financial milestones for all programs and activities funded under the City's subrecipient agreement, and (3) provide its plan to ensure that the City complies with the Texas GLO's guidelines and requirements. Implementation of these recommendations would include a process for repurposing additional grant funds if necessary.

Table of Contents

Background and Objective.....	3
Results of Audit	5
Finding: The City of Houston Faced Challenges in Administering Its Hurricane Harvey Program and Risked Losing Its Funding.....	5
Scope and Methodology.....	14
Internal Controls.....	16
Appendixes.....	17
A. HUD and Auditee Comments and OIG's Evaluation.....	17
B. Litigation Timeline.....	42

Background and Objective

On August 25, 2017, Hurricane Harvey made landfall as a category 4 hurricane in southeast Texas, causing catastrophic flooding and damage. As a result, a Presidential Disaster was declared on August 25, 2017, which included the City of Houston. On September 8, 2017, Congress appropriated \$7.4 billion for the Hurricane Harvey response. The U.S. Department of Housing and Urban Development's (HUD) Office of Community Planning and Development allocated \$5.024 billion of those funds to the State of Texas.¹ The Texas General Land Office's Community Development and Revitalization division (Texas GLO) administers the State's disaster grants.

On August 17, 2018, HUD executed the \$5.024 billion Hurricane Harvey grant agreement with the Texas GLO and directed it to allocate \$1.15 billion to the City.² In addition, HUD provided \$652 million in supplemental Hurricane Harvey grant funds³ to the Texas GLO. By accepting the Hurricane Harvey grants, the Texas GLO accepted responsibility for compliance with the terms and conditions of the agreements. This obligation included assuming responsibility for subrecipient compliance with HUD requirements. On January 5, 2019, the Texas GLO entered into a \$1.175 billion Community Development Block Grant Disaster Recovery (CDBG-DR) subrecipient grant agreement with the City. Through contract amendments, the City's funding increased to \$1.275 billion.

HUD implemented a performance indicator to track its strategic objective 7⁴ and decrease slow spending among its CDBG-DR grantees. HUD defines a "slow spender" as a grantee that has spent 10 percent less than the monthly pace required to fully use the grant by the target closeout date. As its grantee, HUD required⁵ the Texas GLO to spend 100 percent of its grant funds on eligible activities within 6 years of HUD's initial obligation of the funds (August 17, 2024). The Texas GLO's subrecipients were also required to meet HUD's expenditure deadline. Due to the Coronavirus pandemic, HUD issued a notice⁶ providing an automatic 1-year extension of the Hurricane Harvey expenditure deadline (August 17, 2025), with an option to request an additional 1-year extension. Grantees that did not meet HUD's expenditure deadline were at risk of having their grant funds recaptured.

¹ Federal Register Notice 83 FR 5844, section I

² HUD also directed the State to allocate \$1.1 billion of its grant to Harris County, TX. We also audited this program in HUD Office of Inspector General (OIG) audit report 2021-FW-1001, Harris County Community Services Department, Houston, TX, Was Inefficient and Ineffective in Operating Its Hurricane Harvey Program, dated June 2, 2021.

³ This \$652 million supplemental grant (agreement B-18-DP-48-0001) and the \$5.024 billion grant (agreement B-17-DM-48-0001) totaled \$5.676 billion to address Hurricane Harvey's unmet recovery needs.

⁴ In its 2018-2022 Strategic Plan, HUD's strategic objective 7 was to support effectiveness and accountability in long-term disaster recovery.

⁵ Federal Register Notice 83 FR 5844, section VII

⁶ Federal Register Notice 85 FR 50041, Waivers, Alternative Requirements and Extensions for Community Development Block Grant Disaster Recovery Grantees, dated August 17, 2020

In addition, HUD required the Texas GLO to submit an action plan identifying the proposed activities for long-term recovery in areas affected by Hurricane Harvey. If the Texas GLO received substantial additional funding, reallocated funds, or changed activities, it was required to submit an action plan amendment to HUD for approval. The City's local supplemental action plan (which included a needs assessment, description of unmet needs, expenditure timelines, and program descriptions) was submitted as amendment 1 under the Texas GLO's action plan. As part of amendment 1, the City identified 10 programs in its approved budget that it planned to operate. Six of the programs were for housing activities, two of the programs were for supportive services activities, and the other two activities were for planning and administration.⁷

During our audit, the Texas GLO announced plans to eliminate the City's funding and transfer all responsibility for administering disaster assistance to Houston residents to the Texas GLO due to the City's slow performance and slow spending. The Texas GLO would initiate its plans by seeking HUD's approval through an action plan amendment. In response, the City initiated litigation, which escalated through the State courts and resulted in the Texas Supreme Court's allowing the Texas GLO to proceed with its plans. HUD approved action plan amendment 7 on October 6, 2020, allowing the Texas GLO to eliminate the City's \$1.275 billion suballocated grant funds, take control of those funds, and assume responsibility for administering the program for Houston residents. After receiving HUD approval to eliminate the City's funding, the Texas GLO negotiated with the City to reinstate much of its funding and programs. On March 15, 2021, the Texas GLO announced action plan amendment 8, which included its plans to reinstate more than \$835 million for the City's administration of its Hurricane Harvey program. The public had until April 14, 2021, to provide comments. After responding to the public comments, the Texas GLO submitted the new amendment to HUD for final approval. HUD approved action plan amendment 8 on June 22, 2021.

This audit focused on the performance of the Texas GLO's subrecipient, the City of Houston. The City's Housing and Community Development Department administers its disaster programs. Its offices are located at 2100 Travis Street, 9th Floor, Houston TX. The Texas GLO's offices are located at 1700 North Congress Avenue, Austin, TX.

Our objective was to assess the efficiency and effectiveness of the City's Hurricane Harvey CDBG-DR program.

⁷ The housing assistance programs included Homeowner Assistance, Single Family Development, Multifamily Rental, Small Rental, Homebuyer Assistance, and Buyout. The supportive services programs included Public Services and Economic Revitalization. The other two approved activities were Planning and Administration.

Results of Audit

Finding: The City of Houston Faced Challenges in Administering Its Hurricane Harvey Program and Risked Losing Its Funding

The City faced challenges in administering its CDBG-DR program efficiently and effectively. Specifically, 3 years after Hurricane Harvey, the City had spent only \$22.8 million (1.8 percent) of its \$1.275 billion suballocated grant funds, which substantially delayed assistance to participants. Further, it had assisted only 297 of 8,784 participants (3.4 percent) in its housing programs, leaving affected Houstonians without the help they needed. This weak performance contributed to HUD’s designating the Texas GLO as a slow spender. These conditions occurred due to significant disagreements between the City and the Texas GLO over how to implement the City’s programs. Also, the Texas GLO did not provide programmatic benchmarks in its contract to hold the City accountable. As a result, the City’s slow performance risked its missing HUD’s spending deadlines, recapture of the Texas GLO’s grant funds, and potential loss of the City’s \$1.275 billion suballocated Hurricane Harvey grant funds.

The City Had a History of Slow Spending

The City had a history of slow spending for its disaster programs. In its March 1, 2017, CDBG-DR Grants Financial Report,⁸ HUD designated the City as a “slow spender” for its direct allocation disaster grant for two 2015 floods. The City executed its 2015 floods grant agreement with HUD on December 7, 2016, with an original expenditure deadline of December 7, 2022.⁹ As of October 13, 2020, more than 5 years after the flood events, the City had spent only \$7.5 million of its \$87 million grant (8.6 percent), when it was 64 percent through the original deadline period for meeting the expenditure requirement. Without the pandemic extension, the City would be at risk of not fully using its suballocated grant funds by the December 7, 2022, target closeout date and HUD’s recapture of the remaining CDBG-DR funds. In addition, in its November 2019 monitoring report, HUD expressed concerns over the City’s slow spending of its suballocation from the Texas GLO’s 2016 floods grant.

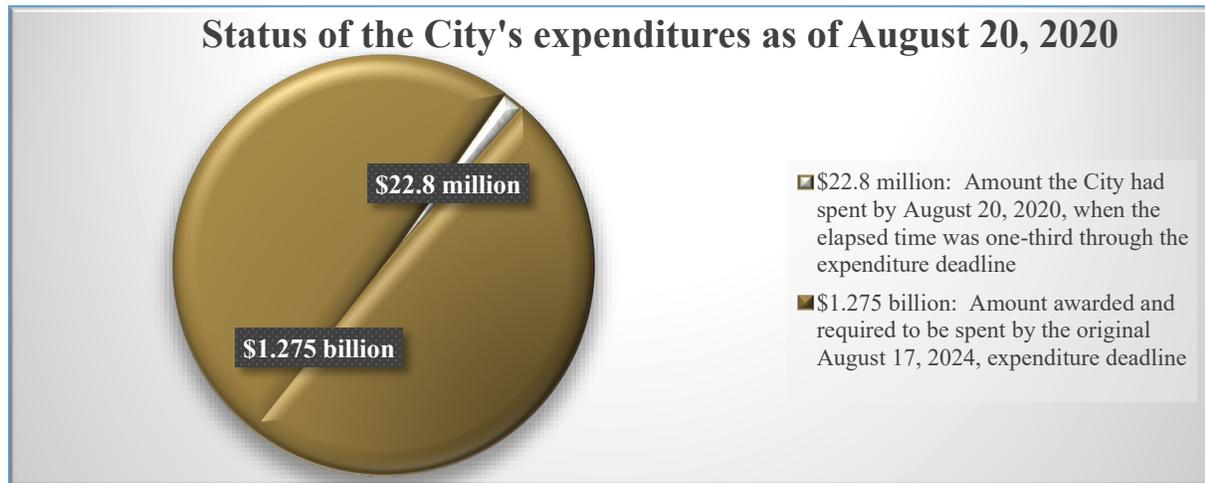
Three years after Hurricane Harvey occurred, the City had spent only \$22.8 million (1.8 percent) of its \$1.275 billion in suballocated grant funds (chart 1). These funds were spent on 4¹⁰ of the 10 programs included in the City’s approved budget. As of August 20, 2020, of the \$22.8 million that had been spent, \$1 million was spent on administration. Because the City was slow in spending program funds, the intended disaster recovery assistance to participants was delayed.

⁸ HUD’s Grants Financial Report lists all active CDBG-DR grants. It identifies grant balances as well as top performers and slow spenders. Although the Grants Financial Report is ordinarily a monthly report, as of August 5, 2020, the latest report on HUD’s CDBG-DR website was for March 1, 2020.

⁹ As a result of the Coronavirus pandemic, HUD provided the City with an automatic 1-year expenditure deadline extension and gave the City the option to request an additional 1-year extension. (See footnote 6.)

¹⁰ The four programs were Homeowner Assistance, Homebuyer Assistance, Multifamily Rental, and Administration. The 10 programs the City planned to operate are shown in table 2.

Chart 1: The City had spent only \$22.8 million of \$1.275 billion



The City's Slow Spending Contributed to the Texas GLO's Being Designated as a "Slow Spender"

The City received nearly 23 percent of the Texas GLO's Hurricane Harvey grant. As its largest subrecipient, the City's operational performance affected the Texas GLO's overall performance and the potential consequences it could face for poor performance. Thus, the City's slow spending pace contributed to the Texas GLO's earning the "slow spender" designation in HUD's February 21, 2020, CDBG-DR Grants Financial Report.

By not maintaining a spending pace that helped to ensure progress in its programs, the City risked being too far off track to meet the target grant closeout date. Failure to meet the statutory expenditure deadline, which is tied to the closeout date, could result in HUD's recapturing the City's suballocated funds from its grantee, the Texas GLO. The City's slow spending pace also risked its ability to provide local disaster recovery services to its citizens and contributed to the City's potentially losing the opportunity to receive funds under a supplemental Texas GLO \$4.3 billion Hurricane Harvey grant to provide flood mitigation services.¹¹

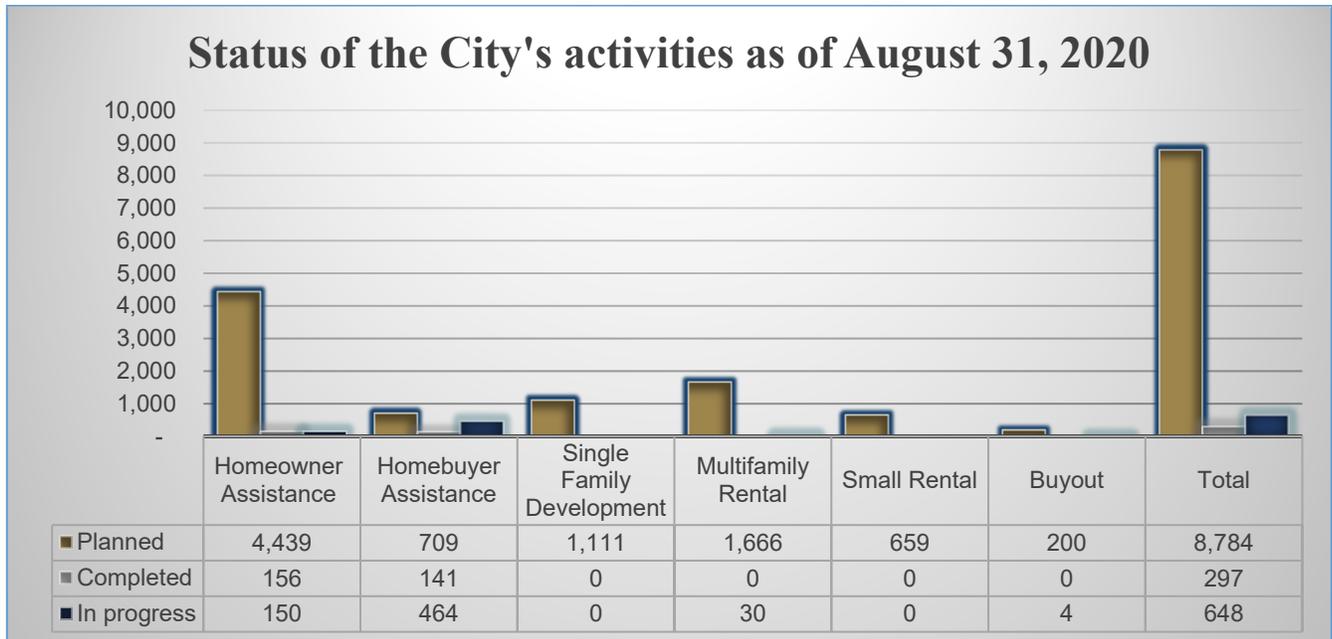
The City Had Not Done an Effective Job in Assisting Participants

According to the City's records, as of August 31, 2020, it had assisted only 297 of 8,784 participants that it planned to assist for its six Hurricane Harvey housing programs. The 297 participants assisted were in the Homeowner Assistance and Homebuyer Assistance programs. The Homeowner Assistance program provided five options to assist eligible homeowners with their rehabilitation and reconstruction needs. The City selected the option(s) available to each homeowner based on where they were in the recovery process and the condition of their home. The Homebuyer Assistance program provided downpayment and closing cost assistance to eligible households earning up to 120 percent of area median income. The City's slow progress meant that many families affected by the 2017 hurricane continued to wait for needed assistance

¹¹ HUD directly allocated \$61.8 million in CDBG-Mitigation grant funds to the City to operate its own program. The funding was for mitigation activities by grantees recovering from qualifying 2015, 2016, and 2017 disasters.

(chart 2). In addition, news reports profiled participants who had not received assistance after waiting more than 2 years to be reimbursed for out-of-pocket home repair costs they incurred.

Chart 2: The City’s records showed slow progress in its housing programs



Units of measure:

Homeowner Assistance and Homebuyer Assistance programs (planned, completed, and in progress) = number of households

Multifamily Rental and Small Rental programs (planned) = number of units provided

Multifamily Rental and Buyout programs (in progress) = number of developments

The City was also slow in providing assistance under its two supportive services programs. The Texas GLO’s Public Services Monthly Data report showed the following progress in those programs:

- Public Services program: The City planned to provide services¹² to approximately 300,000 participants. As of August 31, 2020, it had provided services to 30 individuals and was in the process of assisting 962 additional individuals through 18 contracts with outside entities.
- Economic Revitalization¹³ program: The City planned to create or retain jobs for 813 Houstonians. As of August 31, 2020, no jobs had been created or retained under this program.

¹² This program was designed to support residents in finding housing, remedying housing issues, or becoming more resilient in future disasters by providing various services through outside organizations.

¹³ In February 2020, the City changed the name of this program to the Economic Development program. However, it appeared to continue to use the names interchangeably on various documents.

Significant Disagreements Between the City and the Texas GLO Caused the Delayed Implementation and Slow Progress of the City’s Programs

The City and the Texas GLO significantly disagreed on issues that caused delays in the progress of its housing programs. In addition to disagreements on program requirements, the City was dissatisfied with technical assistance the Texas GLO provided.

The Parties’ Disagreements Over Program Requirements Slowed Some Programs’ Progress

The Texas GLO required the City to submit guidelines governing its Hurricane Harvey disaster recovery program for approval within 60 days of the January 5, 2019, contract execution date. The City’s first set of guidelines for its 10 programs was submitted by the required contract date or approved extension dates. However, further drafting of the program guidelines and resubmissions slowed the approval and implementation of some programs. Table 1 below shows a timeline of the delays that occurred in implementing 4 of the City’s 10 programs that were either significantly delayed or not implemented during our field work. These delays slowed the implementation of program requirements and the City’s ability to spend funds and provide resources for program participants.

Table 1: Implementation status for four City programs

Program	Status since the City’s original guideline submissions
Economic Revitalization	<ul style="list-style-type: none"> • Guidelines first submitted by the City on February 19, 2020. • As of October 2020, the City had not begun program implementation and anticipated launch of the program by January 2021. • The City’s program was underway as of June 30, 2021. The City had received 64 applications and submitted 12 of them to the Texas GLO.
Single Family Development	<ul style="list-style-type: none"> • Guidelines first submitted by the City on November 20, 2018. • As of October 2020, the City had not begun program implementation and anticipated launch of the program by April 2021. • The City’s program was underway as of March 31, 2021; however, the City had spent none of its grant funds.
Small Rental	<ul style="list-style-type: none"> • Guidelines first submitted by the City on October 16, 2018. • Submissions, resubmissions, and Texas GLO review of the program guidelines continued for approximately 1½ years. • The City had requested approval to restructure the program and received approval for its revised guidelines in May 2020. • The City’s program was underway as of June 30, 2021; however, the City had spent none of its grant funds.
Buyout	<ul style="list-style-type: none"> • Guidelines first submitted by the City on September 5, 2019. • The Texas GLO conditionally approved the City’s guidelines on December 19, 2019. • As of March 31, 2021, the City had made limited progress as it had submitted only one application to the Texas GLO.

The City's rewriting of its various program guidelines resulted in disagreements with the Texas GLO about which requirements needed to be included. While the Texas GLO had provided models for creating the programs, the City did not agree with some of the Texas GLO's requirements. The City and the Texas GLO both described contributing factors that complicated the writing or approval of the program guidelines. For example, the City requested a waiver from the Texas GLO that would have allowed it to rebuild houses through its housing assistance programs to the houses' prestorm conditions, regardless of the number of family members in a household. The City requested changes that would allow it to

- replace the number of bedrooms that existed before the disaster,
- raise the minimum unit size from two to three bedrooms,¹⁴ and
- restore the original square footage of the house to its predisaster size.

The Texas GLO conducted an analysis and denied the waiver on the basis that the changes could result in a reduction in households served, an inequitable distribution of assistance for cities and counties across the State, and noncompliance with Federal laws and regulations. Both the Texas GLO and the City reported that this was a significant disagreement, and the Texas GLO reported that this issue slowed the programs' progress. In another example, the City and the Texas GLO disagreed on the length of the required affordability period¹⁵ for housing that would be rehabilitated or reconstructed using Hurricane Harvey program funds. The Texas GLO believed a 3-year affordability period was sufficient. However, the City preferred a 20-year affordability period and believed the longer period would ensure that the benefits from Federal and other investment sources would continue to flow to low-income families for future decades.

In addition, the City disagreed with the Texas GLO's suggestions regarding its staffing plans and vacancies. The Texas GLO reported that it deployed the strike team discussed below to provide temporary staff augmentation and program guidance, improve policies and procedures, and provide onsite technical support.

In its response to the draft audit report, the City requested acknowledgement of the importance of program design in the efficacy of disaster recovery programs and the investment it made in engaging communities and reviewing previous design flaws. We appreciate that the City spent significant time and effort in designing programs that it believed would provide equitable outcomes for its community.¹⁶ We recognize that the intent of these efforts was to increase the effectiveness of the City's programs. However, the time spent planning these programs, which did not receive waiver approvals, delayed the City's use of grant funds to help victims of Hurricane Harvey.

¹⁴ Unit size is determined by the number of persons in a household. In the City's waiver request, affected households with two or fewer bedrooms before the disaster would remain under the prestorm standard of receiving a minimum unit size of two bedrooms.

¹⁵ An affordability period is the length of time during which a project is required to be kept affordable to low- and moderate-income persons.

¹⁶ The Texas GLO's records indicated that equity for other program participants throughout the state was also a consideration in its City of Houston waiver decisions.

The City Was Dissatisfied With the Texas GLO's Technical Assistance

The Texas GLO procured a strike team to provide necessary onsite technical assistance and additional program support services to the City to assist in the successful administration of its programs. The City dismissed the strike team within 10 days of its initial start date of October 28, 2019. Through a new collaborative agreement, the strike team returned on January 6, 2020. The City was dissatisfied with the services the strike team provided. Specifically, the City indicated that the strike team (1) did not carry out its role as initially presented by the Texas GLO, (2) did not have the capacity to provide timely assistance with one of its major programs, and (3) did not provide good or consistent guidance. Therefore, the City disagreed with the more than \$1 million in contract costs, which the Texas GLO required it to pay from its administrative fees. Such disagreements led to the City's severing ties with the strike team for more than 2 months and not extending the previously contracted services beyond July 6, 2020. The City was also dissatisfied with the Texas GLO's file review process and reported that it had great difficulty in getting project files approved, which significantly impacted its progress.

Although the City expressed dissatisfaction with the technical assistance it received, the Texas GLO provided information showing that it had provided training and guidance, which included onsite visits, conference calls, and written guidance covering various subject areas. In its November 2019 monitoring review, HUD determined that Texas GLO staff provided necessary technical assistance and training opportunities at the City's request and as considered appropriate by the Texas GLO, City staff, or both.

These disagreements and others sometimes led to lengthy delays in getting the City's programs up and running to assist participants and to meet its expenditure deadlines. Therefore, the disagreements contributed to the slow progress of the City's programs to the detriment of affected Houstonians.

The Texas GLO and the City Reported Improved Collaboration and Program Progress

In their responses to the draft audit report, the Texas GLO and the City reported improved collaboration and program progression. In these responses, both parties included updated performance metrics for activities that occurred after completion of the audit field work. However, we did not verify these statements on improved collaborations and progress as they occurred after our audit period ended.

The Texas GLO Did Not Include Program Benchmarks in Its Contract With the City

While the Texas GLO set up benchmarks in its contract with the City to draw down administrative funds, it did not require the application of those or similar benchmarks to the drawdown of program funds. Texas GLO managers stated that they thought it was understood that these benchmarks also applied to the drawdown of program funds and that for the City to receive its next drawdown, it needed to ensure that it was drawing down program funds in proportion to its drawdown of administrative funds. However, in its lawsuit, the City argued that there were no required benchmarks in its contract with the Texas GLO. Texas GLO managers acknowledged that this was a lesson learned and that the Texas GLO would include program benchmarks in its future subrecipient contracts.

The City Risked Losing Its Hurricane Harvey Funding

Due to the City's slow progress and slow spending, the Texas GLO notified the City of its intention to eliminate its Hurricane Harvey funding. The City responded with litigation,¹⁷ which also contributed to slowing the program's progression. The litigation escalated to the Texas Supreme Court and resulted in the Texas GLO's seeking and receiving HUD approval to eliminate the City's funding. After receiving HUD approval to assume responsibility for the City's program, the parties entered negotiations to reinstate much of the City's program and funding.

HUD Approved Action Plan Amendment 7, Allowing the Texas GLO To Eliminate the City's Funding

On October 6, 2020, HUD approved the Texas GLO's action plan amendment 7, allowing it to eliminate the City's \$1.275 billion Hurricane Harvey suballocated funds. To help ensure minimal disruption of the recovery efforts already in progress, the Texas GLO again offered the City a reduced funding option to continue to administer 7¹⁸ of its original 10 programs for which it believed the City had achieved some degree of success. Continuing some of the programs would allow the City to keep agreements that it had entered into with other entities to operate those programs. If the City agreed to the offer, a new action plan amendment would be drafted for HUD approval, and a new subrecipient agreement would be executed. A new agreement could potentially avoid (1) additional delays associated with implementing changes to comply with court rulings and (2) delays due to the Texas GLO's assuming control of all of the City's programs. If the parties could not reach an agreement, the Texas GLO would need to make significant decisions regarding its takeover of the City's programs, including transition plans for assisting participants.

The Texas GLO Negotiated With the City To Reinstate Much of Its Funding, Sought Public Comments, and Secured HUD Approval of Action Plan Amendment 8

After HUD's approval of amendment 7, the Texas GLO negotiated a new agreement with the City¹⁹ and announced draft action plan amendment 8 on March 15, 2021. HUD approved amendment 8 on June 22, 2021. The amendment announced the reinstatement of more than \$835 million for the City's administration of all of its programs. Table 2 shows revisions to the City's grant suballocations in the Texas GLO's original action plan and HUD-approved amendments.

¹⁷ See appendix B for litigation timeline details.

¹⁸ The seven program activities offered were Homeowner Assistance, Multifamily Rental, Homebuyer Assistance, Buyout, Public Services, Planning, and Administration.

¹⁹ The February 10, 2021 agreement was contingent upon HUD's approval of action plan amendment 8.

Table 2: The City’s original and HUD-approved revised CDBG-DR allocations

Program	Original allocation	Action plan amendment 3 ²⁰ revised allocation	Action plan amendment 7 revised allocation	Action plan amendment 8 revised allocation
Homeowner Assistance	\$392,729,436	\$427,900,063	\$0	\$82,184,209
Single Family Development	204,000,000	222,269,086	0	60,000,000
Multifamily Rental	321,278,580	350,050,472	0	450,050,472
Small Rental	61,205,100	66,686,282	0	25,000,000
Homebuyer Assistance	21,741,300	23,688,328	0	33,688,328
Buyout	40,800,000	40,800,000	0	55,800,000
Public Services	60,000,000	60,000,000	0	60,000,000
Economic Revitalization	30,264,834	30,264,834	0	30,264,834
Planning	23,100,000	23,100,000	0	23,100,000
Administration	20,835,088	31,118,976	0	15,000,000
Total	1,175,954,338	1,275,878,041	0	835,087,843

Conclusion

The City had difficulty in providing effective local disaster recovery services to its citizens and risked missing its spending deadlines and recapture of the Texas GLO’s grant funds. Because of the City’s slow spending and slow progress, the Texas GLO initiated action to eliminate the City’s \$1.275 billion Hurricane Harvey funding. HUD approved the Texas GLO’s Hurricane Harvey action plan amendment 7, which eliminated funding to the City, allowing the Texas GLO to take control of those funds and assume responsibility for administering the program for Houston residents. As a result of these events, there was the possibility of additional delays if the Texas GLO implemented full transition of the City’s entire Hurricane Harvey program to its own control. In February 2021, contingent upon HUD’s approval, the parties agreed to terms for the City’s continued involvement in the Hurricane Harvey disaster program. On June 22, 2021, HUD approved action plan amendment 8, which reinstated \$835 million in grant funds for the City to operate its program. The Texas GLO assumed responsibility for administering and completing projects related to the remaining \$440 million in Hurricane Harvey grant funds.

Recommendations

We recommend that the Director of the Office of Block Grant Assistance require the Texas GLO to

- 1A. Include milestones and appropriate consequences for not meeting those milestones in future subrecipient agreements to ensure that expenditure deadlines remain on track. Implementing this recommendation could assist the Texas GLO in avoiding possible future litigation based on the lack of required benchmarks in its contracts.

²⁰ Action plan amendment 3 increased the City’s suballocation to \$1.275 billion.

- 1B. Provide its plan to ensure that processes are in place to assist those participants transitioning from the City's programs to the Texas GLO's programs.

With HUD's approval of action plan amendment 8, we recommend that the Director of the Office of Block Grant Assistance require the Texas GLO to

- 1C. Provide its plan to continuously monitor the City's pace and performance in its remaining Hurricane Harvey CDBG-DR program and take appropriate action to ensure that program goals are met. The plan should include a process for repurposing additional grant funds, if necessary, to avoid potential recapture due to the City's inability to meet the expenditure deadline established under its subrecipient agreement with the Texas GLO and to allow the Texas GLO to meet the expenditure deadline for its grant award.
- 1D. Set performance and financial milestones, including approval of the City's projects and obligation and expenditure of funds, for all programs and activities funded under the City's subrecipient agreement through the remainder of the contract and deadlines for the City to achieve those milestones. This requirement would include the Texas GLO's (1) providing its plan to continually assess whether the City is meeting the established milestones within the prescribed period; (2) taking appropriate action as outlined in the subrecipient agreement for any missed deadlines; and (3) if necessary, determining whether programs need to be combined or eliminated from the subrecipient agreement.
- 1E. Provide its plan to ensure that the City will comply with the Texas GLO's program guidelines and required onsite technical assistance and supportive services. This plan would include (1) precise instructions and deadlines for submitting or resubmitting program and implementation guidelines, (2) terms for settling technical assistance and supportive services disagreements, and (3) appropriate consequences for noncompliance with the requirements the Texas GLO imposes.

Scope and Methodology

Due to the COVID-19 pandemic, we conducted this audit remotely from Houston, TX, and Baton Rouge, LA. We performed our audit work from May 26 through November 20, 2020. Our audit period was August 25, 2017, through May 31, 2020. We expanded the scope to review performance results data through August 31, 2020, and postlitigation activities through June 30, 2021. In addition, we included information on HUD's approval of the Texas GLO's action plan amendment 8.

To accomplish our objective, we

- Reviewed executed grant agreements between HUD and the Texas GLO.
- Reviewed the executed grant agreement and amendments between the Texas GLO and the City.
- Reviewed the Texas GLO's action plan and amendments and quarterly performance reports.
- Obtained and reviewed data from HUD's Disaster Recovery Grant Reporting (DRGR) system.²¹
- Reviewed the City's pipeline reports.
- Reviewed the City's monthly performance reports submitted to the Texas GLO.
- Reviewed applicable public laws and Federal Register notices related to Hurricane Harvey grantees.
- Reviewed the City's organizational charts.
- Reviewed the Texas GLO's contract with its strike team.
- Interviewed Texas GLO staff via teleconference.
- Interviewed City staff via teleconference.²²
- Interviewed the City's outside legal counsel via teleconference.
- Reviewed HUD and Texas GLO monitoring reports on the City.
- Reviewed the Texas GLO's "notice of intent to eliminate funding" letter to the City.
- Reviewed copies of litigation documents regarding the legal action between the City and the Texas GLO.
- Reviewed the City's audited financial statements.
- Reviewed news articles regarding the slowness of the City's CDBG-DR program, the Texas GLO's efforts to remove funding for the City's Harvey programs, and the resulting legal battle between the City and the Texas GLO.
- Reviewed the Office of the Inspector General's (OIG) Houston 2015 floods audit report.

²¹ The DRGR system was developed by HUD's Office of Community Planning and Development to use for CDBG-DR funds and other special appropriations. Data from the system are used by HUD staff to review activities funded under these programs and for required quarterly reports to Congress.

²² Due to its legal conflicts with the Texas GLO, the City required all communications with its staff to be arranged and facilitated by its outside legal counsel.

We did not review sample participant files. To achieve our objective, we relied in part on project status and pipeline reports provided by the City. We compared the data in these reports to monthly status reports provided by the Texas GLO, including its quarterly performance reports, and found the data to be comparable. Further, the Texas GLO deemed the City's data to be acceptable. We also relied on information maintained in HUD's DRGR system. We found the data to be sufficiently reliable for our purposes.

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 objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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 objective:

- Efficiency and effectiveness of program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives and expenditure requirements.

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

Based on our review, we believe that the following items are significant deficiencies:

- The City and the Texas GLO significantly disagreed on how to implement the City's programs (finding).
- The Texas GLO did not include program benchmarks in its contract with the City (finding).

Appendixes

Appendix A

HUD and Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

HUD Comments


OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

MEMORANDUM FOR: Danita Wade, Regional Inspector General for Audit, 6AGA
FROM: **JESSIE KOME** Digitally signed by JESSIE KOME
Date: 2021.09.10.13:35:58 -04'00'
Jessie Handforth Kome, Director, Office of Block Grant Assistance, DGB

SUBJECT: HUD Comments for OIG Draft Audit Report – The City of Houston Faced Challenges in Administering Its Community Development Block Grant Disaster Recovery Program and Risked Losing Its Funding

The Office of Community Planning and Development (CPD) has reviewed the draft audit report entitled, “The City of Houston, Houston, TX, Faced Challenges in Administering Its Hurricane Harvey Program and Risked Losing Its Funding.” CPD offers the following comments on the draft audit report for consideration.

The HUD Office of Inspector General (OIG) conducted an audit of the city of Houston Hurricane Harvey Community Development Block Grant disaster recovery (CDBG-DR) funds. The city is a subrecipient of the State of Texas, and the recovery programs are included in the State’s CDBG-DR action plan for funds obligated under grant numbers B-17-DM-48-0001 and B-18-DP-48-0001. The grants are administered by the city as a subaward from the State of Texas General Land Office (GLO).

As a subrecipient of the State of Texas, there are no statutory or regulatory performance or expenditure requirements associated with the funds obligated to the city. However, the Department agrees that recovery progress and drawdown of grant funds for Hurricane Harvey recovery for the city’s CDBG-DR programs have been slow-paced. The CDBG-DR grant awarded to the State of Texas was subject to a six-year expenditure period and had an initial expenditure deadline of August 17, 2024. In response to delays caused by COVID-19, HUD has extended the expenditure period by two years, in accordance with the August 17, 2020, *Federal Register* notice (85 FR 50041). Although it is still too soon to gauge the impact of the Texas GLO’s actions to assume administration of the Homeowner Assistance Program on behalf of the city, the Department is hopeful that the administrative changes and the extended grant term will allow the State to meet the extended deadline of August 17, 2026.

The discussion below includes CPD’s comments on the specific OIG Recommendations:

OIG Finding Number 1: The City of Houston Faced Challenges in Administering Its CDBG-DR Program and Risked Losing Its Fund

OIG Recommendation 1A: [We recommend that the Director of the Office of Block Grant Assistance require the Texas GLO] Include milestones and appropriate consequences for not meeting those milestones in future subrecipient agreements to ensure that expenditure deadlines

www.hud.gov espanol.hud.gov

Comment 1

Comment 2

Ref to OIG
Evaluation

HUD Comments

remain on track. Implementing this recommendation could assist the Texas GLO in avoiding possible future litigation based on the lack of required benchmarks in its contracts.

HUD Comment: CPD supports this Recommendation as proposed.

Comment 2

OIG Recommendation 1B: [We recommend that the Director of the Office of Block Grant Assistance require the Texas GLO] Provide its plan to ensure that processes are in place to assist those participants transitioning from the city's programs to the Texas GLO's programs.

HUD Comment: CPD supports this Recommendation as proposed.

Comment 2

OIG Recommendation 1C: [With HUD's approval of action plan amendment 8, we recommend that the Director of the Office of Block Grant Assistance require the Texas GLO to] Provide its plan to continuously monitor the city's pace and performance in its remaining Hurricane Harvey CDBG-DR program and take appropriate action to ensure that program goals are met. The plan should include a process for repurposing additional grant funds, if necessary, to avoid potential recapture due to the city's inability to meet the expenditure deadline established under its subrecipient agreement with the Texas GLO and to allow the Texas GLO to meet the expenditure deadline for its grant award.

HUD Comment: CPD supports the Recommendation as proposed.

Comment 3

OIG Recommendation 1D: [With HUD's approval of action plan amendment 8, we recommend that the Director of the Office of Block Grant Assistance require the Texas GLO to] Set performance and financial milestones, including approval of the city's projects and obligation and expenditure of funds, for all programs and activities funded under the city's subrecipient agreement through the remainder of the contract and deadlines for the city to achieve those milestones. This requirement would include the Texas GLO's (1) providing its plan to continually assess whether the city is meeting the established milestones within the prescribed period; (2) taking appropriate action as outlined in the subrecipient agreement for any missed deadlines; and (3) if necessary, determining whether additional programs need to be combined or eliminated from the subrecipient agreement.

HUD Comment: CPD supports the Recommendation with one revision. The Recommendation states, "if necessary, determining whether additional programs need to be combined or eliminated from the subrecipient agreement." With the approval of Action Plan Amendment #8, the Texas GLO did not combine or eliminate programs from its subrecipient agreement with the city of Houston. Therefore, we recommend the removal of the word "additional" from the final sentence.

Comment 2

OIG Recommendation 1E: [With HUD's approval of action plan amendment 8, we recommend that the Director of the Office of Block Grant Assistance require the Texas GLO to] Provide its plan to ensure that the city will comply with the Texas GLO's program guidelines and required onsite technical assistance and supportive services. This plan would include (1) precise instructions and deadlines for submitting or resubmitting program and implementation guidelines, (2) terms for settling technical assistance and supportive services disagreements, and (3) appropriate consequences for noncompliance with the requirements the Texas GLO imposes.

**Ref to OIG
Evaluation**

HUD Comments

3

HUD Comment: CPD supports the Recommendation as proposed.

If you have any questions regarding the draft audit report comments, please do not hesitate to contact me or Tennille S. Parker, Director of Disaster Recovery and Special Issues Division, by email at Tennille.S.Parker@hud.gov.

Auditee Comments

Comment 4



TEXAS GENERAL LAND OFFICE
GEORGE P. BUSH, COMMISSIONER

September 22, 2021

Danita Y. Wade
Regional Inspector General for Audit
Office of Audit (Region 6)
307 W. 7th Street, Suite 1109,
Fort Worth, TX 76102

Re: Responses to HUD OIG Audit Draft Report for the City of Houston Housing and
Community Development Department Harvey Program Operations

Dear Ms. Wade

The Texas General Land Office Community Development and Revitalization division (GLO) appreciates the opportunity to respond to HUD OIG's draft audit report submitted on August 27, 2021, which focused on the City of Houston Housing and Community Development Department's (HCDD) program operation of its Hurricane Harvey Program. The GLO's response incorporates HCDD's independent response identified as Exhibit #2 to this letter.

Governor Greg Abbott designated the GLO to efficiently and effectively administer CDBG-DR funds to address unmet recovery needs across the state on behalf of the State of Texas. The GLO is responsible for reasonably ensuring compliance with the Federal Register, Action Plan, and program requirements through grant implementation, administration, program oversight, and monitoring activities for each CDBG-DR grant held by the state. As the grantee, the GLO is also responsible for the performance of subrecipients and vendors who have funds allocated under each grant.

The vast majority of grant funds are allocated to the local level to subrecipients. Whether subrecipients self-administer or utilize program support services through vendors, the GLO is significantly involved in the subrecipient's project delivery activities to assist communities with program implementation and administration.

Even with a strong program structure that is continuously refined through the experience gained in administering multiple grants, the GLO's ability to directly influence the timely delivery of a subrecipient's program services and expenditure of funds is, at best, limited. The GLO's extensive efforts in providing grant management, technical assistance, and oversight, including enhancing benchmarks, milestones, and performance clauses within subrecipient agreements, may increase the likelihood of successful contract performance but provides little assurance that such contractual performance is achieved.

1700 North Congress Avenue, Austin, Texas 78701-1495
P.O. Box 12873, Austin, Texas 78711-2873
512-463-5001 glo.texas.gov

**Ref to OIG
Evaluation**

Auditee Comments

Comment 4

Since the execution of the City of Houston's original contract (19-147-001-B489), the GLO invested significant time, effort, and an additional infusion of administrative funds in supporting the HCDD's Harvey programs. Despite these attempts, the GLO was compelled to intervene and exercise the right to reprogram funds afforded to subrecipients within the Harvey [Federal Register](#) to improve the timely recovery of Texas citizens and communities impacted by Hurricane Harvey.

The decision to reprogram funds was a difficult choice, a measure of last resort, and one the GLO attempted to avoid by any means necessary. The GLO clearly understood that reprogramming funds could result in litigation that would lead to further delays in disaster recovery assistance to residents of the City of Houston. However, in its fiduciary capacity, the GLO stands firmly on the decision to reprogram the initial allocation contracted to the City of Houston as it was in the best interest of the Harvey grant. Furthermore, the GLO's actions uphold the Department of Housing and Urban Development (HUD) responsibilities and, more importantly, GLO's commitment to providing disaster recovery assistance to the citizens of Texas.

As the GLO continues moving forward in partnership with HCDD, the new contract (21-124-000-C788), the renewed coordination and collaboration between both parties and the GLO directly administering programs in the City will result in positive outcomes and the successful delivery of program services to the City of Houston.

We appreciate the opportunity to work with HUD OIG. In partnership with HUD, the GLO will continue providing programmatic and financial support, technical assistance, and program guidance to HCDD to successfully fulfill the program goals identified in the Harvey Action Plan. Please feel free to contact me at 512-475-5081 with any questions or concerns.

Sincerely,

Martin Rivera, Jr

Martin Rivera, Jr., Deputy Director
Quality Assurance & Process Improvement
Community Development and Revitalization

Cc: Heather Lagrone, Senior Deputy Director, GLO

Comment 5

GLO Responses to HUD OIG
Draft Audit Report for HCDD
Page 1 of 6

Executive Summary:

With the current COVID environment, a significant time has transpired since HUD OIG performed its fieldwork and the subsequent release of the audit draft report. The GLO concurs with the recommendations within the audit report and has already implemented many of the corrective actions. As a part of the pending consequences of reprogramming funds, versions of HUD OIG's recommendations were proactively considered in creating the new subrecipient contract.

As of September 2021, accelerated progress continues to be made by HCDD based on the performance established within the new contract. HCDD's delivery of services and corresponding expenditures increased from HUD OIG's previous analysis. As of September, HCDD is slightly behind in achieving its 4th quarter benchmarks; however, the difference is within an acceptable range. The GLO will continue to assist HCDD in meeting the contract's performance targets and the urgency to serve its community. As of the date of this response, the GLO has:

- Included milestones and benchmarks within GLO Contract #21-134-000-C788, including consequences for missing contractual performance targets.
- Completed its transition of applications from the City's programs.
- Developed a monitoring schedule based on an annual rotation of HCDD's programs to continuously monitor the contractual pace and performance of the new contract.
- Included performance and financial milestones within GLO Contract #21-134-000-C788, including continual assessment of actual results to milestones.

Significant effort and collaboration by the GLO and HCDD have improved the delivery of program services to the citizens of the City of Houston since HUD OIG's point-in-time audit.

Comment 5

Corrective Action Taken to Address Recommendation 1A:

The Performance Statement under GLO's Contract Number 21-134-000-C788 (the Contract) with HCDD was executed on June 22, 2021, and includes spending benchmarks for all HCDD programs. Benchmarks, defined as the percentage of program funds drawn by quarter, are based on each program's budget. Table #1 identifies current contract benchmarks:

Programs	Q2 BM 2021	Q4 BM 2021	Q2 BM 2022	Q4 BM 2022	Q2 BM 2023	Q4 BM 2023	Q2 BM 2024	Project Closeout
HoAP	15%	50%	75%	95%	95%	95%	95%	100%
SFDP	0%	10%	25%	45%	60%	75%	95%	100%
MFRP	15%	30%	45%	60%	75%	90%	95%	100%
SRP	0%	10%	25%	50%	75%	90%	95%	100%
HbAP	15%	30%	45%	60%	75%	90%	95%	100%
Buyout	10%	30%	45%	60%	75%	90%	95%	100%
Public Services	11%	18%	30%	45%	60%	80%	95%	100%
HEDP	0%	15%	45%	60%	75%	90%	95%	100%
Planning	3%	10%	25%	50%	60%	80%	95%	100%

Auditee Comments

Comment 5

GLO Responses to HUD OIG
Draft Audit Report for HCDD
Page 2 of 6

The Contract includes additional benchmark specificity and consequences if contract goals are not achieved. However, the Contract also provides the GLO discretion to avoid future litigation by providing flexibility in addressing unknown circumstances that may arise throughout the program lifecycle.

The GLO enhanced the Contract terms; however, the previous contract with HCDD (19-147-001-B489) also included language and consequences for non-performance, which allowed the GLO to take the actions that led to the reprogramming of HCDD's original program allocation. Clear, detailed contract terms have been enhanced, providing further clarity between the responsibility of both; however, achieving the goals and terms of a contract cannot be foreseen when a contract is executed, nor are they an indicator that performance will be achieved. The GLO will continue to provide support to fulfill the requirements of the Federal Register and the Harvey Action Plan.

Corrective Action Taken to Address Recommendation 1B:

In tandem with the drafting of the Nonsubstantial Amendment #5, the GLO began working with HCDD to administer its HoAP program while planning to create the GLO's state-run program. The GLO executed an outreach plan targeted at the City of Houston's residents, including issuing more than 49,000 text and email blasts, mass letter mailouts, and voice message recordings. The GLO's goal was to transfer previous HCDD applications while ensuring continuity of services, minimal duplicative effort, and confusion to the affected transfer population to the extent possible. The transition was further complicated by COVID 19 restrictions and safety protocols, creating outreach challenges and impacting in-person case management.

On October 6, 2020, the US Department of Housing and Urban Development (HUD) approved APA #7 that included the adjustment, reallocation, and elimination of grant funds to the City of Houston original funding allocation and outlined the creation of state-run programs for homeowner assistance for residents located in the City of Houston.

In conjunction with APA #7, Rule 11 extension agreement was established, allowing HCDD to maintain a population of rehabilitation and reconstruction projects previously approved by the GLO. Over 1,400 reimbursement, rehabilitation, and reconstruction activity files will continue being administered within HCDD's HoAP under the Rule 11 extension agreement. Conversely, the GLO will assist residents with homeowner assistance within the City of Houston regardless if residents are part of the HCDD transition population or part of HCDD's homeowner reimbursement program. "Dual Activities" represent activity files that both the HCDD and the GLO will work concurrently within each respective program.

Under the new Contract, HCDD will continue providing reimbursement assistance while the GLO HAP provides rehabilitation or reconstruction assistance to fulfill an applicant's unmet need. If a housing reimbursement applicant within the HoAP reimbursement program meets the criteria for homeowner assistance within the GLO's state-run program, the HCDD and the GLO will coordinate efforts to ensure project assistance complies with each entity's overall program policy and guidelines. This population is commonly referred to as the "Dual Activity Population." As of September 8, 2021, there are 1017 applications within the Dual Activity Population.

Auditee Comments

GLO Responses to HUD OIG
Draft Audit Report for HCDD
Page 3 of 6

The GLO coordinated with HCDD to obtain more than 3,000 program survey leads. HCDD transferred files that were either incomplete or contained incorrect information, resulting in many non-viable leads. An additional two months were necessary to create a safe and secure automatic data transfer, with final transmission occurring on January 26, 2021.

The GLO created 7,176 projects from the transfer of applicant data and documentation. More than 62% of the files contained minimal documents, with approximately 30% containing a more complete file. In contrast, a completed file contained more than 80 documents. Table #2 demonstrates the incompleteness of files transferred from HCDD:

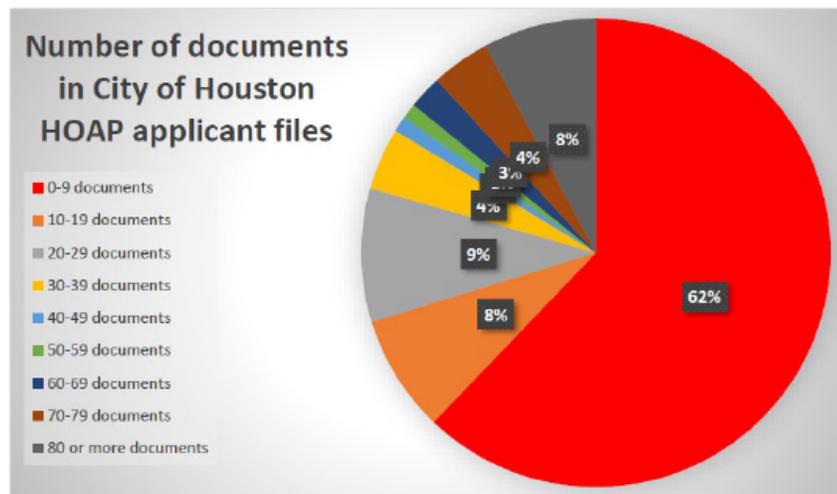


Table #2

The GLO issued a letter to HCDD on April 12, 2021, identifying the incompleteness of the transferred files and significant gaps in information, such as unreadable ESX files (Xactimate) and missing damage assessment photographs. Both are necessary for processing applications and determining eligibility. The data transfer did not include an inventory ledger, nor did the documents have a universal naming convention. To date, the HCDD has not responded to the GLO's April 12, 2021 inquiry.

The GLO expended significant effort in organizing documents and data and conducting additional outreach to obtain missing documents. This added effort created an undue delay in assisting applicants within the transfer population. The GLO continues to try to minimize delays and prevent duplication to the transition population while continuing to coordinate with applicants to gather the necessary documents and data to provide assistance to homeowners.

**Ref to OIG
Evaluation**

Auditee Comments

Comment 5

GLO Responses to HUD OIG
Draft Audit Report for HCDD
Page 4 of 6

Corrective Action Taken to Address Recommendation 1C:

The GLO established 10 line-item activities within Contract Number 21-134-000-C788 totaling \$835,087,843. A risk assessment and monitoring plan has been developed, focusing on program, financial and performance-based monitoring reviews.

Program and financial reviews will focus on traditional compliance areas, such as program eligibility, environmental, labor standards, cost allowability, etc. Performance reviews will supplement the oversight conducted by the GLO's program team and focus on the timeliness with which assistance is provided, the achievement of contract goals and benchmarks challenges precluding performance from being achieved, and tracking overall progress on individual program activities and overall contract performance.

Repurposing of funds will only be considered in extreme circumstances and only after all reasonable efforts are taken to meet original contract goals and benchmarks.

Corrective Action Taken to Address Recommendation 1D

Comment 5

The GLO established a robust set of performance and financial milestones within Contract Number 21-134-000-C788, with the City stipulating specific and measurable performance indicators for each HCDD program. Set out within detailed "Performance Statements," the Contract establishes clear, realistic, and measurable outcomes aligned with beneficiary reporting appropriate for the types of activities undertaken through each program. HCDD is required to meet or exceed these Performance Statements to fulfill the terms of the Contract.

The Contract's Performance Statements also establish a series of benchmarks that the HCDD is required to meet by drawing funds for each program. These benchmarks provide a clear schedule from Quarter 4 2021 through GLO closeout in which the HCDD must achieve the outcomes measures identified for each program. The completion of these milestones is a prerequisite for the HCDD receiving successive tranches of project delivery funds. This completion ensures HCDD's progress towards achieving the Performance Statements for each program is aligned with the project delivery costs of operating each program. Failure to complete contract milestones can result in the GLO removing additional funds from the City's administration.

The GLO undertakes a continuous assessment of the HCDD's progress towards milestone completion. Each program benchmark is rigorously monitored for compliance and is enforceable through various contract provisions. At the GLO's discretion, all options within the contract, up to and including contract termination, will be considered if benchmarks and milestones are missed.

The GLO provides proactive, regular, and detailed analyses of the HCDD's progress towards meeting the established milestones within each prescribed period. This analysis occurs through regular, recurring meetings and utilizing agendas and tables to illustrate actual activities against benchmarks and milestones. These meetings continuously reiterate the importance of meeting milestones. The GLO tracks HCDD's benchmarks and milestone progress through various reports generated within the system of record (TIGR) and through numerous spreadsheets to identify HCDD's progress on the expenditure of grant funds.

Auditee Comments

GLO Responses to HUD OIG
Draft Audit Report for HCDD
Page 5 of 6

Timely progress towards milestones is also enabled by the GLO's close and collaborative engagement with the HCDD, including through regular technical assistance, email exchanges to assess barriers to milestone completion and provide solutions to drive compliance with the contract provisions. The GLO may also execute program and fiscal audits on an as-needed basis. Through the above processes, the GLO expends significant time and effort in supporting HCDD's program operations and preventing avoidable delays to achieving established milestones.

Notwithstanding these measures, the Contract empowers the GLO to take any necessary actions to ensure deadlines are met. The GLO has a range of options at its disposal, up to and including contract termination, to appropriately respond to missed deadlines. The GLO will continue to monitor milestone completion and consider proportionate responses for missed milestones.

Table #3 identifies the current status of the HCDD's payments request and the format in which the GLO communicates the HCDD's progress in weekly meetings:

Draw Submittals	Q4 2021 Benchmark	Total Draws Submitted	Submitted and Not Approved	Total Draws Approved	Draws Submittal to meet Q4 2021 Benchmark	Total Left to be Drawn to Meet Benchmark	% of Draws Approved Against Benchmark
HBAP	\$10,106,498	\$7,710,000	\$510,000	\$7,200,000	\$2,396,498	\$2,906,498	71%
HoAP	\$41,092,105	\$18,624,143	\$6,564,472	\$12,059,671	\$22,467,962	\$29,032,434	29%
MFRP	\$135,015,142	\$81,769,395	\$95,358	\$81,674,037	\$53,245,747	\$53,341,105	60%
SRP	\$2,500,000	\$4,740	\$0	\$4,740	\$2,495,260	\$2,495,260	0.2%
PS	\$10,800,000	\$7,595,754	\$882,188	\$6,713,566	\$3,204,246	\$4,086,434	62%
PLN	\$2,310,000	\$735,922	\$674,452	\$61,470	\$1,574,078	\$2,248,530	3%
ERP	\$4,539,725	\$3,260	\$0	\$3,260	\$4,536,465	\$4,536,465	0%
BP	\$16,740,000	\$6,081,167	\$0	\$6,081,167	\$10,658,833	\$10,658,833	36%
SFDP	\$6,000,000	\$4,425	\$0	\$4,425	\$5,995,575	\$5,995,575	0%
Admin	\$0	\$1,199,439	\$0	\$1,199,439	\$0	\$0	0%
Total	\$229,103,470	\$123,728,245	\$8,726,470	\$115,001,775	\$106,574,664	\$115,301,134	N/A

Table #3

Corrective Action Taken to Address Recommendation 1E:

On May 14, 2021, HCDD requested the transfer of previously approved GLO guidelines under contract 19-147-001-B489 to the new contract 21-124-000-C788. The GLO granted this request after modifications were made to clarify inaccuracies.

Table #4 outlines the current status of approved guidelines for each of the HCDD's recovery programs. Guidelines may be updated by HCDD or at the GLO's request to reflect current policies and changes to recovery programs.

Comment 5

Auditee Comments

GLO Responses to HUD OIG
Draft Audit Report for HCDD
Page 6 of 6

Program	Version	GLO Approval
Homeowner Assistance Program	Version 1.7	5/19/2021
Homebuyer Assistance Program	Version 8.0	8/11/2021
Economic Development Program	Version 1.1	8/31/2020
Multifamily Rental Program	Version 5.1	4/30/2020
Small Rental Program	Version 2.1	5/7/2020
Public Services	Version 1.5	5/14/2019
Single Family Development Program	Version 5	6/4/2021
Buyout Program	Version 9	4/28/2021

Table #4

Table #5 outlines the technical assistance provided to HCDD since the approval of APA #7 on October 6, 2020.

Program Category	Conference Call	Document Review	Onsite	Resources	Written	Total
HoAP	27	4	0	3	1	35
HBAP	23	6	0	0	0	29
MFRP	35	4	0	12	91	142
PS	15	4	0	1	1	21
PLN	10	2	0	1	1	14
SRP	1	0	0	1	1	3
HEDP	11	4	0	0	6	21
SFDP	24	8	0	2	4	38
BP	13	6	0	1	1	21
Performance	0	0	0	0	0	0
Monthly Meeting	0	0	0	0	0	0
Overall Management	29	2	0	1	5	37
Environmental	0	0	0	0	0	0
Total	188	40	0	22	111	361

Table #5

The GLO continues to be responsive to requests for technical assistance from HCDD and proactively provides guidance, oversees compliance, and ensures accountability with the action plan and program requirements.

The GLO has standardized, recurring meetings with HCDD that, at a minimum, include one meeting per program, finance meetings, dual activity meetings, and an overall monthly meeting to discuss program progress, challenges, technical assistance needs, and to track HCDD's current status of projects submittals, funds obligated, and funds drawn against the contract benchmarks. Accordingly, key GLO Contract provisions include at least 7 clauses that outline consequences and enforcement mechanisms if contract benchmarks, goals, and milestones are not achieved.

Auditee Comments



CITY OF HOUSTON
Housing & Community Development Department

Exhibit #1

Sylvester Turner
Mayor

Tom McCasland
Director
2100 Travis, 9th Floor
Houston, Texas 77002

T. (832) 394-6200
F. (832) 395-9662
www.houstontx.gov/housing

September 17, 2021

Via Email

Danita Wade
Regional Inspector General for Audit
Office of Audit, Region 6
307 West 7th Street, Suite 1109
Fort Worth, TX 76102

Re: HUD Office of Inspector General (“OIG”) Audit, City of Houston Community Development Block Grant Disaster Recovery (Audit Report Number: 2021-FW-100X)

Dear Ms. Wade:

This letter serves as the City of Houston’s (“City”) response to a draft of the above-referenced audit (the “Draft Audit”), received on August 27, 2021. We understand that this response will be included in full with the final audit report. Our concerns about the Draft Audit and its findings, discussed in more detail below, are as follows:

- The Draft Audit does not achieve its objective in assessing the efficiency and effectiveness of the City’s Hurricane Harvey CDBG-DR program.
- The Draft Audit should acknowledge the importance of program design in the efficacy of disaster recovery programs and should have evaluated the City’s progress on such issues, not just on the speed at which GLO reimbursed City expenditures.
- The Draft Audit does not recognize the true timeline related to the City’s grant allocation.
- The Draft Audit should recognize the significant progress the City had made in expending its funds for CDBG-DR 17 grant activities or the delays associated with the GLO’s reimbursement approval process that was in place during the audit period.

Council Members: Amy Peck Tarsha Jackson Abbie Kamin Carolyn Evans-Shabazz Dave Martin Tiffany Thomas Greg Travis Karla Cisneros
Robert Gallegos Edward Pollard Martha Castex-Tatum Mike Knox David W. Robinson Michael Kubosh Letitia Plummer Sallie Alcorn
Controller: Chris Brown

Auditee Comments

Comment 6

Danita Wade
September 17, 2021
Page 2

- The litigation between the City and the GLO did not delay the City’s CDBG-DR 17 program.
- The working relationship between the GLO and City has vastly improved since the audit period and many of the recommendations in the Draft Audit have already been implemented by the parties.

The Draft Audit does not achieve its objective in assessing the efficiency and effectiveness of the City’s Hurricane Harvey CDBG-DR program.

Efficiency is the state of achieving maximum productivity with minimum wasted effort or expense and *effectiveness* is the degree to which something is successful in producing a desired result. Rather than assessing the efficiency and effectiveness of Houston’s recovery program, the Draft Audit focused almost exclusively on the speed of Houston’s spending. In only one of the six headings does the Draft Audit address how well Houston’s program had assisted participants, but its analysis is limited to how many of the planned households to be assisted had already been assisted.

On February 9, 2018, HUD issued in the Federal Register its notice of the funding at issue in the Draft Audit.¹ This notice not only announced the funds for the Harvey-impacted regions of Texas, but it addressed the process and the desired results for these funds. In particular, HUD flagged that the “[o]verall benefit requirement” was the “providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.”² At no point does the Draft Audit address whether the City’s program is more or less effective than other disaster recovery programs in achieving this required outcome.

Further, HUD’s notice in the Federal Register had the following stated requirements:

- In creating its programs, grantees must consult stakeholders and affected parties.³
- Grantees must evaluate all aspects of recovery including the following types of housing:
 - Homeownership
 - Rental
 - Single-family

¹ Federal Register Notice 83 FR 5844.

² Federal Register Notice 83 FR 5844, 5855.

³ Federal Register Notice 83 FR 5844, 5855.

Auditee Comments

Danita Wade
September 17, 2021
Page 3

- Multifamily
- Housing for persons who were homeless pre-disaster⁴
- Grantees must through its programs protect people and property from harm, especially the type of harm that caused the disaster in the first place.⁵
- Grantees must leverage these funds against other sources to generate a more effective and comprehensive recovery.⁶
- Grantees must describe how its housing programs will address the needs of its most vulnerable populations, including:
 - Families who are homeless or at risk of homelessness
 - Households whose incomes are below 30 percent of the area median income
 - Households who are not homeless but require supportive housing such as the elderly or the disabled⁷
- Grantees must assess whether public services are necessary to complement housing activities and if needed, must describe how those services will be provided.⁸

At no point does the Draft Audit assess how well the City's designed programs will meet any of the above. As such, the Draft Audit cannot make a claim to assess the efficiency and effectiveness of the City's programs. Specifically, the Draft Audit does not address the following:

- Whether the time spent by the City in comprehensive community consultation holding 17 public meetings, 8 focus groups, and 7 presentations was an effective and efficient use of time prior to submitting its action plan.
- Whether the city's program that helped impacted renters become homeowners was effective at expanding economic opportunities, principally for persons of low and moderate income.

⁴ Federal Register Notice 83 FR 5844, 5849.

⁵ Federal Register Notice 83 FR 5844, 5850.

⁶ Federal Register Notice 83 FR 5844, 5850.

⁷ Federal Register Notice 83 FR 5844, 5849.

⁸ Federal Register Notice 83 FR 5844, 5849.

Auditee Comments

Danita Wade
September 17, 2021
Page 4

- Whether the allocation of nearly half of its funding to rental programs to reflect Houston’s majority rental population was an effective strategy for providing decent housing and a suitable living environment.
- Whether by attracting nearly \$2 for every dollar it spent, the multifamily program was efficiently leveraging the CDBG-DR funds for an impact of more than \$1.2 billion in multifamily investment.
- Whether by extending the affordability for multifamily development from 15 years to 40 years, the City was more efficiently spending its money to achieve the program’s overall goal.
- Whether by emphasizing new construction that built housing up and out of harm’s way, close to transit corridors and in opportunity areas, the City’s multifamily development effectively reduced the likelihood that these new units and their residents would be harmed in future storms.
- Whether the City’s public service programs complement its housing activities by providing support services for formerly homeless individuals, job training to those who lost income during Hurricane Harvey, and housing counseling for both renters and homeowners struggling to maintain stable housing.
- Whether by focusing on the lowest income levels in both its single-family repair program and multifamily construction program the City is effectively achieving the overall benefit required by HUD.

Instead, the Draft Audit assesses how much of the grant funds were reimbursed by the GLO during the audit period and little more.

The Draft Audit should acknowledge the importance of program design in the efficacy of disaster recovery programs and should have evaluated the City’s progress on such issues, not just on the speed at which GLO reimbursed City expenditures.

The Draft Audit erroneously concludes that the City has been slow in moving forward with its housing programs. While we acknowledge that, during the audit period, reimbursements from GLO did not occur at an ideal rate, as indicated above, the audit period largely covered the initial start-up and program design period. Rather than simply concluding that disputes about program design caused delays, it is important to note the importance of program design to the long-term effectiveness of disaster recovery. The City spent significant time engaging impacted communities, reviewing design flaws of prior HUD-funded disaster recoveries, and designing its programs to ensure that the most vulnerable, most low-income Houstonians would not be left behind in this disaster recovery.

Comment 7

Auditee Comments

Danita Wade
September 17, 2021
Page 5

For example, the City’s dispute with the GLO about reconstructing homes to their original bedroom sizes and using a minimum unit size was not an unnecessary delay. Rather, it was about equity. The City’s home repair program offers home reconstruction as well as reimbursement. The reimbursement program is used by Houstonians who can afford to pay upfront for home repairs and then seek reimbursement. The reimbursement program is largely used by families with access to savings or other capital, families who are not extremely low income. Under the GLO’s program approvals, those families can reconstruct all destroyed bedrooms irrespective of family size and can be reimbursed for the same. In contrast, the repair/reconstruction program is largely used by extremely low income families who cannot afford to pay upfront for repairs. Those families are not entitled to reconstruction of their home in its original size or bedroom count. Accordingly, the City fought for a structurally more fair and equitable program that would assist with reconstruction irrespective of a family’s access to funds. While the City was unsuccessful in convincing the GLO to approve the program, it maintains that its program design was more fair, more equitable, and would actually *replace* the homes lost by low-income Houstonians, rather than significantly downsizing a family’s most valued asset simply because of the family’s household size. Had the Draft Audit reviewed actual efficiency and effectiveness, it might have reevaluated this conclusion.

The Draft Audit does not recognize the true timeline related to the City’s grant allocation.

The City has been impacted by unprecedented hurricane/flood events in recent years, in particular Hurricane Harvey. Unfortunately, the previous U.S. Department of Housing and Urban Development (“HUD”) administration did not allocate Harvey funds to recipients including the state of Texas (“State”) until months after the hurricane, and the State did not enter into a subrecipient agreement with the City to administer its portion of the Community Development Block Grant-Disaster Recovery 17 (“CDBG-DR 17”) grant until nearly a year later. Indeed, while the CDBG-DR 17 Congressional appropriation was enacted on September 8, 2017 – just days after Hurricane Harvey devastated Texas – the State did not execute its subrecipient agreement with the City until January 2019. Accordingly, it is misleading to assert that the City has failed to adequately spend funds “3 years after Hurricane Harvey” when, at the time the audit was conducted, the City only had access to the CDBG-DR 17 funds for half that time period. As the OIG recognized in OIG Audit Report 2018-FW-1003, which reviewed prior CDBG-DR efforts by the State, there is a significant start-up time for program design and other elements before expenditures and draw-downs occur at a rapid pace. Accordingly, the Audit Report should note that, during the audit period, the City had approximately 18 months to ramp up and begin operations under its contract.

The Draft Audit also states the City had a history of slow spending, without providing additional context. The referenced grant funds for the 2015 floods were allocated almost exclusively for infrastructure that would protect low- and moderate-income neighborhoods from flooding. As such, infrastructure projects do not spend on a steady pace throughout the life of a grant as the Draft Audit suggests that it should. Instead, usually less than 10% of the funds are spent in planning and design, and the remaining balance is spent in the last year of the grant. This timeline is necessitated by HUD’s own rules that prevent the City from using these funds on an infrastructure project that is already part of the City’s Capital

Comment 8

Auditee Comments

Comment 9

Danita Wade
September 17, 2021
Page 6

Improvement Projects (CIP) that already have the planning and design complete. Additionally, the Draft Audit references that the City was a slow spender on grant funds for 2016 floods, without mentioning that the City's grant agreement with the GLO was signed *after* the grant agreement for the CDBG-DR 17 funds. Thus the City had even less time to execute on the 2016 grant agreement. Both the 2015 and 2016 funds have the identified projects and are spending on a timeline intended to meet the necessary deadlines.

The Draft Audit should recognize the significant progress the City had made in expending its funds for CDBG-DR 17 grant activities or the delays associated with the GLO's reimbursement approval process that was in place during the audit period.

The Draft Audit fails to recognize that the City, during the audit period and subsequently, spent far more funds than those reflected in the Draft Audit. As the OIG knows, the CDBG-DR program is a reimbursement program; the City first outlays funds then seeks reimbursement from the State's General Land Office ("GLO"), which administers the CDBG-DR 17 grant for the State. As of December 2020, the City had directly expended over \$118 million of its own funds for its CDBG-DR 17 programs. The City had more than \$200 million under City Council-approved contracts, meaning the funding was committed to projects and would be spent expeditiously as the projects proceeded. Cumulatively, more than \$500 million of the funds had identified projects that were either already approved by City Council or were in underwriting to be approved by City Council, if required by City policy/law.

In the 9 months since, the City's expenditures have more than doubled. As of August 31, 2021, the City had expended over \$256 million of its own funds on CDBG-DR 17 eligible costs, which represents 31% of the total grant. Additionally:

- The City has selected 36 developments for multifamily housing, which will involve over \$402 million in CDBG-DR 17 financing plus millions more in private and public investments. Expenditures on these projects occurs over a period of time, as each will have a construction period of approximately 1-2 years. To date, 22 multifamily development projects have completed their financial closing. Three of these have completed construction and the remainder are under construction. These 22 developments will provide 2,611 resilient, newly constructed housing units and represent \$240 million of committed CDBG-DR 17 funds. An additional 3 will close shortly and 11 more are undergoing underwriting. These projects alone are leveraging over \$ 1.2 billion in total investment that will benefit Houstonians, in particular low-income families.

Auditee Comments

Danita Wade
September 17, 2021
Page 7

- For the Homeowner Assistance Program and Homebuyer Assistance Program, 890 projects have been approved by the GLO. 695 of these are completed⁹ and 195 are in process. An additional 98 projects are pending GLO's approval.
- For the Small Rental Program, 12 projects totaling \$20 million are in underwriting, with the first 6 slated for City Council approval in October 2021.
- The Buyout Program is also proceeding. Two properties have been purchased for \$16.7 million and a third purchase option contract for \$33 million was approved by City Council this week.

The final audit report should include the above information. The final audit report should also acknowledge the many issues associated with obtaining those reimbursements during the audit period. The slow reimbursements were due, in part, to the changing requirements, lack of advance written guidance, and lengthy GLO review process for eligibility review. GLO would approve certain submissions on one day, and the next require additional documentation it never previously required. For draws, it required re-submission of documents that were already uploaded into its TIGR system. The GLO took 14 business days to review each submission, and then rejected them through its "request for information" or "RFI" process, which was applied inconsistently to City files. The GLO refused to advise the City on submission requirements before files were submitted, insisting on using the inefficient RFI process. As a result, it took months for the City to obtain just one eligibility approval or reimbursement. While the GLO has now provided written guidance with checklists for the program draws, for most of the period under review by the OIG, the GLO had not provided this guidance.

We must acknowledge that the speed of GLO's reimbursements has greatly improved in 2021. Whereas the Draft Audit notes that only 1.8% of the then-total grant had been received by the City during the audit period, as of August 31, 2021, the GLO had approved and/or paid approximately \$110 million – or 13% of the grant amount. This has helped ensure that the City is on track to meet benchmarks that are included in its new subrecipient agreement with the GLO. While it is the City's hope that the GLO and the City have now worked through the issues with the GLO's reimbursement approval process, and while the City is committed to doing its part, we are concerned that the Draft Audit does not even recognize this issue.

The following chart provides full numbers by program regarding the City's actual expenditures and GLO's reimbursements for each CDBG-DR 17 program:

⁹ Completion under the homeowner assistance program includes construction completion and/or the issuance of a reimbursement check to the applicant. Completion under the homebuyer assistance program refers to completion of the home purchase by the buyer.

Auditee Comments

Danita Wade
September 17, 2021
Page 8

Program	City Expenditures	GLO Reimbursements
Administration	\$ 15,926,990.38	\$1,199,439.45
Buyout	\$ 17,162,010.59	\$ 6,081,166.70
Economic Development	\$ 2,625,992.75	\$ -
Homeowner Assistance	\$ 68,409,574.99	\$ 11,956,045.73
Homebuyer Assistance	\$ 9,932,786.59	\$ 6,930,000.00
Multifamily	\$ 130,473,672.69	\$ 77,416,460.05
Planning	\$ 1,435,734.89	\$ 61,470.42
Public Services	\$ 9,326,706.34	\$ 6,713,566.17
Single Family	\$ 647,887.98	\$ -
Small Rental	\$ 325,690.73	\$ 4,739.60
Total	\$ 256,267,047.93	\$ 110,362,888.12

Comment 10

The litigation between the City and the GLO did not delay the City’s CDBG-DR 17 program.

As discussed in the Draft Audit, the City sued the GLO last year when the GLO sought to eliminate all of the City’s CDBG-DR 17 funds. After more than a day of hearings on the issues, which included the submission of almost 20 exhibits by the City and sworn testimony by both the City and the GLO, the trial court specifically concluded that the GLO had likely “violated its contract with the City” when it attempted to set up its own non-compliant homeowner assistance program in Houston, sought to submit an action plan amendment to HUD that eliminated Houston’s funding, and failed to properly respond to the City’s submissions. The court also specifically found that the GLO’s operations within the City “are probably illegal, probably inconsistent with the Contract, [and] probably inconsistent with the State Action Plan.”. Finally, the state court concluded that the City was “likely to suffer irreparable harm” because of the GLO’s actions. The court issued a temporary injunction (“TI”) containing these findings. The TI was upheld by the Texas Appeals Court in order to preserve the status quo.¹⁰

When the City sought to brief the OIG on the lawsuit and its status, the OIG indicated that it did not believe the court actions were relevant to its audit. The City respectfully disagrees. Indeed, the OIG mentions the proceedings in its draft findings, but suggests that the proceedings simply caused delays. The findings of fact and the conclusion of law of

¹⁰ The TI was later dissolved by the Texas State Supreme Court without addressing the merits of the basis for injunctive relief due to unsettled law in Texas before that court in another matter and there were no findings associated with the order. Indeed, the Supreme Court has never even had briefing on the matter.

Auditee Comments

Comment 11

Danita Wade
September 17, 2021
Page 9

the only judicial body to hold hearings on the case, with testimony under oath, reached a conclusion that the GLO probably violated its contract with the City and the HUD-approved action plan. Those findings are compelling and should be included in the final audit.

Contrary to those findings, the OIG states that the litigation may have delayed the contract, a finding that is not supported by any facts. In fact, both the City and the GLO continued to administer homeowner assistance programs in the City during and after the Court rulings and the TI specifically authorized the City and GLO to do so in order to *avoid* programmatic delays. Further, the GLO and the City subsequently negotiated a new subrecipient agreement that enabled the City to complete its in-process homeowner assistance to continue, transferred the remaining assistance obligations to the GLO, and allowed the City to continue operating its other CDBG-DR17 programs.

The working relationship between the GLO and City has vastly improved since the audit period and many of the recommendations in the Draft Audit have already been implemented by the parties.

While, in our view, the Draft Audit did not fully address the relevant facts and issues that arose during the audit period, it is important to note that the Draft Audit represented a snapshot of time at the beginning of grant implementation, and that the issues identified have already been resolved. As indicated above, the GLO's reimbursement process, and thus City expenditures reflected in HUD's systems, have significantly improved. The parties executed a new subrecipient agreement that includes agreed-to performance benchmarks, and the City is on track to surpass the overall spending goal reflected in these benchmarks. The GLO has also provided clearer guidance in many areas, which has greatly assisted the City to meet its grant goals and obligations.

Thank you for your consideration of the above comments.

Very Truly Yours,

DocuSigned by:

BB4243B4070F48F...
Tom McCasland

OIG Evaluation of HUD and Auditee Comments

General Comment

We appreciate the cooperation and productive working relationship with HUD throughout the audit process and the attention it paid to the performance of its grantee's subrecipient. We also appreciate HUD's agreement with our recommendations and the actions it is prepared to take to implement them. We look forward to working with HUD during the audit resolution process and anticipate quick resolution.

Comment 1 HUD explained that there are no statutory or regulatory performance or expenditure requirements associated with the funds obligated to the City of Houston (City). However, it agreed that the City's recovery progress and grant funds drawdown for the City's Hurricane Harvey CDBG-DR programs had been slow paced. HUD also discussed the grant award's expenditure period and the COVID-19 expenditure deadline extensions.

We agree with HUD's position on requirements and that the City's recovery progress and drawdown of grant funds was slow paced. We acknowledged the COVID-19 expenditure deadline extensions in the audit report.

Comment 2 HUD supported recommendations 1A, 1B, 1C, and 1E as proposed.

We appreciate HUD's support of the recommendations. We will work with HUD during the audit resolution process to reach management decisions that address the reported issues.

Comment 3 HUD supported recommendation 1D with one editorial revision.

We revised the recommendation to remove the word "additional" from the final sentence.

Comment 4 The Texas GLO provided background on its program and subrecipient oversight responsibilities. It also discussed its work with the City and decision to reprogram the City's Hurricane Harvey funds.

We acknowledge the Texas GLO's summary of events.

Comment 5 The Texas GLO agreed with recommendations 1A, 1B, 1C, 1D, and 1E. The Texas GLO stated it had implemented many of the corrective actions and its response addressed each of the recommendations regarding (1) benchmarks and contract terms, (2) the transferring and transitioning of participants, (3) a monitoring plan, (4) performance and financial milestones, and (5) guidelines and technical assistance for the City's recovery programs. The Texas GLO response incorporated the City's independent response (Exhibit #1).

We appreciate the Texas GLO's response and acknowledge the corrective action steps already taken. However, we did not verify the information included in the Texas GLO's response. We encourage the Texas GLO to work with HUD to present additional information and resolve the recommendations during the audit resolution process.

Comment 6 The City disagreed that the audit's objective to assess the efficiency and effectiveness of the City's Hurricane Harvey CDBG-DR program was achieved. The City stated that the audit focused almost exclusively on the speed of spending, rather than how well the City's designed programs will meet HUD requirements. The City also described a number of matters that it stated the audit could have addressed for effectiveness or efficiency.

We appreciate the City's response; however, we disagree. Interviews and our review of information including, (1) agreements; (2) action plans and amendments; (3) quarterly performance reports; (4) monitoring reports; and (5) data from HUD, the Texas GLO and the City all informed our audit work and support our conclusions. Our audit focus was on whether the City assisted as many affected Houstonians as possible to recover from Hurricane Harvey, in an efficient and effective manner. The City's slow spending and slow performance significantly impacted the efficiency and effectiveness of its disaster program. As discussed in the finding and shown in Chart 1, the City's slow spending of program funds was inefficient as only 1.8 percent of its \$1.275 billion was spent three years after Hurricane Harvey occurred. Ultimately, this delayed the intended assistance to program participants, and was thus inefficient and ineffective for those who continued to wait for help. Further, as discussed in the finding and shown in Chart 2, the City had assisted just over 3 percent (297 of 8,784) of those it planned to assist at the time we completed our audit field work. The chart also shows that the City had not effectively assisted program participants because its goals were not being achieved at a pace that ensured it could fully use its subrecipient grant funds by the target closeout date, which could result in HUD's recapturing funds from the Texas GLO. This slow pace also risked the City's ability to provide any disaster services to its citizens.

In addition, the City's weak performance risked it losing all its Hurricane Harvey funding. In fact, the Texas GLO eliminated the City's entire \$1.2 billion subrecipient grant (see 'Action plan amendment 7 revised allocation' in Table 2). Then, the Texas GLO entered into negotiations with the City after approval of action plan amendment 7 and reprogrammed \$440 million, leaving \$835 million for the City to administer for its program in action plan amendment 8. As such, we stand by our conclusions and did not revise the finding.

Comment 7 The City stated that the audit should acknowledge the importance of program design in the efficacy of disaster recovery programs and should have evaluated

the City's progress on such issues, not just on the speed at which the Texas GLO reimbursed City expenditures. It explained that the audit period mostly covered the initial start-up and program design period, concluding that disputes about program design caused delays. The City also discussed the dispute with Texas GLO about reconstructing homes to their original bedroom sizes and using a minimum unit size.

We reported that in some instances, the continued drafting and resubmissions of program guidelines caused implementation delays. We agree with the City that program design is important. However, program implementation and execution are also important. Perfecting program design at the expense of time that could have been spent implementing and executing the programs was detrimental to Hurricane Harvey CDBG-DR participants waiting for assistance. Regarding the City's dispute about reconstructing homes to their original bedroom size, the Texas GLO denied the waiver request, correctly determining that such a waiver would not comply with Federal laws and regulations. These disputes were time-consuming and slowed the program's progression.

While we appreciate the City's efforts to design programs that would achieve the results it outlined from the Federal regulations, ultimately our review focused on the actual delivery of Hurricane Harvey recovery program services and the benefits received by Houston's citizens. We acknowledged the City's program design perspective in the report.

Comment 8 The City asserted that it only had access to the Hurricane Harvey grant funds for half of the three-year time span mentioned in the audit report, and thus, the true timeline of its grant allocation is not recognized. The City also described some contextual details with its 2015 and 2016 grant to address the history of slow spending referenced in the audit report as related to those grant funds.

We recognize the impacts of Hurricane Harvey on the City and the challenges the City encountered in administering its program. However, we disagree with the City's interpretation of the timeline. When the City accepted the Hurricane Harvey funds as the Texas GLO's subrecipient, it agreed to meet the requirements and deadlines HUD imposed on its grantee. Timelines are based on the execution date of an agreement between HUD and its grantee, not on agreements between the grantee and its subrecipient(s). In this case, the timeline began when the Texas GLO entered into the grant agreement with HUD, which is the three-year time span discussed in the audit report. For the City's direct 2015 and 2016 grants,²³ we reported on the progress for its 2015 grant and HUD designating the City as a slow spender. The discussion for the 2016 grant reported on HUD's

²³ For the 2015 and 2016 grants, the City was the grantee and fully responsible for executing the programs and meeting expenditure deadlines.

monitoring review results. The City should work with the Texas GLO to ensure the success of its recovery efforts while also complying with applicable requirements.

- Comment 9 The City's response addressed the (1) significant progress made in expending funds for CDBG-DR 17 grant activities, (2) delays associated with the Texas GLO's reimbursement approval process during the audit period, and (3) Texas GLO's improved speed with reimbursements. The City stated that OIG should recognize its progress and acknowledge the Texas GLO's role in slow reimbursements.

We acknowledge the City's response explaining (1) its program expenditures and project statuses as of December 2020 and August 2021, (2) the issues related to reimbursements from Texas GLO, and (3) providing current actual expenditures and the Texas GLO's reimbursements for each of the ten programs. However, the stated improvements occurred after our audit period. As such, we did not verify the City's claims. We also reported the City's dissatisfaction with the Texas GLO's file review process. We encourage the City to work with the Texas GLO during the audit resolution process to address the reported issues.

- Comment 10 The City asserted that the litigation between the City and the Texas GLO did not delay the Hurricane Harvey CDBG-DR program and discussed its program services provided during and after the litigation. The City asserted that the OIG indicated that we did not believe the court actions were relevant to this audit. It also described the courts' findings and conclusions and stated such details should be included in the final audit report.

Contrary to the City's assertions, the litigation resulted in a temporary injunction that affected application processing. Specifically, in its temporary injunction, the Court prohibited the Texas GLO from submitting action plan amendment 7 to HUD and from taking and processing any new applications that were not consistent with the City's action plans. While the City asserts there were no impacts to operations, it is doubtful the prohibition had no impact on the Texas GLO, which ultimately assumed responsibility for administering \$440 million to assist the City's affected residents. Further, in its response, the Texas GLO discussed its clear understanding that "reprogramming funds could result in litigation that would lead to further delays in disaster recovery assistance to residents of the City of Houston." (Comment 4). Finally, regardless of intermediate findings and conclusions, the litigation solidified the Texas GLO's position, as it resulted in the Texas GLO receiving approval to proceed with reprogramming all the City's subrecipient grant funding.

We disagree with the City's characterization of our beliefs as to matters of relevance. In our discussions with the City and its attorneys, we referred them to

HUD as the matters they raised were programmatic and fell under HUD's jurisdiction. In addition, to supplement the litigation summary discussed within the report, a litigation timeline, with footnoted citations, is included in Appendix B for readers who are interested in obtaining additional details about the litigation between the City and the Texas GLO.

Based on the above, we stand by our conclusions and did not revise the finding.

Comment 11 The City stated that the audit did not fully address relevant facts and issues that arose during the audit period and represented a snapshot in time at the beginning of the grant's implementation. The City also asserted that since the audit period, its working relationship with the Texas GLO had greatly improved and that it had already resolved the issues identified and had implemented several of the audit report recommendations.

We acknowledge that the audit covered a point in time and that some positive changes may have occurred. However, we did not verify the City's statements on resolutions and progress made on issues identified in the report as they occurred after our audit period. We acknowledge the City's efforts to address and resolve the issues identified in this audit report. We encourage the City to continue working with the Texas GLO to improve its Hurricane Harvey CDBG-DR program.

Appendix B

Litigation Timeline

Date	Event
April 22, 2020	<ul style="list-style-type: none"> • The Texas GLO issued a “notice of intent to eliminate funding” letter to the City. • The letter notified the City that it was drafting amendment 7 to the State’s action plan, which upon approval by HUD, would eliminate all City funding and transfer all responsibility for administering disaster assistance to Houston residents to the Texas GLO. • In the letter, the Texas GLO offered the City the option to negotiate to keep 4²⁴ of its 10 programs with reduced funding if the City agreed with the option within 1 week from the date of the offer. It noted that the City had showed meaningful progress with these four programs.
July 8, 2020	<ul style="list-style-type: none"> • The City filed a petition for a temporary restraining order to stop the Texas GLO breach of contract.^{25 26}
July 22, 2020	<ul style="list-style-type: none"> • The court issued an order and temporary injunction after finding that the City would likely succeed on the merits of its claims.²⁷ • The temporary injunction prohibited the Texas GLO from submitting action plan amendment 7 to HUD and taking and processing any new applications that were not consistent with the City’s action plans.
July 27, 2020	<ul style="list-style-type: none"> • The Texas GLO appealed to the Third Court of Appeals, Austin, TX,²⁸ which upheld the temporary injunction.
August 5, 2020	<ul style="list-style-type: none"> • The Texas GLO filed for a petition for a writ of mandamus to the Texas Supreme Court.²⁹

²⁴ The four programs were Multifamily Rental, Homebuyer Assistance, Planning, and Public Services.

²⁵ District Court of Travis County, TX, D-1-GN-20-003520

²⁶ As of July 15, 2021, the litigation documents in appendix B could be found on the Legislative Reference Library of Texas website at

<https://lrl.texas.gov/currentissues/clips/resultsLink.cfm?clipID=356003&headline=Houston%2C%20GLO%20agree%20to%20delay%20Harvey%20housing%20takeover%20pending%20a%20new%20deal%20on%20funds>.

²⁷ District Court of Travis County, TX, D-1-GN-20-003520

²⁸ Third Court of Appeals, Austin, TX, NO. 03-20-00376-CV

²⁹ Petition for Writ of Mandamus NO. 20-0609

August 21, 2020	<ul style="list-style-type: none">• The Court of Appeals' ruling was overturned by the Texas Supreme Court,³⁰ which reversed the injunction and allowed the Texas GLO to submit its action plan amendment 7 to HUD.• The Texas GLO submitted action plan amendment 7 to HUD for review and approval.
-----------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

³⁰ Order on Petition on Writ of Mandamus NO. 20-0609