



# Commonwealth of Massachusetts

## Small Cities Community Development Block Grant Program

**Office of Audit, Region 1  
Boston, MA**

**Audit Report Number: 2019-BO-1003  
August 05, 2019**



**To:** Robert Shumeyko, Director, Office of Community Planning and Development,  
1AD

**//SIGNED//**

**From:** Kit Tam, Acting Regional Inspector General for Audit, 1AGA

**Subject:** The Commonwealth of Massachusetts Did Not Always Ensure That Its Grantees  
Complied With Applicable State and Federal Laws and Requirements

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 Commonwealth of Massachusetts' Small Cities Community Development Block Grant program.

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, section 8M, requires that OIG post its publicly available 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 me at 202-402-8152.



**Audit Report Number: 2019-BO-1003**

**Date: August 05, 2019**

**The Commonwealth of Massachusetts Did Not Always Ensure That Its Grantees Complied With Applicable State and Federal Laws and Requirements**

## Highlights

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### What We Audited and Why

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We audited the Commonwealth of Massachusetts' (State) Small Cities Community Development Block Grant (CDBG) program because the State was the largest recipient of CDBG funds in New England. HUD awarded the State more than \$88 million in CDBG funding for program years 2015, 2016, and 2017. In addition, we had not audited any of the State's community planning and development programs in the last 10 years. Our audit objective was to determine whether the State provided adequate oversight and monitoring to ensure that its grantees complied with applicable State and Federal laws and requirements regarding (1) procurement, (2) conflict of interest, (3) program delivery, and (4) indirect cost rates.

### What We Found

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The State did not always ensure that its grantees complied with applicable State and Federal laws and requirements. Specifically, grantees did not always (1) properly conduct and document environmental reviews, (2) obtain independent cost estimates, (3) properly charge program delivery costs, and (4) obtain the State's approval for projects that exceeded program limits.

These deficiencies occurred because the State did not provide adequate oversight to ensure that its grantees complied with applicable State and Federal laws and requirements. As a result, we identified more than \$1.5 million in questioned costs charged to the program, and HUD did not have assurance that all costs were eligible and supported.

### What We Recommend

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We recommend that the Director of HUD's Massachusetts Office of Community Planning and Development require State officials to (1) repay \$665,920 in ineligible program costs; (2) support or repay \$896,387 in unsupported program costs; and (3) provide additional guidance to their grantees and strengthen controls over procurement, site-specific environmental reviews, and the definition of which expenses are considered program delivery costs.

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# Background and Objective

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In 1981, Congress amended the Housing and Community Development Act of 1974 to give each State the opportunity to administer Community Development Block Grant (CDBG) funds for nonentitlement areas. Nonentitlement areas are those units of general local government that do not receive CDBG funds directly from the U.S. Department of Housing and Urban Development (HUD). Nonentitlement areas in the Commonwealth of Massachusetts (State) are either cities or towns with a population of less than 50,000 or a central city of an area as designated by the Office of Management and Budget. States participating in the Small Cities CDBG program have three major responsibilities: formulating community development objectives, deciding how to distribute funds among communities in nonentitlement areas, and ensuring that recipient communities comply with applicable State and Federal laws and requirements. The Community Services Division administered the program and allocated CDBG funds for the State.

The Commonwealth of Massachusetts had 178 grants totaling more than \$143 million open during our audit period<sup>1</sup> and the majority of the \$88 million that HUD awarded to the State for program years 2015, 2016 and 2017 is part of the \$143 million in open grants. These grants funded the following activities:

Category	Amount
Housing-related activities	\$57,780,941
Public improvements	49,249,222
Public services	13,429,628
Acquisition	2,582,840
Economic development	2,058,073
Administration and planning	18,320,159
<b>Totals</b>	<b>143,420,863</b>

Our review focused on housing-related activities and public improvements, which accounted for nearly 75 percent of the funding total.

Our audit objective was to determine whether the State provided adequate oversight and monitoring to ensure that its grantees complied with applicable State and Federal laws and requirements regarding (1) procurement, (2) conflict of interest, (3) program delivery, and (4) indirect cost rates.

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<sup>1</sup> This includes grants awarded before April 1, 2015, but still open as of April 1, 2015 and grants awarded during the audit period of April 1, 2015 to March 31, 2018, for program years 2015, 2016 and 2017.

# Results of Audit

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## **The State Did Not Always Ensure That Its Grantees Complied With Applicable State and Federal Laws and Requirements**

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The State did not always ensure that its grantees complied with applicable laws and requirements. Specifically, grantees did not always (1) properly conduct and document environmental reviews, (2) obtain independent cost estimates, (3) properly charge program delivery costs, and (4) obtain the State's approval for projects that exceeded program limits. These deficiencies occurred because the State did not provide adequate oversight to ensure that its grantees complied with applicable State and Federal laws and requirements. Specifically, the State allowed its grantees to use grant funds to support a wide range of activities, but it did not provide adequate guidance in certain areas, such as procurement, site-specific environmental reviews, and the definition of program delivery costs. Additionally, the State acknowledged that declining revenue had challenged its ability to staff the program at historic levels. As a result, we identified more than \$1.5 million in questioned costs<sup>2</sup> charged to the program, and HUD did not have assurance that all costs were eligible and supported.

### **Environmental Reviews Not Properly Conducted and Documented**

Grantees did not always properly conduct and document environmental reviews. In accordance with 24 CFR (Code of Federal Regulations) 58.15, the State allowed its grantees to use environmental review tiering for the housing rehabilitation program. Under tiering, grantees, as part of their application, completed an initial broad-level review (tier one) to identify potential compliance areas. Once the actual project sites were identified, grantees completed a site-specific review (tier two). In the tier 1 review, grantees compare planned projects against 10 sets of criteria<sup>3</sup> to determine whether the planned project meets the criteria and whether the grantee needs to perform additional work to comply with the criteria. After completing this process (tier one), grantees may publish a public notice and receive funding from HUD. HUD's funding is conditioned on the grantee's completing an individual site-specific environmental review (tier two) for each project. HUD requires that this site-specific review be completed before the grantee commits program funds; otherwise, the project is ineligible for funding. Although the grantees generally conducted and documented the tier one environmental reviews, they did not always properly conduct and document the tier two environmental reviews.

Specifically, the tier two environmental reviews for 25 housing rehabilitation projects were incomplete as they were (1) missing the historic property determinations, evidence that the town historic commission had signed off on the determinations, or both; (2) not completed before project construction began; or (3) missing evidence that wetlands were checked and the

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<sup>2</sup> See appendix C.

<sup>3</sup> See 24 CFR 58.5(a) through (j). The grantee, as the responsible entity, compares the location and nature of the project to the criteria.

conservation commission was consulted, as necessary, for septic projects<sup>4</sup>. Additionally, one project was identified as historic, but the grantee did not document that it obtained the required approval from the local, State, or Federal historical commission. As a result, \$594,053 in ineligible expenses was charged to the program because the required environmental reviews were not completed.

Finally, in cases in which the grantees hired administrators to administer their housing rehabilitation programs, a grantee official did not always sign off on the environmental reviews prepared by the contractors. HUD allows contracted administrators to conduct and prepare the tier two reviews; however, the reviews need to be signed by the responsible entity, which in this case, would be the grantee<sup>5</sup>. We identified 14 projects, with construction costs totaling \$498,517,<sup>6</sup> for which the grantee did not sign off on the environmental reviews.

### **Contracts Awarded Without Independent Cost Estimates**

Six grantees awarded 13 contracts without the required independent cost estimates, resulting in unsupported costs of \$401,870. Regulations at 24 CFR 85.36(f)(1) and 2 CFR 200.323(a)<sup>7</sup> state that an independent cost estimate must be made before bids or proposals are received. Specifically, two grantees awarded five contracts totaling \$140,196 for which the grantees could not show that they prepared cost estimates before procuring construction and activity contracts. Without these independent cost estimates, there was no evidence that the costs were reasonable. In addition, four grantees awarded eight contracts totaling \$261,674 to entities that were responsible for preparing the independent cost estimates submitted as part of the grantees' applications. In these cases, the cost estimate was not independent as the cost estimator had an unfair advantage when bidding on the project. This practice also allowed the cost estimator to unfairly benefit from that inside information and prevented full and open competition.

### **Program Costs Improperly Charged**

The State established caps on administration and program delivery expenses. HUD regulations at 24 CFR 570.489(m) and 2 CFR 200.331(d) require the State to monitor the cities to ensure that CDBG expenses are in accordance with the established policies. The State established an 18 percent cap on administrative expenses and a 30 percent cap on the combination of administrative and program delivery expenses. For the 22 grants, the grantees did not properly charge some expenses to program delivery, including construction oversight, engineering design, lead testing, project inspections, and loan-processing fees. We identified \$575,273 that was misallocated for 22 grants. In addition, grantees improperly charged \$187,228 in indirect costs as program delivery costs. Indirect costs are considered to be general administration costs;

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<sup>4</sup> Consulting with the conservation commission is a State requirement.

<sup>5</sup> HUD regulations at 24 CFR 58.2(a)(7) define responsible entity as a recipient under the program. The recipient in this case is the grantee. HUD regulations at 24 CFR 58.13 identify that the responsible entity's certifying officer is responsible for all requirements.

<sup>6</sup> We questioned \$4,000 of the \$498,517 as ineligible due to projects' exceeding the program limits without the State's approval. To avoid double counting, we reduced the \$498,517 to \$494,517 (\$498,517 - \$4,000 = \$494,517) as unsupported.

<sup>7</sup> Based on the dates of the contracts between the State and these six grantees, 24 CFR 85.36(f)(i) applied for 11 of the 13 contracts, and 2 CFR 200.323(a) applied for the remaining 2.

therefore, the grantees should not charge these expenses to program delivery. Administrative expenses are subject to the 18 percent cap. Had the grantees properly allocated these expenses, it would have been evident that two grantees incurred \$38,893 in excess of the 30 percent cap, including \$17,816, which also exceeded the 18 percent cap. Expenses in excess of the State caps are ineligible because they are not allowable by the State's policy.

### **Projects Exceeded Program Limits Without the State's Approval**

HUD regulations at 24 CFR 570.489(m) and 2 CFR 200.331(d) require the State to monitor the cities to ensure that CDBG expenses are in accordance with the established policies. For housing rehabilitation projects, the State established a limit of \$30,000 per unit or \$35,000 per unit for projects involving lead removal. Grantees may apply to the State for a waiver to move forward with housing rehabilitation projects that exceed these limits. While some grantees sought and obtained approval for some projects that exceeded these limits, 5 of the 44 projects exceeded the program limits by \$32,974 without the State's approval, as detailed in the table below.

Project	Total	Limit	Ineligible
Project 1	\$41,334	\$35,000	\$6,334
Project 2	41,589	35,000	6,589
Project 3	44,585	35,000	9,585
Project 4	41,191	35,000	6,191
Project 5	34,275	30,000	4,275
<b>Total</b>			<b>32,974</b>

Expenses in excess of the State program limits are ineligible because they are not allowable by the State's policy unless a waiver was obtained.

### **The State Did Not Always Provide Adequate Oversight**

The deficiencies noted above occurred because the State did not always provide adequate oversight to ensure that grantees complied with applicable State and Federal laws and requirements. Specifically, the State allowed its grantees to use their grant funds to support a wide range of activities, but it did not provide adequate guidance in certain areas, such as procurement, site-specific environmental reviews, and the definition of program delivery costs. Additionally, declining revenue had challenged the State's ability to staff the program at historic levels.

### **Conclusion**

The State's grantees charged more than \$1.5 million in questioned costs to the program and HUD did not have assurance that all costs were eligible and supported. This occurred because the State did not always provide adequate guidance in certain areas such procurement, site-specific environmental reviews, and the definition of program delivery costs. In addition, the State's ability to staff the program at historic levels had been challenged due to declining revenue.



## Recommendations

We recommend that the Director of HUD's Massachusetts Office of Community Planning and Development instruct State officials to

- 1A. Repay from non-Federal funds the \$665,920<sup>8</sup> in ineligible costs charged to the program.
- 1B. Support that 14 projects, with \$494,517 in construction costs, met the environmental review requirements and repay from non-Federal funds any amounts attributed to projects that cannot be certified.
- 1C. Provide additional guidance to their grantees and strengthen controls to ensure that tier two environmental reviews are performed and properly conducted and signed by the responsible entity before committing program funds.
- 1D. Support \$401,870<sup>9</sup> for contracts that were awarded without an independent cost estimate or repay from non-Federal funds any amount that cannot be supported.
- 1E. Provide additional guidance to their grantees and strengthen controls over procurement to ensure that grantees follow applicable State and Federal procurement requirements, including obtaining independent cost estimates and ensuring full and open competition.
- 1F. Define which expenses should be considered program delivery costs and strengthen controls over program costs to ensure that costs are properly charged.

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<sup>8</sup> This amount includes \$594,053 questioned because of improperly conducted site-specific environmental reviews, \$38,893 in program costs improperly charged to construction that exceeded the 18 and 30 percent caps, and \$32,974 for project costs that exceeded the program limits.

<sup>9</sup> This amount includes \$261,674 for contracts awarded to the same entity that prepared the independent cost estimate and \$140,196 for contracts awarded with no evidence of a cost estimate.

# Scope and Methodology

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We performed our audit work from October 2018 through May 2019 at the State's office located at 100 Cambridge Street, Suite 300, Boston, MA; 6 of the 68 grantee offices; and our offices located at 10 Church Street, Hartford, CT, and 10 Causeway Street, Boston, MA. The audit covered the period April 1, 2015, to March 31, 2018, and was expanded when necessary to include grants awarded before April 1, 2015, but still open as of April 1, 2015.

To accomplish our objective, we

- Reviewed the criteria relevant to our audit objective, including the Housing and Community Development Act of 1974, 24 CFR Part 570, 24 CFR Part 85, 2 CFR Part 200, 24 CFR Part 58 and HUD's Community Planning and Development Monitoring Handbook 6509.2, REV-7.
- Reviewed relevant internal policies and procedures developed and used by the State, including policies, procedures, and processes for planning, organizing, directing, and monitoring the program.
- Reviewed the State's consolidated plan, consolidated annual performance and evaluation reports, and action plans.
- Reviewed HUD's 2017 monitoring report on the State's program.
- Conducted interviews with appropriate State officials and staff to determine what procedures staff followed related to the program.
- We selected a focused sample of 22 grants because we knew enough about the CDBG program to identify a relatively small number of items of interest that were higher in risk. Specifically, we selected and reviewed a nonstatistical sample of 22 grants totaling more than \$18 million from a universe of 178 grants, totaling more than \$143.4 million. We selected our sample based on (1) the grant administrators, (2) the grant amount, (3) the grant location (4) whether the State had identified issues in its monitoring visits, and (5) whether the grantee had experienced delays or requested waivers. For 6 of the 22 grants, we conducted a limited review using records available at the State. For 16 of 22 grants, we conducted a more detailed review using records available at the grantees. Each of these grants funded multiple activities, including housing rehabilitation, public improvements, economic development, public services, and planning. We did not perform a statistical sample so our results were not projected.

To achieve our objective, we relied on information obtained through the State's grants management system. This system relies on data provided to the State by grantees. We did not access computer systems and source data available at all grantees. Although we did not test the State's grants management system, we determined that it was reasonable to use this information because this was the information that the State used to monitor grantees.

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

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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:

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Compliance with laws and regulations – Policies and procedures that management has implemented to reasonably ensure that the use of resources is consistent with laws and regulations.
- Safeguarding resources – Policies and procedures that management has implemented to reasonably ensure that resources are safeguarded against waste, loss, and misuse.

We assessed the relevant control 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 Deficiency**

Based on our review, we believe that the following item is a significant deficiency:

The State did not always provide adequate oversight to ensure that its grantees complied with applicable State and Federal laws and requirements (finding).

# Appendixes

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## Appendix A

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### Schedule of Questioned Costs

Recommendation number	Ineligible 1/	Unsupported 2/
1A	\$665,920	
1B		\$494,517
1D		401,870
<b>Totals</b>	<b>665,920</b>	<b>896,387</b>


- 1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations.
- 2/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.

## Appendix B

### Auditee Comments and OIG's Evaluation

#### Ref to OIG Evaluation

#### Auditee Comments

	<p>Commonwealth of Massachusetts</p> <p><b>DEPARTMENT OF HOUSING &amp; COMMUNITY DEVELOPMENT</b></p> <p>Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Janelle Chan, Undersecretary</p>
<p>July 11, 2019</p> <p>Tomas A. Espinosa Assistant Regional Inspector General Region 1 – Boston/Hartford U.S. Department of Housing and Urban Development Office of Inspector General 10 Causeway Street Room 370 Boston, MA 02222-1092</p> <p>Dear Mr. Espinosa,</p> <p>Please accept this correspondence as the Commonwealth of Massachusetts response to the draft audit report presented at the exit conference on July 11, 2019. Massachusetts has been effectively operating the State CDBG Program since its inception. In the past 20 years alone, the Commonwealth has delivered more than \$675 million in funds to its cities and towns to benefit the communities and their residents with a variety of community development activities including housing, economic development, public social services, planning and infrastructure activities. Tens of thousands of citizens benefit from CDBG supported activities on an annual basis.</p> <p>The State CDBG Program has always provided robust guidance and technical assistance to our grantees through an operations manual, formal trainings, one-on-one interaction and the provision of technical assistance guides on relevant subject matter. We utilize our web based assets along</p>	
<p>100 Cambridge Street, Suite 300 Boston, Massachusetts 02114</p>	<p><a href="http://www.mass.gov/dhcd">www.mass.gov/dhcd</a> 617.573.1100</p>

## Auditee Comments and OIG's Evaluation

### Ref to OIG Evaluation

### Auditee Comments

with other methods to keep grantees and others interested in our program abreast of opportunities for outside trainings and changes in policies, procedures and regulations. We conduct a vigorous risk assessment for our grants on an annual basis to determine which grantees to monitor and conduct monitorings throughout the year. We treat our monitorings as not solely a review to ensure that grantees are following established protocols but as another means of technical assistance to assist our grantees in improving the operations of their programs.

With that in mind, we recognize the importance of this review and the opportunity to discuss the findings and recommendations with you and your staff. Our comments and thoughts on the draft report follow.

#### **OIG Conclusion – Environmental Reviews Not Properly Conducted and Documented**

The OIG found 25 housing rehabilitation projects with Tier 2 Environmental Reviews that were deemed incomplete because they were (1) missing historic determinations or evidence that local historic commissions signed off on the project or both; or (2) were not completed before project construction began; or (3) missing evidence that wetlands were checked and the conservation commission was consulted, as necessary, for septic projects. Additionally, one project identified as historic was not documented as having obtained the required approval from the local, State or Federal historic commission.

#### **Response**

The Commonwealth was provided with a list of the 25 projects identified by the OIG but has not seen detail on each project that would identify what was missing with the exception of 3 septic projects and the historic project. After a review of the projects the Commonwealth offers the following for consideration.

Comment 1

## Auditee Comments and OIG's Evaluation

### Ref to OIG Evaluation

### Auditee Comments

Comment 2

First, the Commonwealth acknowledges that the grantee's files had documents missing and some files were incomplete. The staff person who was responsible is no longer with the grant administrator and the administrator is reviewing archived files to see if items were completed but not filed properly. The administrator has already taken steps to assure that this does not happen again and we will continue to work with them and other grantees to ensure that they are fully completing and documenting Tier 2 reviews as required.

With regard to the historic reviews, the grant administrator has always operated under a Programmatic Agreement (PA) between the towns, the Advisory Council on Historic Preservation (ACHP) and the Massachusetts Historical Commission (MHC) that allowed the grant administrator to conduct the historic review and make determinations. At some point, the ACHP stopped responding to requests to join the Programmatic Agreements. Guidance from MHC at that time was to continue following provisions of existing agreements (documentation is available). With that in mind, the Commonwealth contends that the grant administrator, based on information contained in the PA, was not required to seek approval from the local commissions. This would be the same for the property that was determined to be historic. The grant administrator based on the PA would be the entity that would approve plans for the project from a historic perspective. Consistent with the PA, however, the administrator did notify local commissions of the housing rehabilitation programs and offer an opportunity to comment.

Comment 3

Comment 1

Based on the file review, the Commonwealth identified 5 projects that did not clearly identify a historic determination, 8 projects that were not applicable because the home was less than 50 years old and 9 that had clearly identified a historic determination. In addition, the Commonwealth was not able to identify any projects lacking environmental review prior to the issuance of a Notice to Proceed for construction with the exception of one project. In that instance, the grantee mistakenly believed that the project was an emergency that did not require environmental review. The



## Auditee Comments and OIG's Evaluation

### Ref to OIG Evaluation

### Auditee Comments

Comment 4

grantee has subsequently undertaken and completed the review including a response from MHC (documentation available).

Additionally, with regard to the 3 septic projects, each of them had Not Applicable (NA) marked on the Tier 2 checklist and all three were identified on design drawings as being outside of the 100 foot buffer zone, that if within would require submission to the Conservation Commission. The Board of Health signed off on each project which it would not have done without this determination. This may not have been stated explicitly on the checklist but it remains the reason for the Not Applicable determination. Therefore the project costs should not be determined ineligible.

Without detail on what may have been missing for each project, it is difficult for the Commonwealth to acknowledge the stated findings with respect to these projects and accept the totality of the identified ineligible costs. The Commonwealth looks forward to working with HUD regional staff to resolve this issue.

**OIG Conclusion – 14 projects totaling \$498,517 for which the grantee did not sign off on the environmental reviews.**

#### **Response**

The Commonwealth has supporting documentation for these 14 projects confirming that the environmental reviews are completed and signed. In all cases, because the Tier 2 review was completed before funds were committed to these projects, the absence of a local certification should not render these costs as unsupported. Local signatures have now been obtained for these cases. For each of the 14 projects, the lack of the local certification did not result in a choice limiting decision or result in an adverse environmental impact. The Commonwealth has submitted documentation to HUD OIG staff.

Comment 5

## Auditee Comments and OIG's Evaluation

### Ref to OIG Evaluation

### Auditee Comments

#### **OIG Conclusion – Contracts Awarded without Independent Cost Estimates**

The OIG found that six grantees awarded thirteen contracts without independent cost estimates resulting in unsupported costs of \$401,870. Two grantees awarded five contracts totaling \$140,196 and could not show that cost estimates had been prepared prior to procurement. Four grantees awarded eight contracts totaling \$261,674 to entities that were responsible for preparing independent cost estimates as part of the grantees' applications.

#### **Response**

Under the category of contracts awarded without any cost estimate, the Commonwealth has documentation to support \$45,000 of costs, believed to be related with the two contracts referenced and associated with the Town of Greenfield. The Commonwealth has requested more information from the OIG for the remaining \$356,870 associated with this category.

The Town of Greenfield amended its FY 2014 grant to add a total of \$45,000 of program income funds for two additional activities: the purchase of playground equipment (\$15,000) and a pre-development planning study to identify sites and building configurations for a downtown human services center (\$30,000). As part of this amendment request, the Town submitted a cost estimate from the local Department of Recreation based on a proposal from Site Specifics, LLC, and dated 7/29/2014. For this planning activity, the Town followed MGL Ch. 30B to procure for a consultant for the Downtown Human Services Study via an issuance of a Request for Proposal (RFP) for services. In this procurement action, and in accordance with Massachusetts law, the Town prepared a scope of services that defined specific services, deliverables and work product for a not to exceed cost of \$40,000. (The Town had committed an additional \$10,000 for a total budget of \$40,000). This RFP was advertised in the

Comment 6

## Auditee Comments and OIG's Evaluation

### Ref to OIG Evaluation

### Auditee Comments

Comment 6

Recorder on July, 6, 2015 and the Secretary of State's website. The contract was awarded to the most responsible vendor. Because this contract was for "services" and not a construction contract, the Town followed the appropriate procurement action to solicit services for the activity budget.

While the Commonwealth was able to identify the Greenfield contracts above as part of this category, absent detail on the other contracts, it is unable to acknowledge the stated findings and recommended unsupported costs. The Commonwealth looks forward to working with HUD regional staff to resolve this issue.

#### **OIG Conclusion – Program Costs Improperly Charged**

The Commonwealth allowed grantees to exceed its established caps for administration and program delivery because grantees did not properly charge some expenses to program delivery and improperly charged indirect costs to program delivery.

#### **Response**

It is difficult for the Commonwealth to respond to this without being able to examine the detail from which the determinations were made. We have requested additional information from the OIG auditors on the calculations that were made. The HUD OIG has further clarified that the Commonwealth should be more explicit in identifying what costs can be allocated to program delivery and which should not, and ensure that grantees are being consistent in the way these costs are allocated.

Comment 7

While we believe that we have specifically identified costs that should be assigned to program delivery in our guidance we will review our materials and will work with regional HUD staff and our grantees to be sure we are clearly identifying these costs and that grantees are following the guidelines. It should also be noted that our approach to these caps is that

## Auditee Comments and OIG's Evaluation

### Ref to OIG Evaluation

#### Auditee Comments

they are a guide and we have always maintained the right to waive or exceed them if we determine it is in the best interest of the grantee, the project or the project beneficiary. We do not concur with legitimate costs being determined ineligible because they may not have been properly categorized and do not violate any regulatory or statutory requirements.

#### **OIG Conclusion - Projects Exceeded Program Limits without State's**

##### **Approval**

For housing rehabilitation projects, the State established a limit of \$30,000 per unit or \$35,000 per unit for projects involving lead, barrier removal, septic, asbestos, historic preservation, for which prior authorization of the Department is required if the project exceeds these caps. The OIG found 5 projects, totaling \$32,974 for which Single Case Waivers were not obtained.

##### **Response**

The Commonwealth has received and approved (as of 7/2/2019) in accordance with our single case waiver review process four Single Case Waivers for projects #1, 2, 3, and 5 as referenced in the OIG's Draft Audit Report. These waivers were not submitted in a timely manner due to administrative oversight at the local level, but have now been submitted and approved by DHCD and therefore these costs should not be deemed ineligible. We are still seeking information for project #4.

The Commonwealth does monitor for compliance with the waiver requirement. A 2016 monitoring of a grantee resulted in a finding of non-compliance because the Town did not submit single case waiver requests. The language for the finding and corrective action was the following:

**"Finding #3: Non – Compliance with DHCD Grant Agreement, Attachment A: Additional Terms and Conditions, VI Other Program Requirements, G for Housing Activities, 5 Single Case Waivers. Housing Rehabilitation Case #14-03 failure to obtain**

Comment 8

## Auditee Comments and OIG's Evaluation

### Auditee Comments

Comment 8

#### **Single Case Waiver approval.**

The Grant Agreement between DHCD and the Town of Salisbury requires the Town to obtain prior DHCD authorization (Single Case Waiver) for projects which exceed \$30,000 per unit, except in projects involving lead, barrier removal, septic, asbestos, or historic preservation for which the maximum is \$35,000 per unit. There was no documented evidence that any of these exceptions applied to this project and the Town should have requested a single case waiver.

**Corrective Action:** The Town must certify that for all housing rehabilitation cases, the process for requesting a single case waiver will be followed, and waivers for any current cases must be submitted to DHCD."

This language establishes precedent that DHCD can and has approved single case waiver requests after-the-fact. DHCD is satisfied with the integrity of its approach to its Single Case Waiver Policy.

Thank you again for the opportunity to meet to discuss the draft report and offer these comments. While we may not have agreed with all of the conclusions, we will embrace the recommendations going forward and use them to strengthen our program and the operations of our grantees. Additionally, I would like to thank [REDACTED] and [REDACTED] [REDACTED] for their professionalism throughout the audit. They were extremely easy to work with and never hesitated to give us honest and open answers to our questions.

Sincerely,



Louis Martin  
Associate Director, DCS

## OIG Evaluation of Auditee Comments

- Comment 1 State officials advised that they were provided with a list of the 25 projects identified by the OIG but had not seen detail on each project that would identify what was missing with the exception of 3 septic projects and the historic project. We subsequently provided that information to the State on July 12, 2019. Specifically, files for 13 projects were missing the historic property determination, as required by 24 CFR 58.5(a), files for 6 projects were missing evidence that the town historic commission had signed off on the determinations, and files for 3 septic projects were missing evidence that wetlands determinations were made. Additionally, grantees did not complete the tier two reviews before project construction began for two projects and one grantee did not complete a tier two review at all for one project. State officials advised that they would work with HUD regional staff during audit resolution.
- Comment 2 State officials advised that an agreement existed between the towns, the Advisory Council on Historic Preservation and the Massachusetts Historical Commission and that agreement granted the administrator authority to approve plans for properties identified as historic. State officials further advised that this agreement required the administrator to notify the local historical commission of the housing rehabilitation projects and offer the local commission an opportunity to comment. The administrator did not provide this agreement and we cannot comment on it. However, we noted that the project files for the property identified as historic did not include evidence that the plans were reviewed for historic compliance and approved. Six additional projects did not have evidence that the administrator had notified the local commission to give them an opportunity to comment.
- Comment 3 State officials acknowledged that five projects did not clearly identify a historic determination, but they also advised that eight projects did not need a historic determination because the home was less than 50 years old; and nine projects clearly identified a historic determination. We agree that homes that are less than 50 years old would not be considered historic. However, the year the house was built would be the final conclusion of the determination to support that a home would not be considered historic. Therefore, we do not agree that a historic determination was not needed for the eight projects. The State did not provide any evidence to support that nine projects clearly identified a historic determination and so we cannot comment on this.
- Comment 4 For the three septic projects, State officials advised that, the tier two checklist was marked as not applicable, that design drawings identified them as being outside of the 100-foot buffer zone, and that the Board of Health signed off on each project. Since these were septic projects, wetlands requirements, in accordance with 24 CFR 58.5(b), were applicable and the grantee should have noted this on the checklist and provided supporting documentation to show the project was outside

of the 100-foot buffer zone. We acknowledge the States willingness to work with HUD to resolve this issue during the audit resolution process.

- Comment 5 State officials advised that they had supporting documentation for these 14 projects confirming that the environmental reviews were completed and signed and that they had submitted this information to HUD OIG staff. We agree and this information was provided at the exit conference and subsequently reviewed. The documentation showed that one grantee certified 1 project on June 20, 2019 and the second grantee certified 13 projects on July 8, 2019. State officials should work with HUD regional staff since the certifications were made after committing the funds and HUD will determine whether the projects were properly certificated during audit resolution.
- Comment 6 State officials advised that they requested more information from the OIG for the remaining \$356,870 associated with this category and that absent the detail on the other contracts, it is unable to acknowledge the stated findings and recommended unsupported costs. We subsequently provided this information to the State on July 12, 2019. Additionally, State officials disagree that two contracts, totaling \$45,000, did not have cost estimates. They advised that for one contract, the cost estimate was the proposal from the company. The grantee awarded the contract to this company. We do not agree that the proposal from the company who received the contract is an independent cost estimate. For the second contract, State officials advised that the grantee followed MGL Ch. 30B. The grantee's files did not contain a cost estimate; instead the files included a letter from the contractor requesting the \$30,000 and letters of support from the community. State officials advised that they would work with HUD during audit resolution for final resolution to this issue.
- Comment 7 State officials requested additional information to identify how the calculations for program delivery costs were made. We provided the additional information to the State on July 12, 2019. They also advised that they do not agree with the costs being determined ineligible due to improper categorization. Ineligible costs are defined as costs charged to a HUD-financed or HUD-insured program or activity that are not allowable by law; contract; or Federal, State, or local policies or regulations. As stated in the report, expenses in excess of the State caps are ineligible because they are not allowed by the State's policy. State officials advised that they would work with HUD regional staff during audit resolution for final resolution to this issue.
- Comment 8 State officials advised that as of July 2, 2019 they had granted waivers for four of the five projects identified as exceeding the program limits and believed that these waivers could be requested and approved after the fact. This corrective action and supporting documentation should be reviewed by HUD regional staff during the audit resolution process.

Although State officials disagreed with some of this audit report's conclusions, we look forward to reviewing any supporting documentation and working with

the HUD field office to successfully resolve the findings and recommendations of this report.



## Appendix C

### Schedule of Grants Reviewed and Questioned Costs

	Grant year	Town	1/	2/	3/	4/	Ineligible costs	Unsupported costs	Total questioned costs
1	2013	Chesterfield			X		\$26,536		\$26,536
2	2013	Greenfield		X		X	22,110		22,110
3	2014	Greenfield	X			X	16,467	45,000	61,467
4	2015	Greenfield							
5	2013	Montague		X				115,000	115,000
6	2013	Russell	X				98,200		98,200
7	2014	Russell	X				359,365		359,365
8	2015	Russell	X				126,610		126,610
9	2013	Southbridge		X				12,015	12,015
10	2015	Truro							
11	2016	Sheffield		X				63,659	63,659
12	2014	Palmer							
13	2015	Palmer							
14	2016	Palmer							
15	2013	Chester			X		12,357		12,357
16	2014	Rockland	X			X	4,275	407,717 <sup>10</sup>	411,992
17	2014	Athol		X				35,500	35,500
18	2015	Athol		X				35,500	35,500

<sup>10</sup> This amount is the net amount. Specifically, we questioned \$4,000 of the gross amount of \$711,717 as ineligible due to projects' exceeding the program limits without the State's approval. To avoid double counting, we reduced the total amount by \$4,000.

	Grant year	Town	1/	2/	3/	4/	Ineligible costs	Unsupported costs	Total questioned costs
19	2016	Athol							
20	2014	Chelsea		X				95,196	95,196
21	2015	Chelsea	X					86,800	86,800
22	2016	Chelsea							
<b>Net total of questioned costs</b>							<b>665,920</b>	<b>896,387</b>	<b>1,562,307</b>

- 1/ Environmental reviews not properly conducted and documented
- 2/ Contracts awarded without independent cost estimates
- 3/ Program costs improperly charged
- 4/ Projects exceeding program limits without the State's approval