



Office of Community Planning and Development, Washington, DC

CDBG Code Enforcement Program

**Office of Audit, Region 9
Los Angeles, CA**

**Audit Report Number: 2018-LA-0006
September 25, 2018**



To: Lori Michalski, Acting General Deputy Assistant Secretary for Community Planning and Development, HHQ

//SIGNED//

From: Tanya E. Schulze, Regional Inspector General for Audit, 9DGA

Subject: Improvements Are Needed for HUD's Code Enforcement Program

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of HUD's Community Development Block Grant code enforcement 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 <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 213-534-2471.



Audit Report Number: 2018-LA-0006

Date: September 25, 2018

Improvements Are Needed for HUD's Code Enforcement Program

Highlights

What We Audited and Why

We audited the U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant code enforcement program due to results from our external audits, which showed that grantees did not adequately understand and failed to ensure compliance with program requirements. Our audit objective was to determine (1) whether HUD's code enforcement guidance under its Office of Community Planning and Development (CPD) Notice CPD-14-016 was adequate to ensure that grantees met the intent of the program, (2) whether HUD followed its internal controls for developing the guidance, and (3) the adequacy of HUD's monitoring of grantee code enforcement.

What We Found

We determined that (1) HUD's code enforcement guidance should be improved and additional training should be provided to better aid grantees in meeting the intent of the program, (2) HUD did not completely follow its internal controls for developing its code enforcement guidance, and (3) HUD's monitoring of grantee code enforcement was generally adequate.

What We Recommend

We recommend that the Acting General Deputy Assistant Secretary for Community Planning and Development (1) update and revise Notice CPD-14-016 to further improve the code enforcement guidance, (2) provide mandatory training on the revised Notice to the local field offices and grantees that use CDBG funds for the code enforcement program to ensure compliance with requirements, and (3) ensure that it is issued with the appropriate clearance.

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Background and Objective

The Community Development Block Grant (CDBG) program was established by Title I of the Housing and Community Development Act of 1974, Public Law 93-383, as amended, 42 United States Code 5301. Under the CDBG program, the U.S. Department of Housing and Urban Development (HUD) awards grants to State and local governments to aid in the development of viable urban communities. To be eligible for funding, program-funded projects must satisfy one of three HUD national program objectives required in 24 CFR (Code of Federal Regulations) 570.208:

- provide a benefit to low- and moderate-income persons,
- prevent or eliminate slums or blight, or
- meet other urgent community development needs due to disasters or other emergencies.

CDBG funds may be used for code enforcement activities. Eligible code enforcement activities must be in deteriorated or deteriorating areas in which such enforcement, together with public or private improvements or services to be provided, may be expected to arrest the decline of the area.¹ Between program years 2014 and 2017, HUD awarded and grantees drew down the following CDBG code enforcement funding:

Program year	Amount funded	Amount drawn
2014	\$ 45,512,686	\$ 45,159,126
2015	70,235,738	69,020,356
2016	66,099,658	61,118,291
2017	43,600,112	25,096,517
Total	225,448,194	200,394,290

HUD headquarters issued Office of Community Planning and Development (CPD) Notice CPD-14-016, Use of CDBG Funds for Code Enforcement Activities, in October 2014 because it was receiving multiple inquiries about code enforcement from the field offices that had received inquiries from grantees. This guidance was developed to assist grantees in using CDBG funds for code enforcement in compliance with CDBG program requirements. The Notice included discussion on key aspects related to the establishment and administration of a CDBG code enforcement program, such as what is code enforcement, the purpose of code enforcement, eligible costs, ineligible activities, fair housing and civil rights, revenue, statutory provisions, and record-keeping requirements.

¹ To stop further deterioration of an area

Our audit objective was to determine (1) whether HUD's code enforcement guidance under Notice CPD-14-016 was adequate to ensure that grantees met the intent of the program, (2) whether HUD followed its internal controls for developing the guidance, and (3) the adequacy of HUD's monitoring of grantee code enforcement.

Results of Audit

Finding 1: HUD’s Code Enforcement Program Had Weaknesses

Improvements are needed in HUD’s code enforcement guidance, Notice CPD-14-016. Although generally more comprehensive and detailed than prior code enforcement guidance, the Notice contains areas that should be further improved and clarified. HUD also did not require training for its field office personnel who monitor the program activities and CDBG grantees that administer CDBG code enforcement programs. Further, HUD did not completely follow its internal clearance requirements for implementing its code enforcement guidance. This condition occurred because there was less emphasis on improving policy and increasing training for less commonly funded activities like code enforcement and HUD did not follow its clearance process requirements. As a result, there was an increased overall risk that grantee code enforcement programs would not be implemented in a manner that maximized the program’s intent.

Guidance Was Adequate but Could Be Improved and Training Should Be Provided

HUD issued Notice CPD-14-016 to provide further updated clarification of code enforcement requirements under 24 CFR 570.202(c). Although the Notice was generally adequate and comprehensive, there were some areas that could be improved. In addition, with the exception of an April 2015 webinar, there had not been mandatory training offered exclusively focused on code enforcement activities for both CPD staff and grantees.

Our external audits of four grantee code enforcement programs² and eight HUD monitoring reports and interviews with HUD CPD,³ covering periods since the Notice went into effect, showed that grantees failed to properly implement their code enforcement program because they had insufficient knowledge or were unaware of requirements or incorrectly interpreted and implemented HUD regulations and guidance. This deficiency indicated the need to clarify or update the guidance and train grantees on the requirements. For instance, our external audit of Huntington Park⁴ determined that the City was not aware that it needed a definition for deteriorated areas or that it needed to show that the areas were deteriorated because it assumed that a CDBG-designated area based on income was sufficient. In another instance, HUD conducted monitoring of the City of San Jose and determined that the City did not document the applicable legal definition of deterioration, current conditions of each target area, boundaries of the target areas, and identification of other activities that would arrest the decline of the area to support its use of CDBG funds. The HUD CPD representative stated that the City was unaware of the Notice.

² Clark County, NV, 2017-LA-1001; City of Huntington Park, CA, 2017-LA-1005; City of South Gate, CA, 2018-LA-1003; and City of Moreno Valley, CA, 2018-LA-1004

³ City of San Jose, City of Youngstown, Riverside County, City of Montebello, City of Southfield, City of Niles, Kansas City, and Benton Harbor

⁴ City of Huntington Park, CA, audit number 2017-LA-1005

HUD headquarters stated it had not had a pattern of grantees or field offices requesting clarification of the Notice; however, our interviews with the HUD field offices showed that provisions of the guidance were not being interpreted consistently. For example, HUD staff members weighed in on their interpretation of the last sentence of the first paragraph on page 14 of the Notice, which stated, "...records that grantees should maintain when carrying out CDBG assisted code enforcement activities include..." Some HUD staff members viewed the record requirement as a suggestion, while others stated that it was a requirement. This type of inconsistency can lead to differing interpretations by grantees or grantees being held to different standards by the field offices, and HUD should make it clear whether it is a suggestion or a requirement. Based on discussions with field office staff who monitored grantees with code enforcement programs and our analysis, the guidance could be improved through:

- Emphasis on desired outcomes for code enforcement in line with the Housing and Community Development Act.
- A better description of an acceptable definition of deteriorating or deteriorated areas that is in line with the Housing and Community Development Act.
- Clarification that an area that is 51 percent low- to moderate-income alone is not necessarily suitable for code enforcement activity. Grantees must formally designate deteriorated areas before engaging in eligible code enforcement activity.
- Adjusting the guidance in the last sentence of the first paragraph on page 14 of the Notice from "should" to "must."⁵
- Additional language to state that a written "strategy" or "plan" must be in place for using code enforcement.
- The use of plain language.

Although HUD headquarters presented a webinar on code enforcement and Notice CPD-14-016, which is available on HUD Exchange, in April 2015 and PowerPoint slides were sent to the field offices and encouraged to be shared with grantees, no other training, optional or mandatory, was offered to CPD staff or grantees. Further, 9 of the 12⁶ field offices did not offer code enforcement training to their grantees either because they believed it was up to the grantees to run their own programs, there was a shortage of local CPD staff, or not many grantees had a code enforcement program. Of the three field offices that provided nonmandatory training to their grantees, the topic of code enforcement was discussed as part of the overall CDBG national objective and eligibility training. HUD headquarters stated that mandating training on particular aspects of the CDBG program, such as code enforcement, was not feasible or practical because not every grantee undertook a code enforcement program and it did not have enough staff resources and time to dedicate to the program, when only a third of all grantees elect to spend CDBG funds on code enforcement activities.

⁵ "Records that grantees should maintain when carrying out CDBG-assisted code enforcement activities include:"

⁶ Apart from the original eight field offices sampled, we contacted an additional four field offices to ask whether they performed code enforcement-specific training. In addition, although 1 of the 9 field offices had not presented code enforcement training sessions to all local grantees, staff indicated they would provide technical assistance to individual grantees if requested.

HUD Did Not Completely Follow Its Policy Before Issuing Notice CPD-14-016

HUD did not completely follow its internal controls before issuing Notice CPD-14-016. HUD Handbook 000.2, REV-3, section D-2.4 which governs HUD's clearance process for all directives, including Notice CPD-14-016, stated that all directives were required to be cleared, at a minimum, by the following six offices within headquarters: Office of the Chief Human Capital Officer, Office of General Counsel, Office of Inspector General, Office of Policy Development and Research, Office of the Chief Information Officer, and Office of the Chief Financial Officer. The originating office was to undertake appropriate followup to ensure that the reviewing office received a directive's transmittal. The HUD Office of Block Grant Assistance, the originating office of Notice CPD-14-016, received clearances from the Offices of General Counsel and Fair Housing and Equal Opportunity but did not receive clearances from any of the other required offices. According to section D-3.1 of the Handbook, under extreme time constraints, the originating office may issue a directive without securing or resolving clearance comments after (1) asking the overdue office for the reason(s) for the delay and (2) notifying the overdue organization in writing before proceeding. However, in this instance, the HUD Office of Block Grant Assistance did neither because it assumed that a nonresponse from the remaining five offices represented their concurrence.

Conclusion

Although Notice CPD-14-016 code enforcement guidance was generally comprehensive and detailed, it could be updated to clarify provisions and additional training provided to avoid misinterpretation by field office staff and grantees. HUD also did not completely follow its clearance controls before issuing the Notice. This condition may be attributed to HUD's lack of emphasis on code enforcement because it was a smaller component of HUD's overall CDBG program and HUD did not follow the clearance requirements. As a result, there was an increased risk that grantee code enforcement programs, with an average annual program year funding of more than \$51.7 million,⁷ would not be implemented properly.

Recommendations

We recommend that the Acting General Deputy Assistant Secretary for Community Planning and Development

- 1A. Update and revise the CPD Notice to further improve the code enforcement guidance.
- 1B. Provide mandatory training on the revised Notice to the local field offices and to grantees that use CDBG funds for the code enforcement program to ensure compliance with requirements.
- 1C. Ensure that the updated and revised notice is issued with the appropriate clearance.

⁷ Based on amounts spent between program years 2015 and 2017

Scope and Methodology

We performed our audit fieldwork from May to July 2018 at our offices in Los Angeles, CA, and San Francisco, CA. Our audit generally covered the period October 2015 through September 2017 and was expanded to other periods when necessary. Our scope was expanded to cover the period October 1, 2014 to June 7, 2018 with respect to monitoring reports with code enforcement concerns because of the limited number of results that occurred from our original audit scope. To accomplish our objective, we

- Reviewed applicable HUD requirements and internal procedures.
- Interviewed appropriate HUD personnel from the Office of Field Management and Office of Block Grant Assistance.
- Interviewed HUD CPD field office directors and staff.
- Reviewed data from the Grants Management Process (GMP) system and Integrated Disbursement and Information System (IDIS).⁸
- Reviewed monitoring reports and previously published Office of Inspector General (OIG) audit reports.

We relied on data received from HUD that were retrieved from the GMP system, which is the interface through which field offices enter information about grant recipients' risk assessment and monitoring processes. Although we did not perform a detailed assessment of the reliability of the data, we determined that that data were sufficiently reliable for the purposes of our review because the data in the sampled items were supported by the information in the monitoring reports.

We reviewed a targeted, nonstatistical sample of 13 monitoring reports with 16 code enforcement findings from a total of 35 code enforcement findings that were issued from 8 HUD field offices in fiscal years 2016 and 2017. We selected the samples to ensure coverage for the 8 HUD field offices with applicable reports in our audit scope of fiscal years 2016 and 2017. We initially selected 16 monitoring reports with 19 code enforcement findings to review. The sample was then adjusted down to 13 monitoring reports with 16 code enforcement findings because we collected enough information from the 8 field offices to accomplish our objective. In addition, we selected and reviewed a targeted nonstatistical sample of 7 monitoring reports with 8 code enforcement concerns from a total of 13 code enforcement concerns from 4 field offices between fiscal years 2015 and 2018 because these were the most recent concerns identified by

⁸ IDIS is a nationwide database that provides HUD with current information regarding the program activities underway across the Nation. HUD uses this information to report to Congress and to monitor grantees. IDIS is the drawdown and reporting system for CDBG.

HUD that were within our audit scope. We reviewed the monitoring concerns to confirm whether they were correctly identified as such or should have been labeled as findings and found no significant issues. The results of our review cannot be projected. We found no significant issues with HUD's monitoring reviews of the grantees' code enforcement programs.

Further, we contacted 4 additional field offices, responsible for largest code enforcement funding that was drawn down from IDIS between the initial funding date of 2015 and 2017, to inquire whether they provided code enforcement training to the grantees.

We also relied on data from IDIS that were provided by OIG's Field Analytic Support Division. The data showed the grantees, program years, and funded and drawn amounts for the code enforcement activity. We used this information to determine the average amount funded in the code enforcement program.

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:

- Compliance with laws and regulations - Policies and procedures that HUD has implemented to provide reasonable assurance that directives are issued in accordance with regulations.

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 Deficiency

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

- HUD's code enforcement guidance could be improved, and mandatory training was not provided for its code enforcement program (finding).

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

Appendixes

Appendix A

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments


OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT

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

MEMORANDUM FOR: Tanya E. Schulze, Regional Inspector General for Audit, 9DGA

FROM: *LM* *at* *14* **SEP 14 2018**
Lori Michalski, Deputy Assistant Secretary for Operations, DO

SUBJECT: Office of Community Planning and Development (CPD) Comments on Draft Audit Report "Improvements are Needed for HUD's Code Enforcement Program"

Thank you for the opportunity to comment on this draft audit report. The draft report makes three recommendations to CPD:

- 1A. Update and revise CPD Notice 14-16 to further improve code enforcement guidance.
- 1B. Provide mandatory training on the revised Notice to local field offices and grantees that use Community Development Block Grant (CDBG) funds for code enforcement, to ensure compliance with requirements.
- 1C. Ensure that the revised notice is issued with the appropriate clearance.

CPD appreciates the overall positive outcomes of this audit. I am pleased to learn that your review of field office code enforcement monitoring efforts disclosed no significant issues. Your comments regarding grantee unfamiliarity with existing regulatory requirements and guidance provide useful validation for efforts underway by CPD's Office of Block Grant Assistance to improve dissemination of policy guidance and information among the CDBG grantee community. CPD does not foresee revising CPD Notice 14-16 in the near future. However, CPD will take each of the recommendations and comments under advisement as we finish various policy guidance pieces already under development, and as we identify training and technical assistance plans for FY 2019. CPD will provide more specific responses and proposed actions in the management decisions for these recommendations.

Please feel free to contact me with any questions regarding CPD's comments.

Comment 1

Comment 2

Comment 3

OIG Evaluation of Auditee Comments

- Comment 1 We agree there were no significant issues identified as part of our sample of the field offices' code enforcement monitoring. Although there was some inconsistency on the interpretation of certain portions of the notice (as discussed in the finding), the field office staff were generally sufficiently knowledgeable of the program requirements during the monitoring and appropriately identified findings and concerns.
- Comment 2 While we recognize CPD's work on improving the dissemination of policy guidance and information, we continue to recommend that the HUD Notice 14-016 be revised to better clarify the requirements of the code enforcement program.
- Comment 3 The OIG will evaluate CPD's forthcoming additional responses and proposed management decisions as part of the audit resolution process.