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TO: Gary A. Causey, Director, HUD Jacksonville Office of Community Planning and Development, 4HD

FROM: //signed//
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SUBJECT: Polk County, FL, Did Not Comply With Procurement and Contract Requirements in Its NSP and HOME Program

HIGHLIGHTS

What We Audited and Why

We conducted an audit of Polk County, FL's (County) Neighborhood Stabilization Program (NSP) and its HOME Investment Partnerships Program (HOME) based on a confidential complaint submitted through the U.S. Department of Housing and Urban Development (HUD) Office of Inspector General (OIG) hotline. The complaint alleged several improprieties involving the County's NSP and HOME programs. Our objectives were to determine whether the County (1) complied with requirements in the procurement, award, and execution of its NSP administrative contract and (2) incurred reasonable and eligible NSP and HOME expenditures for administrative and construction contract services.

What We Found

The County did not comply with requirements for competition and conflict of interest in the procurement of administrative and implementation services for its \$14.5 million NSP. The violations occurred because County officials did not adequately plan for the procurement of NSP services and did not implement controls to ensure that procurements complied with requirements. The number and significance of the procurement violations brings into question the County's capacity to implement future NSP activities in accordance with competitive contracting requirements. The violations warrant termination of the administrative contract and the services provided by the nonprofit to implement the NSP. These actions may prevent the County from obligating more than \$4 million in NSP funds by the program's statutory 18-month deadline.

The County did not take proper actions to protect the ownership of abandoned and foreclosed-upon properties acquired with NSP funds or the revenues expected from their disposition from loss and misuse between the time of their acquisition and their sale. The funds were put at risk because the County allowed a nonprofit entity, with whom it had no contract, to acquire abandoned and foreclosed-upon properties in its name without title restrictions and sell the properties. The County also paid the nonprofit for NSP services based on a questionable fee schedule. As a result, more than \$6.1 million of the County's NSP funds and projected revenue were at risk.

Also, the County did not accurately report NSP acquisition obligations in HUD's Disaster Recovery Grants Reporting (DRGR) system and did not post NSP performance reports to its Web page in a timely manner. It consistently understated NSP acquisition obligations in DRGR. The inaccurate reports deprived HUD of information it needed to monitor NSP operations and the untimely reports hindered residents from timely access to information concerning the status of the NSP. We attribute these conditions to error and lack of adequate planning and oversight of the County's NSP by County officials.

Lastly, the County did not require its community housing development organization (CHDO) to comply with its contract that required it to obtain competitive bids for procurements. As a result, the CHDO did not have documentation to support the reasonableness of more than \$1.2 million in construction contract costs examined during the review. We used an OIG staff appraiser to review a sample of the construction costs, and we determined that the costs were reasonable. However, the violations reflected a lack of attention by County and CHDO officials to their obligation to enforce contract procurement requirements that should have been followed and documented to support the reasonableness of construction costs paid with HOME funds.

What We Recommend

We recommend that HUD require the County to

- Promptly terminate its NSP administrative contract and arrange for the continued administration and implementation of its NSP by County staff or a properly procured contractor to ensure the proper obligation of more than \$4.4 million in NSP funds that was not obligated at the time of our review;
- Reimburse the NSP more than \$4.4 million from non-Federal funds if the nonprofit entity does not transfer title to NSP properties purchased in its name to the County or an entity with the legal authority to hold title and establish proper safeguards to ensure that more than \$1.7 million in revenue expected from property sales is adequately protected from losses due to lawsuits, liens, and judgments;
- Reimburse its NSP from non-Federal funds more than \$98,000 for fees paid based on a questionable fee schedule and ensure that future services are billed at contract rates or based on properly executed contract change orders;
- Review and determine whether NSP funds the County obligated after the completion of our on-site review met the requirements for obligations by its obligation deadline date.
- Post its quarterly NSP performance reports to the County's Web page; and
- Ensure that all future CHDO construction contracts comply with procurement requirements and that the County monitors the costs to ensure that they are reasonable and that the procurement practices do not restrict or eliminate competition.

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

Auditee's Response

We discussed the findings with County and HUD officials during the audit. On September 1, 2010, we provided a copy of the draft report to County officials for their comment and discussed the report with them at the exit conference on September 8, 2010. The County provided its written comments to the draft report on September 14, 2010. Generally, the County did not agree with the findings and recommendations. The complete text of the County's response, along with our evaluation of that response, can be found in appendix B of this report.

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BACKGROUND AND OBJECTIVES

We conducted an audit of Polk County, FL's (County) Neighborhood Stabilization Program (NSP) and its HOME Investment Partnerships Program (HOME) based on a confidential complaint. Congress established NSP (also referred to as NSP-1) to stabilize communities that have suffered from foreclosures and abandonment through the purchase and redevelopment of foreclosed-upon and abandoned homes and residential properties. NSP, authorized under Division B, Title III, of the Housing and Economic Recovery Act of 2008 (HERA), provides grants to all States and selected local governments on a formula basis. During 2008, The U.S. Department of Housing and Urban Development (HUD) awarded the County more than \$14.5 million in NSP funds. HUD allocates HOME funding to eligible local and State governments to strengthen public-private partnerships and to supply decent, safe, and sanitary affordable housing to very low-income families. Participating jurisdictions may use HOME funds to carry out multiyear housing strategies through acquisition, rehabilitation, new construction, and tenant-based rental assistance. For the period 2006 through 2009, HUD awarded the County more than \$4.3 million in HOME program funds.

The County is governed by a five-member board of county commissioners (board). The board appoints the county manager who is responsible for carrying out the decisions, policies, and ordinances made by the board. The county manager oversees all of the departments under the board including the Human Services Department, which encompasses the Housing and Neighborhood Development Division (Division) that administers the NSP and HOME program.

HUD's Office of Community Planning and Development in Jacksonville, FL, is responsible for overseeing the County's NSP and HOME program. HUD's most recent monitoring report on the County's HOME program, dated October 20, 2008, included a finding that the agreement between the County and its sole community housing development organization (CHDO) did not meet certain Federal requirements. The monitoring report also included a concern that the CHDO did not obtain the required competitive bids for construction contracts.

Our objectives were to determine whether the County (1) complied with requirements in the procurement, award, and execution of its NSP administrative contract and (2) incurred reasonable and eligible NSP and HOME expenditures for administrative and construction contract services.

RESULTS OF AUDIT

Finding 1: The County Did Not Properly Procure Its NSP Administrative Contract and NSP Implementation Services

The County did not comply with requirements for competition and conflict of interest in the procurement of administrative and implementation services for its \$14.5 million NSP. Specifically, it

- Awarded an unsupported contract to administer its NSP;
- Allowed a nonprofit to implement NSP activities, although the services were not competitively procured and the nonprofit did not have a contract with the County; and
- Allowed actual or perceived conflicts of interest in the procurement of NSP services.

The violations occurred because County officials did not adequately plan for the procurement of NSP services and did not implement controls to ensure that procurements complied with requirements. The number and significance of the procurement violations noted in this finding and in findings 2 and 4 bring into question the County's capacity to implement future NSP activities in accordance with competitive contracting requirements. The violations warrant termination of the administrative contract and the services provided by the nonprofit to implement the NSP. Unless the County can correct the violations in a timely manner, the terminations may prevent it from obligating more than \$4 million in NSP funds by the program's statutory 18-month deadline.

The County Violated HUD Procurement Requirements in the Award of the NSP Administrative Contract

The County awarded a contract to administer its \$14.5 million NSP that was not supported because it involved a prohibited arbitrary process in the scoring of ranking factors used to make the award. The regulations at 24 CFR (Code of Federal Regulations) 85.36(c)(1) provide that all procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of section 85.36. Some of the situations considered to be restrictive of competition include but are not limited to noncompetitive pricing practices between firms or between affiliated companies and any arbitrary¹ action in the

¹ Webster's dictionary defines "arbitrary" as actions based on or subject to individual discretion or preference or sometimes impulse.

procurement process. In addition, the County did not prepare an independent cost estimate for the work. The regulations at 24 CFR 85.36(f) state that grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost.

The County assembled a nine-member selection committee to review and score proposals submitted in response to its request for proposal (request) for an administrative contractor. The County received seven proposals for the administrative contract in response to the request. The selection committee determined that five proposals were responsive to the request and were worthy of further consideration in the award process. We limited our review to the five responsive proposals. The request stated that the County would assess the proposals and award the contract based on the following five ranking factors:

<u>Ranking factor</u>	<u>Points</u>
Experience and expertise (organizational capability)	35
Technical & personnel resources (organizational profile)	20
Proficiency in similar projects (project description, time line)	10
References	5
Proposed cost	<u>30</u>
Total	<u>100</u>

The County did not provide the selection committee with instructions on how to implement a County requirement for scoring the price ranking factor, and it did not establish procedures nor did it instruct the selection committee on how to award points up to the maximum for the remaining four ranking factors. These conditions indicate a failure by County officials to adequately plan for the procurement. Specifically, the review revealed the following conditions concerning the price ranking factor and the remaining four ranking factors:

- Price ranking factor - The selection committee did not score price based on the County's procedure because County officials did not provide the committee with instructions on how to implement the requirements. The County's request evaluation procedures provided that if price is one of the evaluation criteria and a point system is used for evaluating the proposals, the lowest priced proposal, as determined by the committee, shall receive the maximum score for the price criteria. The procedures provided that the other proposals shall receive a percentage of the score for price based on the number of proposals received. The procedures also provided that the selection committee shall review the proposals received and independently evaluate each criterion except price and that when the committee first meets, a determination will be made on how to evaluate price. We reviewed the minutes of the selection committee meetings and determined that there were records for only two meetings and at neither meeting did the committee discuss how price should be scored.

We interviewed two selection committee members who were County employees, and they stated that they were not aware of the cited requirement for evaluating price. The score variations discussed below indicate that the selection committee members scored price based on their individual discretion or preference. We could not determine the exact impact of the County's failure to follow its procedures for scoring the price factor because of other scoring problems discussed below for the remaining four ranking factors.

We requested that County purchasing officials recalculate the score for price based on their criteria to determine what the score should have been, but they declined to make the calculation. Therefore, we recalculated the scores for the price factor based on methodology cited in the County's procedures. We then applied the points to the five proposals in place of the scores provided by the nine selection committee members. We discussed the basis for our calculation with the County's purchasing director, who agreed with the basis we used to make the calculation. Based on our assessment, the selected contractor would not have scored high enough to have been included in the top three firms from which the County selected the contractor.

Proposal	Total score for the price ranking factor		Total score for all five ranking factors		Final ranking by	
	County	OIG	County	OIG**	County	OIG
Proposal 5	148	270	618	740	4	1
Proposal 1	182	216	665	699	3	2
Proposal 3	168	162	697	691	2	3
Proposal 2 *	176	108	756	688	1	4
Proposal 4	152	54	594	496	5	5

* Proposal 2 was the contractor selected by the County.

** Adjusted only for the Office of Inspector General's (OIG) reassessment of the price factor.

A County representative stated, " Because the Committee did not discuss and determine the lowest priced proposal as a group the price component of scoring should/must be omitted from the totals." The regulations at 24 CFR 85.36(d)(3) provide that the method in which price is not used as a selection factor can only be used in the procurement of architectural and engineering professional services and that it cannot be used to purchase other types of services. The comment by the County's representative reflects a continued effort to justify the procurement, although it did not comply with the selection method cited in the request or with Federal and County procurement requirements.

- The remaining four ranking factors - The County's failure to establish and/or implement objective criteria for evaluating the remaining four ranking factors resulted in significant unexplained score variations. The score variations were not logical because the selection committee

members all reviewed and scored the same information, which should have resulted in scores with less variance. The following table provides examples of some of the score variations using four of the nine selection committee members for two of the five ranking factors. However, we observed similar score variations by selection committee members for some of the other ranking factors.

Proposal	Committee member A	Committee member B	Committee member C	Committee member D
Ranking factor: experience/expertise (35 maximum points)				
Proposal 1	15	20	29	30
Proposal 2*	30	30	35	35
Proposal 3	15	25	30	35
Proposal 4	15	30	25	25
Proposal 5	20	15	20	35
Ranking factor: proposed cost (30 maximum points)				
Proposal 1	10	20	28	0
Proposal 2*	20	20	30	0
Proposal 3	10	20	28	0
Proposal 4	15	20	20	0
Proposal 5	15	20	26	0

* Proposal 2 was the contractor selected by the County.

For instance, when evaluating experience/expertise for proposal 1, committee member A and committee member D reviewed the same information, but committee member D awarded the factor 30 of a possible 35 points, while committee member A only awarded 15 points. The table reflects similar discrepancies in the scoring of experience/expertise by committee members for proposals 3, 4, and 5 and proposed cost for proposals 1, 3, and 5. Committee member D did not score proposed cost. We interviewed committee member D, who had participated in other County procurement evaluations. He stated that he did not recall, but may not have scored proposed cost because he was instructed not to do so or did not know how he was supposed to score this factor.

We interviewed two members of the selection committee, who were also County employees. They stated that the County did not provide instructions concerning the rationale committee members should use to help them decide how many points to assign within the point range to any of the five ranking factors. This condition indicated a failure by County officials to adequately plan for the procurement. As a result, the committee members were left to use their individual discretion or preference rather than objective criteria to score the ranking factors. The subjective assessments in essence represented an arbitrary process that was prohibited by Federal procurement requirements. The arbitrary process caused or contributed to the scoring variances.

The County's legal representative stated that in his legal opinion, the selection committee awarded the administrative contract in full compliance with procurement procedures. We assessed the opinion and determined that it was not factually supported. The County's position with regard to the procurement reflected a continued lack of understanding of Federal procurement requirements and an unwillingness or lack of ability to comply with the requirements, which County officials either knew or should have known.

The County Violated HUD Procurement Requirements in the NSP Implementation Contract

The County did not have a contract with the nonprofit selected to implement its NSP, and the nonprofit was not selected on a competitive basis. The regulations at 24 CFR 85.36(c)(1) provide that all procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of section 85.36. Our assessment showed that

- NSP implementation services performed by a nonprofit were not competitively procured - The County's NSP contract administrator awarded a noncompetitive contract to a nonprofit to implement the County's NSP. Despite the lack of competition, the County allowed the contract administrator to use the nonprofit to implement practically all phases of its NSP. We interviewed the contract administrator, who stated that it did not select the nonprofit through a competitive process because the selection was made before it submitted the administrative proposal to the County. The contract administrator stated that the nonprofit was the best fit to do the work and there was no other nonprofit in the area that had its credibility and experience. As a result, the County allowed the noncompetitive selection of the nonprofit without the control needed to ensure that the fees for the implementation services were properly set and reasonable.

We observed that the initial June 2009 agreement between the contract administrator and the nonprofit did not include specific compensation rates and/or amounts. The regulations at 24 CFR 85.36(d)(3) provide that the method in which price is not used as a selection factor can only be used in the procurement of architectural and engineering professional services and that it cannot be used to purchase other types of services. The administrative contractor amended the contract with the nonprofit in March 2010 after we raised questions about the agreement. The revised agreement included a fee schedule. However, some of the fees were higher than the fee examples cited in the administrative contractor's proposal.

For example, finding 2 discusses payments made to the nonprofit based on a fee structure that was different from the fee example shown in the contract administrator's NSP proposal. County officials commented that the fee examples were nonbinding and that it was up to the contract administrator to establish the fee amounts because the contract was between the administrator and the nonprofit. The County's comments were not reasonable because the fee structure was not set by a competitive award, the open-ended fee arrangement lacked the safeguards needed to prevent unreasonable costs and abuse, and the County paid the fees instead of the contract administrator.

- The County and not its NSP contract administrator should have contracted with the nonprofit to implement its NSP - The agreement with the nonprofit to implement the County's NSP should have been between the County and the nonprofit rather than the NSP contract administrator and the nonprofit because the County paid the nonprofit for its services. The County's agreement with the contract administrator did not provide funds to pay the nonprofit to implement the NSP. The County paid the nonprofit through a reimbursement arrangement that was separate and apart from the payments the County made to the contract administrator. The payment arrangement indicated that the nonprofit worked for the County despite its separate contract with the County's contract administrator. In essence, the County paid the nonprofit without a contract and at prices negotiated by the contract administrator and not the County. Since the County was responsible for the payments to the nonprofit, the contract for the implementation services should have been between the County and the nonprofit based on a competitive award.

The County commented that it did not understand our logic in criticizing it for failing to have a contract with the nonprofit, which had a contract with the County's NSP administrator. This condition may have been avoided if the County had required the nonprofit to sign as a party to the administrative contract. The proposal submitted by the County's administrative contractor stated that the program described in the proposal was designed by the selected administrative contractor and its nonprofit partner that would implement the program. However, the County did not require the nonprofit to sign as a party to the NSP administrative contract. We discussed this situation with HUD's legal counsel, who stated that the County could not enforce the implementation components of the administrative contract relative to the nonprofit.

- The County did not have adequate contractual safeguards to protect its interest in properties purchased with NSP funds that were titled in the name of the nonprofit. This condition created the problem discussed in finding 2.

The County Improperly Allowed an Apparent Conflict of Interest in the Procurement Process

The review identified two apparent conflicts of interest which the County allowed or took no action to prevent during the procurement of its NSP administrative contract. The regulations at 24 CFR 85.36(b)(3) prohibit an employee, officer, or agent of the grantee or subgrantee from participating in the selection or award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. The regulations at 24 CFR 85.36(c)(1) provide that an organizational conflict of interest is considered to be a prohibited restriction to competition. The County's purchasing procedures manual required employees to follow its code of ethics, which required staff to identify and eliminate participation of any individual in operational situations in which a conflict of interest may be involved. We identified two apparent conflict-of-interest situations:

- One apparent conflict of interest involved a member of the selection committee and the nonprofit partner of the County's NSP administrative contractor. The selection committee member was the executive director of an association in which the contractor's nonprofit partner was a member at the time of the selection process. We reviewed this issue with representatives of HUD's Office of General Counsel, and they concluded that the situation constituted an apparent conflict of interest in violation of Federal regulations.

We noted that the committee member in question was the only one of the nine-member selection committee to award a perfect score to any of the submitted proposals. The proposal that included the perfect score was for the administrative contractor selected by the County.

The County disagreed that there was an apparent or otherwise conflict of interest in the above situation. The County maintained that neither the selection committee member nor the association directly or indirectly benefited from whichever contractor was selected.

- The other apparent conflict of interest involved the prior director of the County's Division and a prior County commissioner, who were affiliated with a firm that submitted a proposal to administer the County's NSP. Although County officials were aware of the affiliations, they considered the firm's proposal to be responsive to the request, and the selection committee included it as one of the five proposals that it evaluated for contract award.

The County acknowledged the apparent conflict of interest in this situation but stated that the issue became moot after the company was not selected to be among the firms included in the short list used to make the final selection.

The County should have disqualified the firm from consideration during the competition instead of allowing it to compete up to the point at which the County selected the short list.

HUD Initiated Preliminary Actions

We briefed HUD's Jacksonville Office of Community Planning and Development, Office of General Counsel, and County officials concerning the above issues during our audit. Although our conclusions were not final at the time, the violations were significant enough to warrant immediate action to address and attempt to resolve them before the County's September 2010 obligation deadline. In response, HUD required the County to

- Rebid the NSP administrative contract and discontinue payment to the contractor until supported by a properly awarded contract.
- Ensure that titles to NSP-acquired properties are in the name of the County or an authorized entity instead of the nonprofit subcontractor of the contract administrator with whom the County had no contract for NSP services.
- Obtain HUD review and approval for all NSP draws that exceed \$25,000.

The County informed HUD that it believed that it selected the NSP administrative contractor in accordance with the County's purchasing procedures. Despite its disagreement with the tentative audit results, the County requested that HUD allow it to forego rebidding its NSP administrative contract and to allow its in-house staff to assume temporary responsibility for the administration and implementation of its NSP with the assistance of the selected contractor and its nonprofit partner.

HUD agreed to allow the County to continue carrying out its NSP with its in-house staff and to allow the completion of activities that were already underway. However, HUD would not allow the County to start new NSP activities using the administrative contractor and its nonprofit partner.

Conclusion

The above violations occurred because County officials did not adequately plan for the procurement of NSP services and did not implement controls that they either knew or should have known to ensure that procurements complied with requirements. The number and significance of the procurement violations bring into question the County's capacity to implement its NSP in accordance with competitive contracting requirements. The violations warrant termination of the

administrative contract and the services provided by the nonprofit to implement the NSP. Unless the County can correct the violations in a timely manner, the terminations may prevent it from obligating more than \$4.4 million in NSP funds by the program's statutory 18-month deadline in September 2010.

Recommendations

We recommend that the Director of the Jacksonville Office of Community Planning and Development determine whether the County

- 1A. Has the capacity to administer its NSP in accordance with HUD's procurement requirements and if not, terminate the County's NSP and recapture all funds that are not obligated to complete ongoing activities at the time this determination is made. This action should be coordinated with recommendation 1D.

We further recommend that the Director require the County to

- 1B. Promptly terminate its NSP administrative contract due to its failure to comply with procurement requirements and deobligate \$745,000 in fees contracted for but not yet paid to the contractor.
- 1C. Promptly terminate the services of the nonprofit currently implementing its NSP.
- 1D. Arrange for the continued administration and implementation of its NSP through the use of County staff or the proper procurement of contractors to administer and/or implement its NSP and ensure the proper obligation of \$4,494,941 that had not been obligated to NSP activities at the time of our review.
- 1E. Ensure that actions are taken to prevent real or apparent conflicts of interest in future NSP procurements.

Finding 2: The County Did Not Have Adequate Safeguards Over the Ownership of Abandoned and/or Foreclosed-Upon Properties Acquired with NSP Funds and Revenues Expected From Their Disposition

The County did not take proper actions to protect the ownership of abandoned and foreclosed-upon properties acquired with NSP funds or the revenues expected from their disposition from loss and misuse between the time of their acquisition and their disposition. The funds were put at risk because the County allowed a nonprofit entity, with whom it had no contract, to acquire abandoned and foreclosed-upon properties in its name without title restrictions and sell the properties. Specifically, the County

- Closed on the purchase for more than \$4.4 million for NSP properties in which the nonprofit held unrestricted title without adequate safeguards. The nonprofit expected to sell the properties to generate more than \$1.7 million in projected revenues also without adequate safeguards to protect the funds from loss or misuse.
- Paid the nonprofit more than \$98,000 for NSP services based on a questionable fee schedule.

As a result, more than \$6.1 million of the County's NSP funds and projected revenue are at risk because the County did not execute an agreement with the nonprofit entity to secure and safeguard the funds from potential loss or attachments and paid the nonprofit more than \$98,000 in questionable fees for NSP services.

The County Did Not Have a Contract With the Nonprofit Entity It Used To Acquire and Sell Properties Acquired With NSP Funds

The County allowed the nonprofit entity to hold title to properties purchased with NSP funds and sell them without a contract with the entity to govern the terms of its holding the titles and subsequent disposition of the properties. As a result, it did not have the safeguards needed to protect the properties from the time of their acquisition to the point of sale and the revenues expected from their disposition from losses or restriction that could result from lawsuits, liens, and judgments against the nonprofit. Also, because the nonprofit held unrestricted title to the properties, there was nothing to prevent it from using the properties as security to obtain loans or secure other financial arrangements.

Office of Management and Budget (OMB) Circular A-133 requires reasonable assurance that funds, property, and other assets are safeguarded against loss from unauthorized use or disposition. The Federal Register, dated October 6, 2008, Vol.73, No. 194, page 58340, provides that units of general local government and

subrecipients must incorporate in agreements with private individuals and other entities that are not subrecipients such provisions as are necessary to ensure compliance with the requirements governing disposition of revenue generated by activities carried out pursuant to section 2301(c). The regulations at 24 CFR 570.501(b) state that the recipients are responsible for ensuring that Community Development Block Grant funds (which included NSP funds) are used in accordance with all program requirements. The use of designated public agencies, subrecipients, or contractors does not relieve the recipient of this responsibility.

The nonprofit was a subcontractor to the County's NSP contract administrator (discussed in finding 1), but it had no contract with the County to implement the NSP. The administrative contract, executed on June 3, 2009, limited the administrator's role to the provision of administrative oversight of the NSP, but it stipulated that the nonprofit would purchase, hold title to, and sell NSP properties. The administrative contract also required the administrator to return program income from property sales to the County. We reviewed this matter with HUD's legal counsel, who determined that the administrative contract provisions related to the nonprofit, including its holding title to and selling NSP-acquired properties, were legally enforceable against the contract administrator but not against the nonprofit because the nonprofit was not a party to the administrative contract.

Specifically, the County designed the implementation of its NSP in such a way that it allowed the nonprofit, with whom it did not have a contract, to

- Hold unrestricted title to all NSP properties planned for acquisition under the program. At the time of our review, the County had closed on the purchase of more than \$4.4 million of the more than \$7.8 million budgeted for NSP property acquisitions in which the nonprofit held unrestricted ownership. We selected and reviewed the recorded deeds for eight NSP properties purchased and titled in the name of the nonprofit. The deeds did not contain restrictions that would limit the nonprofit's use of the properties or protect them from attachment to settle lawsuits, liens, or judgments against the nonprofit or prevent the nonprofit from using the properties to secure loans or other financial obligations.

In response to preliminary actions initiated by HUD, discussed in finding 1, the County executed an indemnification agreement with the nonprofit and said that it would obtain a note and mortgage from the nonprofit in favor of the County for any property it acquired with NSP funds. We examined the indemnification agreement and determined that it did not provide the proper safeguards. During a meeting with County officials on June 22, 2010, the County's legal representative stated that mortgages were recorded between the nonprofit and the County at the time each property was acquired by the nonprofit that provided the type of safeguards we were concerned about. The official later retracted his comment when it was determined that there

were no mortgages recorded between the County and the nonprofit when NSP properties were acquired. About a month later, on July 21, 2010, the County provided copies of recorded mortgages for the NSP properties with the nonprofit as borrower and the County as lender. A representative from HUD's Office of General Counsel reviewed the mortgages and concluded that they did not provide adequate safeguards to protect the County's interest in the properties from the time of their acquisition to the time of their sale.

- Hold title without safeguards to protect the properties from lawsuits, judgments, and other attachments that could arise against the nonprofit and which could jeopardize the more than \$1.7 million in revenues projected to be generated from sale of the properties. We obtained the expected revenue percentage from the proposal submitted by the administrative contractor and projected the revenue amount based on the total acquisition amount titled to the nonprofit multiplied by 40 percent.

We also noted that without a proper contract, the regulations would allow the nonprofit to keep program income despite the County's intentions and expectation that the nonprofit would return the funds to the County. The Federal Register, dated June 19, 2009, Vol. 74, No. 117, page 29224, states that revenue generated from the use of NSP funds and received by a private individual or other entity that is not a subrecipient is not required to be returned to the grantee as was required by section 2301(d)(4). It further states that grantees are strongly encouraged to avoid the undue enrichment of entities that are not subrecipients.

We reviewed records related to the nonprofit's sale of nine NSP-acquired properties and determined that the nonprofit returned to the County more than \$555,000 in revenues generated from the sales. The nonprofit's voluntary compliance with the County's administrative contract to return income to the County was no substitute for the missing agreement and safeguards that should be in place to protect NSP program income. The controls were needed in case the nonprofit was sued and to protect the funds from loss for reasons including but not limited to liens, suits, judgments, fraud, or abuse between the time of the acquisition and the point of sale.

As a result of the above conditions, the County did not have adequate safeguards to protect more than \$6.1 million in NSP acquisition funds (\$4.4 million) and projected revenues from property sales (\$1.7 million) from losses or restriction that could result from the nonprofit's operations.

The County Lacked Adequate Support for NSP Service Fees

The County paid the nonprofit more than \$98,000 in NSP funds for acquisition and inspection services that exceeded the fee amounts contained in the proposal submitted by the administrative contractor. The fees paid in excess of the proposed rates were for all 67 NSP properties acquired from the program's inception through April 30, 2010. The payment occurred because County staff approved fee increases although it did not have the authority to do so. The proposal submitted by the contract administrator contained a schedule that listed examples of service fees, including the acquisition and inspection fees that would be charged for services rendered by the nonprofit. The contract the County awarded to the administrator incorporated the proposal by reference, including the example fee schedule. The fees charged exceeded the amounts cited in the proposal by \$1,550 per property and amounted to more than \$98,000 for the 67 properties.

The regulations at 24 CFR 85.36(b)(2) provide that grantees and subgrantees will maintain a contract administration system which will ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. The County's purchasing procedures manual provided that any amendment, modification, or change order must be approved by the board to be effective, except when a change order decreases the final amount of the contract. Section 16.1 of the NSP administrative contract also required modifications, amendments, or alterations in the terms or conditions to be approved by the board.

After the contract was awarded, the NSP administrator submitted a revised fee schedule to the County's Division. The revision represented a change order that required review by the board to determine whether to approve the request. However, Division staff did not submit the change order to the board but, instead, approved the change order and allowed the increased fee amounts, although the Division did not have the authority to approve change orders. We reviewed the change order and found no justification for the fee increase, which allowed the nonprofit to receive more funds up front during the early phase of the NSP contract. We also noted that Division staff increased the inspection fee by \$50 per property, although the change order did not request the increase.

A representative for the administrative contractor stated that the fees cited in the proposals were examples and that the contractor had requested the County to adjust them based on actual experience after the work started. The representative stated that the request increased the fees for the cited services but decreased fees cited for certain other contract services. A County representative stated that the Division did not seek board approval of the change order because there was no overall increase or decrease in the scope of services. We recognize that in the

proposal, the fee schedules were cited as examples. However, we maintain that the administrator and the nonprofit were bound by the fee schedule and had an obligation to ensure that they could do the work for the proposed amounts. The contract required amendments and modifications to be approved by the board.

Conclusion

The above conditions occurred because County officials did not adequately perform their responsibility to manage and safeguard NSP funds specifically in relation to titles/ownership of acquired properties that were abandoned or foreclosed upon, revenues expected from the sale of NSP-acquired properties, and payments to the nonprofit for NSP services. As a result, more than \$6.1 million of the County's NSP funds and projected revenue are or were at risk because the County did not execute an agreement with the nonprofit entity to secure and safeguard the funds from potential loss or attachments and paid the nonprofit more than \$98,000 based on a questionable fee schedule.

Recommendations

We recommend that the Director of the Jacksonville Office of Community Planning and Development require the County to

- 2A. Reimburse the NSP \$ 4,426,071 ² from non-Federal funds if it does not require and ensure that the nonprofit entity transfers title to all NSP properties purchased in its name to the County or an entity with the legal authority to hold title to properties.
- 2B. Develop and submit for HUD's review and approval a template for a mortgage that includes safeguards needed for past and future NSP property acquisitions to protect them from losses due to lawsuits, liens, and judgments against the nonprofit or other entities used in the future to hold title to NSP properties for the period between their acquisition date and their disposition.
- 2C. Record a mortgage prepared using the HUD-approved template in favor of the County for each past and future NSP acquisition that has not been sold for the full acquisition price to ensure that \$1,770,428 ³ in revenue expected from the sale of the properties is adequately safeguarded and protected.

² This amount (\$4,426,071) is the difference between the contract sales prices for 82 properties titled to the nonprofit entity (\$5,055,021) and the contract sales price (\$628,950) for nine properties that had been sold.

³ This amount was based on the 40 percent rate for projected revenues that was included in the administrative contractor's proposal applied to the \$4,426,071 in NSP funds used for acquisitions.

- 2D. Reimburse the program \$98,550 from non-Federal funds for the fees paid based on a questionable fee schedule if the Director determines that they were excessive and ensure that future services are billed at the contract rate or based on a properly executed contract change order.

Finding 3: The County Understated NSP Acquisition Obligations and Did Not Post Its NSP Quarterly Progress Reports to Its Web Page in a Timely Manner

The County did not accurately report NSP acquisition obligations in HUD's Disaster Recovery Grants Reporting (DRGR) system and did not post NSP performance reports to its Web page in a timely manner. We attribute these conditions to error and a lack of adequate planning and oversight by the County of their NSP. It consistently understated NSP acquisition obligations in DRGR because it reported the net proceeds due from the buyer as the obligation amount rather than the larger gross amount due from the buyer. The inaccurate reports deprived HUD of information it needed to monitor NSP operations and the untimely reports hindered citizens from timely access to information concerning the status of the NSP.

Reporting of NSP Acquisition Obligations Was Inaccurate

We examined all 34 acquisition obligations that the County had posted to DRGR as of December 31, 2009, and determined that it understated the obligations by more than \$54,000 for 31 acquisitions. The Regulations at 24 CFR 85.20 provide that the grantee's financial management system must meet the standard for financial reporting. That standard requires accurate, current, and complete disclosure of the financial results of financially assisted activities in accordance with the financial reporting requirements of the grant.

The understated acquisition obligations occurred because the County systematically and erroneously reported the obligations based on the net cash amounts that were due from the buyer (the County through its nonprofit agent) as shown on HUD-1 settlement statements. The County should have used the settlement statement line for the gross amount due from the buyer as the obligation amount because that amount represented the total acquisition cost. The net amount due from buyer understated the obligations because that amount was reduced for items such as the earnest money deposit and credit for taxes attributed to the seller. As a result, similar understatements occurred for acquisition obligations the County posted to DRGR after December 31, 2009. We informed County officials about the underreported acquisition obligations, and they stated that they would correct the understatements.

We observed that County staff members experienced difficulties when providing responses to our requests for documents to support and reconcile to the entries they posted to DRGR. The delays indicated that the County needed to improve the organization and accuracy of records maintained to support the entries it makes to the system.

Performance Reports Were Not Posted on the County's Web Site in a Timely Manner

At the time of our review, the County had not posted its NSP quarterly performance reports for March 31, 2010, and June 30, 2010, to its Web site. The Federal Register, Vol.73, No. 194, page 58341, dated October 6, 2008, requires that quarterly reports be posted prominently on the grantee's official Web site. This situation occurred because the County did not have adequate controls to ensure that the reports were posted to the Web site in a timely manner. As a result, County residents were not kept informed in a timely manner concerning the progress of the NSP.

Conclusion

We attribute the above conditions to error and the lack of adequate planning and oversight by County officials to ensure the accuracy of NSP acquisition obligations and the posting of the County's NSP quarterly reports to its Web site in a timely manner. The inaccurate reports deprived HUD of information needed to monitor the County's NSP and the untimely reports hindered County residents from gaining timely access to information about the status of the NSP.

Recommendations

We recommend that the Director of the Jacksonville Office of Community Planning and Development require the County to

- 3A. Review and determine whether NSP funds the County obligated after the completion of our on-site review met the requirements for obligations by its obligation deadline date.
- 3B. Complete and post its March 31, 2010, and June 30, 2010, NSP quarterly reports to its Web page and ensure that future quarterly reports are completed and posted in a timely manner.

Finding 4: The County Did Not Require Its CHDO To Obtain Competitive Bids

The County did not require its CHDO to comply with its contract that required it to obtain competitive bids in the purchase of construction services. As a result, the County and the CHDO did not have documentation to support the reasonableness of more than \$1.2 million in construction contract costs examined during the review. We used our staff appraiser to review the sampled construction costs and determined that the costs were reasonable. However, the violations reflected a lack of attention by County and CHDO officials to their responsibility to enforce procurement requirements that were designed to ensure and support the reasonableness of construction costs for HOME-funded projects.

The CHDO Did Not Follow a Competitive Bid Process

The County did not require its CHDO to obtain competitive bids for construction contracts as required by its agreement with the CHDO. The regulations at 24 CFR 92.504 provide that recipients are responsible for managing the day-to-day operations of their HOME program, ensuring that HOME funds are used in accordance with all program requirements and written agreements. The County had not monitored the CHDO in the last 5 years, and there was no evidence that it enforced its contract provision that required the CHDO to comply with Federal procurement requirements.

Article VI of the agreement between the County and its CHDO required the CHDO to comply with the regulations at 24 CFR Part 84. The regulations at 24 CFR 84.43 provide that all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Awards shall be made to the bidder or offeror that is responsive to the solicitation and is most advantageous to the recipient, considering price, quality, and other factors.

We interviewed CHDO officials, who stated that they did not solicit competitive bids from construction contractors but selected the contractors from an established contractor list and requested that firms provide proposals for the construction projects. This statement was significant considering that for 2005 through 2008, the CHDO's general ledger showed that it spent more than \$4.2 million for new construction projects that were completed by five contractors. The payments included work on 28 separate homes. Three of the contractors worked on 25 of the 28 homes and were paid more than \$3.9 million. The award of such a large

portion of the funds to so few contractors in the absence of competition gave the appearance that the CHDO provided preferential treatment to the three contractors.

We examined procurements for 9 of the 28 construction contracts that totaled more than \$1.2 million and determined that in neither instance did the CHDO obtain competitive bids for the work. Instead, it accepted the proposed costs submitted by the firms without competition. In addition, we found no evidence of cost estimates independent of those provided by the contractors. Thus, the files contained no evidence of competition needed to determine and support that the costs were reasonable and that preferential treatment was not given to the three most frequently used contractors. We used our staff appraiser to inspect the nine properties and to determine whether the construction costs were reasonable. The appraiser determined that the construction costs were reasonable.

The above conditions occurred because County and CHDO officials did not fulfill their obligation to enforce procurement requirements that were designed to ensure and support the reasonableness of construction cost paid with HOME funds. The fact that the cost we examined turned out to be reasonable does not justify not enforcing the requirements.

**The County Did Not Resolve Prior
HUD Recommendations Concerning
CHDO Procurement on a Timely
Basis**

The County did not require the CHDO to correct procurement violations on a timely basis, despite a prior HUD review that identified this problem and recommended corrective action. Specifically, HUD's October 2008 monitoring report expressed a concern that contrary to its contract with the County, the CHDO did not obtain bids for construction contract work. The County responded that it was developing a new agreement with the CHDO. As of the date of our review, 11 months had passed since the County's scheduled completion date, but the County still had not completed the actions recommended by HUD. For instance, as of July 26, 2010, the County had just completed the draft CHDO agreement, which County staff members said they planned to submit to the board for approval on August 4, 2010. The draft agreement contained language that would require the CHDO to obtain competitive bids for construction contracts. County staff stated that it would monitor the CHDO on an annual basis to ensure compliance with the contract.

Conclusion

The County had not required its CHDO to obtain competitive bids for contracts awarded for HOME-funded construction despite the fact that HUD had previously brought this matter to its attention. This condition reflected a lack of attention by County and CHDO officials to their obligations to ensure the reasonableness of construction cost paid with HOME funds and prohibit noncompetitive practices that may restrict or eliminate competition.

Recommendations

We recommend that the Director of the Jacksonville Office of Community Planning and Development require the County to

- 4A. Ensure that all future CHDO construction contracts comply with procurement requirements in compliance with its CHDO agreement.
- 4B. Ensure that its staff monitors the CHDO's compliance with requirements designed to ensure that HOME funds used for contract work are reasonable and that the practices do not restrict or eliminate competition.

SCOPE AND METHODOLOGY

We performed the audit from February to July 2010 at the County's Division office located in Bartow, FL, and the HUD Office of Community Planning and Development in Jacksonville, FL.

We did not review and assess general and application controls for computer-processed data that the County entered into HUD's DRGR system for NSP obligations and its general ledger for NSP and HOME revenues and/or expenditures. We conducted other tests and procedures to ensure the integrity of obligations that were relevant to the audit objectives and for expenditures and revenues. Specifically, we examined HUD-1 settlement statements, checks, payment vouchers, and other supporting documentation to determine the accuracy of obligations that the County entered into the DRGR system and for expenditures and revenues that the County entered into its general ledger. The review disclosed that the County entered inaccurate or inadequately supported information into the systems.

The review generally covered the period October 1, 2005, through June 21, 2010. We adjusted the review period when necessary. To accomplish our objectives, we

- Researched HUD handbooks, the Code of Federal Regulations, Federal Registers, OMB circulars, and other requirements and directives that govern the NSP and HOME program.
- Interviewed officials and staff of the County and the HUD Office of Community Planning and Development to obtain a general understanding of the County's NSP and HOME program.
- Obtained legal opinions from HUD's chief counsel in the Office of General Counsel in Jacksonville, FL, on various matters related to procurement and conflicts of interest.
- Assessed the contract the County awarded to administer its \$14.5 million NSP and the services it obtained from a nonprofit to implement the NSP for compliance with procurement requirements.
- Obtained and reviewed DRGR system reports from the County and HUD Office of Community Planning and Development in Jacksonville, FL. We examined all 34 acquisition obligations that the County had posted to DRGR as of December 31, 2009, to determine whether the postings were for legitimate obligations.
- Researched the Lexis-Nexis database and Guide Star nonprofit Web site for possible affiliations and conflicts of interest and public records for recorded deeds and mortgages on NSP-acquired properties.
- Conducted site visits to NSP properties to confirm the existence and location of the properties.

- Assessed a sample of payments that the County made to its administrative contractor to determine whether the fee charged to the County was consistent with the fee schedule provided in the proposal and the executed contract. We examined payment vouchers for \$200,000 of the \$480,000 that the County paid the contractor during the period June 3, 2009, through June 21, 2010. The results apply only to the items selected and cannot be projected to the universe or population.
- Assessed payment invoices submitted by the nonprofit that implemented the County's NSP through a contract with the County's contract administrator. We examined all of the payment invoices, totaling \$219,915 that was billed for the period October 23, 2009, through May 5, 2010.
- Assessed a sample of payments made for new construction in the County's HOME program by the nonprofit that also implemented its NSP. We examined \$1,218,645 of the \$4,214,957 paid by the nonprofit for the period October 6, 2005, through December 31, 2009, for 9 of 28 properties. The review included site inspections with an Office of Inspector General (OIG) appraiser of the nine sample properties for the appraiser to assess whether the construction costs were reasonable. The results apply only to the items selected and cannot be projected to the universe or population.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

INTERNAL CONTROLS

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

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

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

Relevant Internal Controls

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

- Effectiveness and efficiency of program operations - Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Compliance with applicable laws and regulations - Policies and procedures that management has implemented to provide reasonable assurance that program implementation is in accordance with laws, regulations, and provisions of contracts or grant agreements.

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 County violated procurement requirements for the administration and implementation of its NSP (see finding 1).
- The County did not have adequate safeguards over the ownership of abandoned and/or foreclosed-upon properties acquired with NSP funds and revenues expected from their disposition (see finding 2).
- The County did not comply with Program requirements for accurate reporting of obligations in HUD's system (see finding 3).
- The County did not require its CHDO to obtain competitive bids (see finding 4).

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS AND FUNDS TO BE PUT TO BETTER USE

Recommendation number	Ineligible 1/	Unsupported 2/	Funds to be put to better use 3/
1B			\$745,000
1D			\$4,494,941
2A		\$4,426,071	
2C			\$1,770,428
2D	<u>\$98,550</u>		
Total	<u>\$98,550</u>	<u>\$4,426,071</u>	<u>\$7,010,369</u>

- 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.
- 3/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an OIG recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this instance, if our recommendations are implemented, HUD will require the County to (1) deobligate \$745,000 for the improper administrative contract, (2) ensure the proper obligation of or return to HUD \$4,494,941 in NSP funds not yet obligated, and (3) provide proper safeguards to protect \$1,770,428 in projected revenues from loss while the properties are held for sale.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

Comment 1



Bob English - Chairman
Commissioner, District 1

Board of County Commissioners

(863) 534-6450
Fax: (863) 534-7655
bobenglish@polk-county.net

September 10, 2010

Mr. James D. McKay - Regional Inspector General for Audit
U.S. Department of Housing and Urban Development
Region 4, Office of Inspector General - Office of Audit - Box #42
Richard B. Russell Federal building
75 Spring Street, SW, Room 330
Atlanta, GA 30303-3388

RE: Response to OIG Draft Audit Report on NSP and HOME Program

Dear Mr. McKay:

Please accept this letter in response to the draft audit report from the Office of Inspector General (OIG) on the Polk County's NSP and HOME programs received on August 31, 2010. Attached are our written comments addressing the findings and recommendations set forth in your organization's report. The County is proud of its innovative program. We have fully obligated \$14,586,258.00 of NSP funds and have an additional 18 properties under contract to purchase. This will bring the total properties acquired to 110, and total units to a point well above 130 with excess obligations to be covered by recycling of funds. To date, we have sold 13 homes generating over \$782,000 in program income. All of this has been accomplished in just 40 weeks of program activity by dedicated professionals of the highest character in a highly successful public/private partnership serving our citizens in need.

If you have any questions or comments, please do not hesitate to call.

Sincerely,

Bob English – Chairman
Polk County Board of County Commissioners

330 West Church Street - P. O. Box 9005 - Drawer BC01
Bartow FL 33831-9005

Equal Opportunity Employer

RESPONSE TO DRAFT AUDIT REPORT

Finding #1 - The County Did Not Properly Procure Its NSP Administrative Contract and NSP Implementation Services

Comment 1

The County respectfully disagrees with OIG's Finding #1 and the recommendations promulgated there under. The County is proud of its innovative program. We have fully obligated \$14,586,258.00 of NSP funds and have an additional 18 properties under contract to purchase. This will bring the total properties acquired to 110, and total units to a point well above 130 with excess obligations to be covered by recycling of funds. To date, we have sold 13 homes generating over \$782,000 in program income. All of this has been accomplished in just 40 weeks of program activity by dedicated professionals of the highest character in a highly successful public/private partnership.

Comment 2

The County has reviewed the procedures that were followed by the County in connection with its solicitation of a contractor under the County's Request for Proposal (RFP) 09-031-MAR. It is the County's opinion that the County followed purchasing procedures that resulted in a fair, transparent and competitive procurement process.

Comment 3

The RFP called for a "comprehensive detailed approach to administration and implementation of the US HUD approved NSP plan" and required the respondent to "describe in detail the proposed cost to implement the NSP as contained in respondent's proposal." The RFP clearly set forth the County's requirements and criteria for evaluating proposals. The County had a robust response of firms seeking to administer the County's program.

The selection committee was comprised of experienced County professionals. The proposals covered the continuum from administration only, to comprehensive administration and full implementation. The committee recognized that there was a problem in comparing pricing when each of the proposed scopes of work differed so. This problem is reflected in the score sheets where there was a division of opinion about which company submitted the best price, with one member reflecting that price could not be properly evaluated. In response to this dilemma and in compliance with the County's procedures, the committee agreed to short list the top three firms and conduct interviews.

On March 31, 2009, interviews were held with the shortlisted firms. The firms were allowed to make presentations and the committee asked questions to clarify concerns about pricing in relation to the proposed scopes of services offered. Each of the shortlisted firms had the opportunity to review the others' proposals to point out differences, draw distinctions, compare and contrast benefits, particularly with regard to scope and price. The interview phase provided the best forum to properly evaluate the proposals and to resolve outstanding concerns, including pricing. It is clear that each step of the way, the selection committee followed the County's Procurement Procedures. With four levels of review (individual, group, peer, and interview), scope and price were fully and properly evaluated.

Comment 4

OIG suggests that the services provided by a subcontractor required an additional competitive procurement and a separate contract. The County's goal from the beginning was to contract for

Comment 5

the NSP administration and implementation with one vendor. The firm selected through the competitive process included in its proposal that it would contract with the subcontractor for certain services. has always been contractually liable for its subcontractors with protection supported by a Commercial General Liability insurance policy and a Professional Liability insurance policy. In response to OIG's concerns, the County requested and and willingly agreed to execute an indemnification agreement for the benefit of the County backed by insurance coverage and execute an amendment to the agreement between and expressly requiring and to comply with all applicable HUD requirements and agree that the County is specifically a third party beneficiary of the agreement.

Comment 6

In connection with property to be acquired by , has a myriad of obligations to fulfill. is contractually obligated to: "Serve as duplicate intake point of properties For Purchase Program; serve as additional conduit to non-profit partners (Habitat for Humanity, LHAs, CRAs, etc.; Certify environmental conditions; Acquire and manage properties and repairs as needed; Market and sell homeownership properties to LMMI buyers using existing underwriting, verification and closing procedures and adapt to NSP Guidelines where appropriate to insure NSP compliance; Sell or otherwise dispose of rental or demolition properties as appropriate; Maintain up-to-date documentation of transactions in files and in online database as appropriate; Conduct Acquisition Activity Delivery services including: inspect properties, develop construction work write-ups, submit offers to purchase, conduct due diligence in accordance with NSP guidelines and requirements, acquire property; Conduct property management activities including maintenance, upkeep, utilities, insurance, lawn care and pest control; Conduct Developer/Construction Activity Delivery services utilizing County approved work write-up, competitively procure general contractors, subcontractors, and other construction related service providers. Actively manage construction processes including site visits, approval of work performed, inspection coordination and timely processing of construction/contractor invoices; Conduct Disposition Activity Delivery Services including MLS Listings, yard signage, sales promotions, facilitate sales from contract to closing; shall take all appropriate measures to adequately secure all properties purchased through the NSP Program and guidelines for the benefit of Polk County (Note: Polk County is specifically a third party beneficiary under the agreement)."

Comment 7

The properties acquired by under the County's NSP program are secured by a recorded mortgage in favor of the County. The mortgages being obtained are in part purchase money mortgages which have a super priority over any potentially supervening lienors resulting in the highest collateral security protection possible.

Comment 8

Florida is not conducive to a sovereign conveying residential property. In Florida there are implied warranties that accompany any transaction of residential real estate for the protection of any purchaser of residential real estate. Although the warranties arise as a matter of law, they may be defeated by the Florida's law on sovereign immunity. In addition, Florida counties may only convey by a county deed (which is statutory and carries no warranty of title), not a warranty deed, again defeating title protections for a purchaser arising as a matter of law had a non-county party been the Grantor. Accordingly, it is in the best legal interest of the ultimate buyers of the properties that they receive title from a non-sovereign in order to receive the greatest protections afforded by law.

is also a 501(c) (3) not-for-profit corporation that currently operates as, among other things, a Community Housing Development Organization ("CHDO") and administrator of SHIP and HOME funds. began working with the County in 1995 and is respected throughout central Florida. The County believes the contractual protections and qualifications and experience justify the trust placed in it to hold title to the NSP properties until they are ultimately sold to qualifying borrowers/owners.

Comment 9

With respect to NSP property revenues, paragraph 1.1 of the Agreement states: "... the COUNTY'S Housing and Neighborhood Development Division (HND) shall be responsible for administering the funds hereunder....the HND Division shall allocate to the CONTRACTOR in such increments as the Purchasing Department, HND, and CONTRACTOR agree will be required to facilitate efficient operation of the program, as authorized by Title III of the Housing and Economic Recovery Act of 2008 (HERA)." Paragraph 2.3 of the same agreement states: "[t]he funds (allocated to) may be used to pay eligible costs arising from eligible uses incurred after the NSP approval date provided the activities to which such costs are related are carried out in compliance with all applicable requirements."

Comment 10

The County, , and meet every Tuesday to review what was accomplished in the week before and what is to be accomplished in the week ahead. All activities are closely monitored by the County. Each expenditure is reviewed by County staff and is either approved in writing or denied with a request to correct or provide more information in order for it to be approved or ultimately denied. The DRGR reporting system is updated daily by County staff for HUD's review and is in compliance with HUD's reporting requirements. To further protect and provide proper accounting of the NSP revenues, contracted with , Certified Public Accountants, to provide professional accounting services for the proper record keeping of NSP revenues.

Comment 11

The OIG maintains there was an "apparent conflict of interest" resulting from the executive director of the serving on the selection committee. is a broad based not for profit with over four hundred and thirty (430) members including builders, bankers, plumbers, suppliers, and various other associate members. is one of the two hundred and eighty-two (282) other associate members in the County. The other two shortlisted firms said that they would have to contract with or a firm like (if one existed in this geographical area) in order to meet the requirements of the RFP.

Comment 11

, as well as the other members of the Selection Committee, executed a Conflict of Interest Statement prior to performing duties on the Selection Committee. 24 CFR Part 85 (b) 3 prohibits a person from participating in the evaluation of an award of a contract supported by federal funds if the person has a financial or other interest in the firm selected for award. had no interest in either or . The County is unable to locate any standard that indicates that an executive director of a large not for profit association would have a conflict of interest sitting on a county selection committee simply because a dues paying member is a potential subcontractor of one of the respondents being evaluated. Quite simply there is no direct or indirect financial or other benefit of any sort. It is County's opinion that no

Comment 12

impermissible conflict of interest existed, apparent or otherwise, based upon participation on the Selection Committee.

OIG also references a proposal submitted by a group that included a former County Commissioner and the former head of the Housing Division. The County was aware that the group in question may submit a proposal and contacted HUD for guidance. While working through the conflict issue with the HUD counsel's office in Jacksonville, Florida, the selection committee prepared a shortlist of proposers upon which the group in question was not included thereby making the issue moot.

Comment 13

Finding #2 The County Did Not Have Adequate Safeguards Over the Ownership of Abandoned and/or Foreclosed-Upon Properties Acquired with NSP Funds and Revenues Expected From Their Disposition

We respectfully disagree with OIG's Finding # 2 and the recommendations promulgated there under. The County has reviewed the various contractual agreements relating to the County's use of _____ and the _____ in connection with the NSP scope of services and believes that the County has maintained adequate contractual safeguards over the properties, funds, and revenues.

Comment 5

As previously mentioned in our response to Finding #1 and paraphrased below, _____ is contractually liable for its subcontractors in the performance of their work and/or the violation of applicable governmental requirements with protection supported by a Commercial General Liability insurance policy and a Professional Liability insurance policy.

Comment 7

Properties acquired by _____ under the County's NSP program are secured by a recorded mortgage in favor of the County. The mortgages are in part purchase money mortgages which have a super priority over any potentially supervening lienors resulting in the highest collateral security protection possible.

Comment 8

Florida is not conducive to a sovereign conveying residential property. Accordingly, it is most appropriate and in the best legal interest of the ultimate buyers of the properties, that a non-sovereign acquire title to properties to provide the greatest protections afforded by law.

Comment 8

The County believes that given the contractual protections in place and _____ qualifications and experience, _____ is an appropriate firm to hold title to the NSP properties until they are ultimately sold to qualifying borrowers/owners.

Comment 9

With respect to any NSP property revenues, paragraph 1.1 of the _____ Agreement states: "... the COUNTY'S Housing and Neighborhood Development Division (HND) shall be responsible for administering the funds hereunder...the HND Division shall allocate to the CONTRACTOR in such increments as the Purchasing Department, HND, and CONTRACTOR agree will be required to facilitate efficient operation of the program, as authorized by Title III of the Housing and Economic Recovery Act of 2008 (HERA)." Paragraph 2.3 of the same agreement states: "[t]he funds (allocated to _____) may be used to pay eligible costs arising from eligible uses

incurred after the NSP approval date provided the activities to which such costs are related are carried out in compliance with all applicable requirements.”

Comment 10

The County, and meet every Tuesday to review what was accomplished in the week before and what is to be accomplished in the week ahead. All activities are closely monitored by the County. Each expenditure is reviewed by County staff and is either approved in writing or denied with a request to correct or provide more information in order for it to be approved or ultimately denied. The DRGR reporting system is updated daily by County staff for HUD’s review and in compliance with HUD’s reporting requirements. Finally, contracted with a CRA firm to provide professional accounting services for the proper record keeping of NSP revenues.

Comment 14

Polk County previously provided OIG with fees of seven other NSP programs in and out of the Florida where developer fees were significantly higher. The County’s fee schedule of August 27, 2009, was developed as a policy tool that applies not only to , but also to any other non-profit developer that may participate in the Polk County NSP. Considering other NSP program developer fee schedules, the amount of work performed by the developer, the size and diverse locations of Polk NSP Target Areas and the number of political sub-divisions, utility districts and HOAs involved in managing these properties, the Polk County NSP developer fee schedules are on the low end of the scale and are reasonable.

Comment 14

The examples provided in the proposal were for illustrative purposes only and were not binding. The examples were not a substitute for formal fee schedules for contractors. The example was for a very specific (acquisition, rehab, and resale – homeownership) transaction type and did not address the other types of transactions the County would engage in during the course of the program including:

- a. acquisition, rehab, resale
- b. acquisition, demolition, reconstruction, resale
- c. acquisition and transfer to Habitat for Humanity for rehab or new construction
- d. acquisition, demolition and sale to Habitat or other non-profit for new construction

Comment 14

The only fee schedule ever provided to the County in proposal was the description of costs for the administration of the program. This was provided as required by the RFP in order for the review committee to evaluate cost as a component of the proposals. Although the County does not agree with OIG’s interpretation, the County did have the Board approve the single-family and multi-family fee schedules and ratify all previous fees paid in order to cure once and for all the objections raised.

Comment 15

In addition, the performance of construction work write-ups by has never been a component of the developer fee. Rather, it is a distinct billable service that is provided by as a program vendor. This service is performed by licensed General Contractor in the development of biddable construction documents. This work must be performed in order to enable the County to review and approve the repairs to be performed and to create a fair and accurate bid document from which pre-qualified program vendors can

Comment 15

participate in a competitive process. Utilizing in this role creates greater efficiency for the program while still ensuring strict oversight by the County on every property.

The fee was initially estimated to cost \$500 per property and was indicated in the proposal as an example. Approximately nine months later, it was determined that the actual cost of the work was in the range of \$750 per property due to the severely distressed condition of many of the foreclosed homes available for acquisition in the Target Areas, as well as, the related level of detail necessary to create a biddable work write-up. agreed to develop the work write-up, coordinate with County staff to review and modification of the identified work, and to develop the final work write-up into a biddable format for a total of \$550 per property. proposal estimated this work to cost \$500 – the actual program cost differs by \$50.

Comment 16

The fact that provides the service does not diminish the importance of the service. initial estimates for vendor services like these were described in its proposal. OIG has acknowledged that it was provided as an example. The County's NSP was designed to reduce these types of concerns by providing broad authority to implement the "administration and implementation" of the program within the Federal rules and regulations, HUD directives and guidelines and with close oversight by County staff, but without the need for ongoing review and approval by the Board of County Commissioners for every project detail of every property transaction.

Comment 16

Polk County takes very seriously its responsibility to safeguard the integrity of the NSP and the federal funds that are utilized in its implementation and are proud of our success. To that end, one would need to thoroughly understand the program processes, procedures and guidelines that are utilized on a daily basis by Polk County to monitor its administrative contractor and the developer. Many of these processes and procedures have been reviewed by HUD CPD Jacksonville, as well as, HUD Technical Assistance providers. The TA providers, who are considered national experts, have given high marks to the Polk County program for its creative, effective, efficient and transparent approach to program management.

The processes and procedures of the County's NSP program enable daily review of performance and compliance requirements by parties at each level. This includes the contractor review of activities performed by the County where the County has retained certain day-to-day responsibilities of the program. These programmatic checks and balances and the written policies and procedures of the program, coupled with the contractual obligations of and create systemic safeguards that add value to the contractual requirements of the parties and are far more effective than simple contractual requirements typically utilized in other affordable housing activities.

Finding #3: The County Understated NSP Acquisition Obligations and Did Not Post Its NSP Quarterly Progress Reports to Its Web Page in a Timely Manner.

Comment 17

The County respectfully disagrees with OIG Finding #3 and the recommendations promulgated there under. The current report from the DRGR system shows that Polk County has obligated funds correctly concerning the NSP1 requirements. Referencing the July 01, 2010 thru September 30, 2010 Performance Report located on the DRGR database shows that Polk County

Comment 18

has met all requirements of the project with \$14,586,258.00 funds obligated. We want to thank the staff at the Jacksonville Office of Community Planning and Development for their help and training on working within the DRGR system.

Finding #4: The County Did Not Require Its CHDO To Obtain Competitive Bids.

The County has included in the CHDO contract terms that require the CHDO to obtain competitive bids for construction contracts. To ensure that the CHDO is monitored for compliance the Human Services Quality Assurance Manager, _____ has added the CHDO program to his monitor schedule on a yearly basis. We agree with the recommendations set forth by OIG and have sent to HUD Director of the Jacksonville Office of Community Planning and Development copies of the before mentioned items.

OIG Evaluation of Auditee Comments

Comment 1 The County disagreed with finding 1 and the recommendations. The County's response focused on NSP accomplishment without acknowledging the validity and the seriousness of the procurement violations discussed in the finding.

The County was required to comply with federal procurement standards that required it and its subcontractors to conduct all procurement transactions in a manner that provide full and open competition and without arbitrary actions that are considered to be restrictive of completion. The County's procurement violations underscore the need for the corrective actions included in recommendations 1A, 1B, 1C and 1D.

Comment 2 The County commented that in its opinion it followed purchasing procedures that resulted in a fair, transparent and competitive procurement process.

The County's procurement violations involve requirements which it either knew or should have known. The procurement violations presented in the finding rendered the procurement of the NSP administrative contract to be invalid along with a failure by the County and its NSP contract administrator to competitively purchase the services performed by the nonprofit hired to implement the NSP.

Comment 3 The County commented that its request for proposal for NSP administration clearly set forth its requirements and criteria for evaluating proposals. It further commented that the selection committee recognized that there was a problem in comparing pricing, so in response to the dilemma and in compliance with the County's procedures, the committee agreed to short list the top three firms and conduct interviews.

We were aware that the request for proposal listed five ranking factors and explained that a selection committee would evaluate proposals against the five ranking factors. We did not question those components of the request. The finding questioned the County's failure to follow federal procurement requirements and its own requirement for evaluating the price ranking factor and to plan and implement procedures the selection committee should use to evaluate and assign points within the point range for the other four ranking factors. We reviewed the County's purchasing procedures and the request for proposal and found no provision that provided the County with the option to replace the selection method cited in the request (which included the consideration of price) with an interview process. Even if the County's purchasing procedures and the request had contained such a provision it would not have mattered because the provision would have been in violation of federal procurement standards for the type of procurements questioned by the audit. Regulations at 24 CFR 85.36(d)(3) provide that the method in which price is not used as a selection factor can only be used in the procurement of architectural and engineering professional services and that it cannot be used to purchase other types of services.

Comment 4 The County commented that the OIG suggests that the services provided by a subcontractor required an additional competitive procurement and a separate contract. The County commented that its goal from the beginning was to contract for the NSP administration and implementation with one vendor. It also commented that the firm selected through the competitive process included in its proposal that it would contract with the subcontractor for certain services.

When the County planned the NSP it was required to ensure that the plans for administering and implementing the NSP complied with federal procurement standards. Regulations at 24 CFR 85.36c provide that all procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of 85.36. The County did not comply with federal procurement standards when it awarded the NSP administrative contract and the County and its NSP administrator did not comply with federal procurement standards when the administrator awarded a contract to the nonprofit to implement the NSP.

As stated in the finding, the County should have awarded the implementation contract instead of its NSP administrator because the County paid for the implementation services. In effect, the County allowed the NSP administrator to award a noncompetitive contract to the nonprofit and then set the fees to be paid for the services although the nonprofit worked for and was paid by the County and not the NSP administrator.

Comment 5 The County commented that the selected firm had always been contractually liable for its subcontractors with protection supported by a Commercial General Liability insurance policy and a Professional Liability insurance policy. It also commented that in response to OIG's concerns, the County requested and the selected firm and the nonprofit willingly agreed to execute an indemnification agreement for the benefit of the County. It commented that the agreement was backed by insurance coverage and that it executed an amendment to the agreement between them expressly requiring them to comply with all applicable HUD requirements and to include the County as a third party beneficiary. The County further commented that the nonprofit was contractually obligated to take all appropriate measures to adequately secure all properties purchased through the NSP Program and guidelines for the benefit of Polk County.

During the audit, we discussed concerns that we had about the safeguards the County claimed to have over NSP implementation by the nonprofit through its NSP administrative contractor with a representative of HUD's Office of General Counsel. HUD's attorney advised that provisions in the administrative contract for NSP implementation work performed by the nonprofit is not enforceable by the County because the nonprofit was not a party to the administrative contract. We reviewed the indemnification agreement and the amended agreement between the selected firm and the nonprofit referenced in the County's response. We

concluded that the indemnification agreement did not adequately safeguard the County's interest in the NSP-acquired properties.

Comment 6 The County's response recited the nonprofit's responsibilities for implementing the NSP.

The finding did not question the need for or the eligibility of the services performed by the nonprofit. The finding questioned the failure by the County and its administrator to purchase the nonprofit implementation services in compliance with federal procurement requirements.

Comment 7 The County commented that the properties acquired by the nonprofit under the County's NSP program were secured by recorded mortgages in favor of the County. It also commented that the mortgages were in part purchase money mortgages, which have a super priority over any potentially supervening lienors resulting in the highest collateral security protection possible.

The County's comment is misleading in that it gives the impression that the mortgages were already recorded at the time of our review. As discussed in the finding, the mortgages mentioned in the County's response were not recorded when we initiated the review. The County recorded the mortgages only after we brought this matter of safeguards to its attention. Furthermore, during the audit a representative from HUD's Office of General Counsel reviewed the mortgages and concluded that they did not provide adequate safeguards to protect the County's interest in the NSP properties from the time of their acquisition to the time of their sale. We addressed this matter in recommendations 2B and 2C of the report.

Comment 8 The County commented that counties in the State of Florida may only convey by a county deed (which is statutory and carries no warranty of title), not a warranty deed. It added, therefore, that it is in the best legal interest of the buyers of the NSP properties that they receive title from a non-sovereign in order to receive the greatest protections afforded by law. The County also commented that it believed the contractual protections and the nonprofit's qualifications and experience justify the trust placed in the nonprofit to hold title to the NSP properties until they are ultimately sold to qualifying borrowers/owners.

We did not question the validity of the County concern about titling the NSP acquired properties in its name. We questioned the fact that the titles to NSP acquired properties were held by a nonprofit that did not have the contract authority to hold the titles and the County's failure to establish adequate safeguards to protect the NSP funds used to acquire them. It was up to the County to determine how it would comply with requirements to properly safeguard the NSP funds. Recommendation 2A recommends that HUD ensure that the County corrects the concerns raised by the audit.

We did not question the credentials and reputation of the nonprofit the County used to implement the NSP. We questioned the failure by the County and its NSP administrator to purchase the nonprofit services based on federal procurement requirements and to properly safeguard NSP funds used to purchase foreclosed and abandoned properties.

Comment 9 The County's response referenced sections of its administrative contract that stipulated requirements that governed the allocation and use of NSP property revenues.

The finding questioned the fact that the contract did not provide adequate procedures to safeguard the NSP funds used to acquire properties from the date of the acquisitions until the properties were sold.

Comment 10 The County's response explained a process it followed to keep up with and to control its NSP.

We did not question the process referenced in the County's response. We questioned the County's failure to follow procurement requirements and to ensure that NSP funds were adequately safeguarded from loss and abuse.

Comment 11 The County commented that in its opinion no impermissible conflict of interest existed, apparent or otherwise based upon the executive director's participation on the selection committee.

The County provided no information that we had not considered during the audit. As discussed in the finding, we disagree with the County's assessment that there was not an apparent conflict-of-interest in this case. We addressed this condition in recommendation 1E of the report.

Comment 12 The County acknowledged that it had a conflict-of-interest concern involving the proposal submitted by a group that included a former County Commissioner and the former head of the Housing Division. The County said that it contacted HUD for guidance. However, it stated that while working through the conflict issue with HUD, the selection committee prepared a shortlist of proposers. The group in question was not included on the shortlist thus making the issue moot.

As discussed in the finding, the County should have disqualified the group's proposal from the competition. The corrective action for this condition is addressed by recommendation 1E.

Comment 13 The County disagreed with OIG's finding 2 and the recommendations. The County commented that it had reviewed the various contractual agreements related to its use of the selected firm and the nonprofit in connection with the NSP scope of services and believed that the County had maintained adequate contractual safeguards over the properties, funds, and revenues. The County

provided no information in its response which we had not considered during the audit.

We disagreed with the County's response based on the reasons cited in the finding. Specifically, the County allowed the nonprofit to hold title to properties purchased with NSP funds and sell them without a contract to govern the terms of the nonprofit holding the titles and subsequent disposition of the properties. As discussed in the finding, the County did not have adequate safeguards needed to protect the NSP funds from lawsuits, liens, and judgments against the nonprofit between the dates that the properties were acquired and the dates the properties were sold. The corrective action included in recommendations 2A, 2B, and 2C are needed to ensure that NSP funds used to acquire properties are adequately safeguarded.

Comment 14 The County's response failed to recognize federal procurement standards and the cost controls the standards were designed to achieve. The County's comments to justify the questionable fee schedule are not consistent with federal procurement standards and support the basis for recommendation 1A which recommends that HUD determine if the County has the capacity to administer the NSP in accordance with federal procurement standards. Specifically, the County's response stated

- The fee schedule of August 27, 2009, was developed as a policy tool that applied not only to the nonprofit implementing the NSP, but also to any other nonprofit developer that may participate in the County's NSP. The County should have established all NSP services fees in compliance with 24 CFR 85.36. The County was not authorized to develop and to implement a fee schedule based on a noncompetitive method.
- The example fees provided in the selected firm's proposal were for illustrative purposes only, were not binding, and were not a substitute for formal fee schedules for the selected firm's contractors. The County's comment reflects a failure to recognize and to follow federal procurement standards designed to ensure the reasonableness of contract costs. It made no sense for the County to go through a competitive process to only obtain fee examples and to later set the fees based on a noncompetitive method. Regulations at 24 CFR 85.36c provide that all procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of 85.36. Regulations at 24 CFR 85.36f provide that costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with federal cost principles.
- The board approved the single-family and multi-family fee schedules and ratified all previous fees paid although the County does not agree with the

OIG's interpretation. The board's approval of the questionable fee schedule did not resolve our concern about whether the increased fees were reasonable.

- The County provided OIG with fees of seven other NSP programs in and out of Florida where developer fees were significantly higher. The fee amounts provided by the County were not a substitute for its responsibility to independently develop the fee schedule based on competition for the specific scope of work called for by its NSP.

Recommendation 2D appropriately recommends that HUD require the County to reimburse the questionable fee amount if it determines the amount was excessive.

Comment 15 The County commented that the performance of construction work write-ups by the nonprofit was never a component of the developer fee. The County claimed that the fee was a distinct billable service that was provided by the nonprofit as a program vendor. It also commented that the selected firm's proposal estimated this work to cost \$500 but the actual program cost differed by \$50.

The County's comments reflect a failure to recognize and to follow federal procurement standards which, as mentioned in comment 14, require all procurement transactions to be conducted in a manner to provide full and open competition. We also noted that Division staff increased the fee by \$50 per property, although the change order did not request the increase.

Comment 16 The County commented that its NSP was designed to reduce concerns by providing the selected firm broad authority to implement the "administration and implementation" of the program within HUD and Federal rules and regulations, and with close oversight by County staff, but without the need for ongoing review and approval by the board for every project detail of every property transaction. It also commented that many of these processes and procedures have been reviewed by HUD.

As presented in findings 1 and 2, the County did not adequately plan for the NSP procurements, did not execute NSP contracts in accordance with federal procurement requirements, and it did not ensure adequate safeguards for NSP funds used to acquire foreclosed and abandoned properties. The fact that HUD had not previously identified the issues discussed in the report did not relieve the County of its primary responsibility to ensure that its program complied with federal requirements for procurement and the safeguarding of program assets.

Comment 17 The County disagreed with OIG's finding 3 and the recommendations. The County commented that the current report from the DRGR system showed that Polk County had obligated funds correctly concerning the NSP1 requirements. It also commented that the July 1, 2010 through September 30, 2010 performance

report located on the DRGR database showed that Polk County had met all requirements of the project with \$14,586,258 funds obligated.

The finding was accurate in stating that the County understated amounts reported in DRGR for acquisition obligations and that it did not post its DRGR report to its web-page in a timely manner. We did not audit obligations the County made after the time of our on-site review, June 21, 2010, which the County claimed to have put them at the level needed to fully meet the NSP obligation requirement. However, the County is incorrect in its claim that the current DRGR report showed that it had obligated funds correctly concerning the NSP requirements. The accuracy of the reported obligation can only be determined from the source obligation documents and not from the DRGR report. We revised the recommendations because the County claimed that it obligated enough funds after the date of our audit to fully meet the NSP obligation requirement. We deleted recommendations 3A and 3B and replaced them with recommendation 3A which recommended that HUD review and determine the accuracy of the County's NSP obligations made after the completion of our on-site review. We renumbered recommendation 3C to recommendation 3B.

Comment 18 The County agreed with finding 4 and the OIG recommendations.