



U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
OFFICE OF INSPECTOR GENERAL

May 2, 2013

MEMORANDUM NO:
2013-AT-1801

Memorandum

TO: Gary Causey
Director, Office of Community Planning and Development, 4HD

FROM: //signed//
Nikita N. Irons
Regional Inspector General for Audit, 4AGA

SUBJECT: Complaint Review – Apalachicola, FL’s Small Cities CDBG Program

INTRODUCTION

We reviewed the City of Apalachicola’s Small Cities Community Development Block Grant (CDBG) funded by the State of Florida for a marina improvements project in response to a hotline complaint. The complaint was submitted to the U.S. Department of Housing and Urban Development’s (HUD) Office of Inspector General in a letter, dated June 29, 2012. The objectives of the review were to determine whether the City’s CDBG grant application contained a false statement, as alleged by the complainant, that impacted the project’s eligibility for funding and whether the marina improvement project met a national CDBG program objective.

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

METHODOLOGY AND SCOPE

To accomplish the review objectives, we

- Interviewed a HUD field office official in the Office of Community Planning and Development, State of Florida officials in the Department of Economic Opportunity and Office of Housing and Community Development, City officials involved with the marina improvements project, and the complainant.

- Reviewed City and State files on the project.
- Reviewed HUD's policies and procedures regarding CDBG requirements related to the complaint issues.
- Assessed the validity of information in the City's grant application.

The review generally covered the period January 1, 2009, through December 31, 2012. We limited the work to that needed to support whether the complaint was valid and whether the project met a national CDBG program objective.

BACKGROUND

In 1981, Congress amended the Housing and Community Development Act of 1974 to give each State the opportunity to administer CDBG funds for nonentitlement areas, thereby creating the State Administered CDBG Program. Nonentitlement areas (1) include those units of general local government which do not receive CDBG funds directly from HUD as part of the entitlement program, (2) are cities with populations of less than 50,000 (except cities that are designated principal cities of metropolitan statistical areas), and (3) are counties with populations of less than 200,000. As part of the State Administered CDBG Program, also known as the Small Cities CDBG program, States award grants to smaller units of general local government that carry out community development activities. Annually, each State develops funding priorities and criteria for selecting projects. The primary statutory objective of the CDBG program is to develop viable communities by providing decent housing and a suitable living environment and by expanding economic opportunities, principally for persons of low and moderate income.

The City of Apalachicola is a small historical maritime community located on the Gulf of Mexico in the Florida panhandle. Officially established in 1831, it is the county seat of Franklin County and in 2011 had a population of 2,236 residents. The City is governed by a mayor and four commissioners, all of whom are elected at large for 4-year terms. There is also a city administrator, who is responsible for planning, directing, and coordinating all municipal activities, including acting as a liaison with City departments, the mayor and commission, City staff, outside agencies, and the general public. The Planning and Grants department is responsible for writing, administering, and overseeing all grant activity within the City, including the CDBG Small Cities Program grant for the \$484,596 marina improvements project that was the subject of the complaint.

RESULTS OF REVIEW

Finding: The City's CDBG Application Contained a False Statement That Was Not Material to the State's Decision to Fund the City's Grant Application

The complainant's allegation that the City made a false statement in its grant application was true, but the false statement had no impact on the State's decision to award the grant or on the project's eligibility for CDBG funding. This condition occurred because City officials included information in the application relative to the complaint issues, knowing that the information had not been validated. As a result, the complainant was correct in stating that the City's application contained a false statement, but the complainant was not correct in stating that taxpayer funds were expended

under false pretenses. The false statement was not related to a material fact, did not affect the State's decision to fund the project, and did not affect the project's eligibility for funding.

The complainant alleged that the City's grant application contained the following false statement: "...the only other large boat lift in Franklin County was located in Carrabelle and was sold in February 2010." The complaint letter indicated that the City falsely represented that the Carrabelle facility had been sold and was out of business and that taxpayer funds were expended under false pretenses. At the time of the grant application, March 2010, the boat lift located in Carrabelle had not been sold, and the marina was not out of business. The prior and current owners of the Carrabelle marina provided documentation showing that the marina was in business from January through July 2010, which was before and after March 2010 when the City submitted its grant application to the State of Florida. Thus, the statement was false as alleged in the complaint, while the City certified in the application that it contained information that was true and correct. However, the complainant's statements that taxpayer funds were expended under false pretenses was not true and is discussed further below.

The false statements did not involve a material fact or a material omission that impacted the project's eligibility for funding. The regulations at 24 CFR (Code of Federal Regulations) 28.10(b) (1) state that a civil penalty may be imposed upon any person who makes, presents, or submits or causes to be made, presented, or submitted a written statement that the person knows or has reason to know asserts a material fact which is false or omits a material fact and is false as a result of such omission. In this case, the false statement did not involve a material fact and did not affect the project's eligibility to receive the \$484,596 grant awarded by the State of Florida. Thus, despite the false statement, the City's grant met HUD and State requirements for funding and did not result in the expenditure of taxpayer funds under false pretense.

Further, we discussed the complaint with State of Florida officials, who had also received and assessed the complaint. The State's review did not focus on the validity of the complaint's allegation of false statements in the application. Instead, the State focused on whether the alleged false statements affected its decision to fund the project and the project's eligibility as a CDBG activity. The State concluded that the project met HUD and State eligibility requirements, including but not limited to a national CDBG objective. Based on that determination, the State took no further action concerning the complaint and considered the matter to be closed.

We interviewed City officials, who acknowledged that they included the alleged false statement in the application without verifying whether the boat lift had been sold and that the company was out of business. They stated that they included the statement in the application based on what they had heard without confirming the accuracy of the information. The City had not implemented or followed procedures and controls to ensure that only true and accurate information was entered in the application for the CDBG funds.

In conclusion, the complainant was correct in stating that the application contained a false statement, but the complainant was not correct in stating that the false statement resulted in the expenditure of CDBG funds under false pretense. The false statement did not involve a material fact and did not affect the City's eligibility to receive the \$484,596 grant awarded by the State of Florida for the marina improvement project.

RECOMMENDATION

We recommend that the Director of HUD's Jacksonville Office of Community Planning and Development

- 1A. Require the State of Florida to ensure that the City of Apalachicola develops and implements procedures and controls to verify the accuracy of information presented in future applications for funds from the State of Florida's CDBG Small Cities Program.

The city provided a written response (Appendix) which cited agreement with the finding and its plan to implement the above recommendation.

Appendix

AUDITEE COMMENT

