



**Flint Housing Commission
Flint, MI**

**American Recovery and Reinvestment Act Public
Housing Capital Fund Formula Grant**



Issue Date: September 27, 2013

Audit Report Number: 2013-CH-1009

TO: Willie C. Garrett, Director of Public Housing, 5FPH

//signed//

FROM: Kelly Anderson, Regional Inspector General for Audit, Chicago Region, 5AGA

SUBJECT: The Flint Housing Commission, Flint, MI, Did Not Always Administer Its Grant in Accordance With Recovery Act, HUD's, and Its Own Requirements

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final audit report on the Flint Housing Commission's American Recovery and Reinvestment Act Public Housing Capital Fund formula grant.

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

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at (312) 353-7832.



September 27, 2013

The Flint Housing Commission, Flint, MI, Did Not Always Administer Its Grant in Accordance With Recovery Act, HUD's, and Its Own Requirements

Highlights

Audit Report 2013-CH-1009

What We Audited and Why

We audited the Flint Housing Commission's American Recovery and Reinvestment Act of 2009 Public Housing Capital Fund formula grant based upon our analysis of risk factors relating to the housing agencies in Region 5's¹ jurisdiction. Our objective was to determine whether the Commission administered its grant in accordance with Recovery Act, the U.S. Department of Housing and Urban Development's (HUD), and its own requirements. This is the second of two audit reports on the Commission's Recovery Act grants.

What We Recommend

We recommend that HUD require the Commission to (1) provide sufficient documentation or reimburse HUD more than \$960,000 for the unsupported cost estimates, wages, and materials and supplies and (2) reimburse its employees nearly \$22,000 for Federal labor standard wage rates not paid.

What We Found

The Commission did not always comply with the Recovery Act, HUD's, and its own procurement requirements. Specifically, it did not adequately support the cost reasonableness of its architectural services' contracts and Recovery Act funded projects. As a result, HUD and the Commission lacked assurance that more than \$960,000 in Recovery Act formula grant funds was used appropriately.

Also, the Commission did not always follow HUD's and its own contract management requirements for its Recovery Act Capital Fund formula grant. Specifically, it did not (1) issue payments to its contractor in accordance with HUD's requirements for one project, (2) adequately manage its force account labor unit renovations project, and (3) ensure that its own employees were paid the appropriate Federal labor standard wage rates as required by the Davis-Bacon Act. As a result, HUD and the Commission lacked assurance that Recovery Act formula grant funds were used appropriately. Further, the Commission underpaid employees nearly \$22,000.

¹ Region 5 includes the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

TABLE OF CONTENTS

Background and Objective	3
Results of Audit	
Finding 1: The Commission Did Not Always Comply With the Recovery Act, HUD's, and Its Own Procurement Requirements	5
Finding 2: The Commission Did Not Always Comply With HUD's and Its Own Contract Management Requirements	9
Scope and Methodology	14
Internal Controls	16
Appendixes	
A. Schedule of Questioned Costs and Funds To Be Put to Better Use	18
B. Auditee Comments and OIG's Evaluation	19
C. Federal and the Commission's Requirements	24

BACKGROUND AND OBJECTIVE

The Flint Housing Commission operates a public housing program that consists of 10 low-income housing communities with 1,248 units including 133 scattered sites throughout Flint, MI. The following seven housing communities received American Recovery and Reinvestment Act of 2009 formula grant funds: Richert Manor, Mince Manor, Howard Estates, Aldridge Place, River Park, Atherton East, and scattered site homes. Richert Manor is a 132-unit single-room high-rise building. Mince Manor is a 110-unit complex for the elderly. Howard Estates is a family site that consists of 96 townhomes. Aldridge Place is a family site that consists of 97-townhomes. River Park is a family site that consists of 173 townhomes. Atherton East is a family site that consists of 192 units.

The Commission was established by the City of Flint, MI, on July 27, 1964. The Commission's primary funding source is the U.S. Department of Housing and Urban Development (HUD) under the regulation of the State of Michigan's Act 18 of 1933, MCL 125.651-709e. A five-member board of commissioners is appointed by the mayor of Flint to serve a 5-year term. The executive director, appointed by the board, is responsible for general supervision over the administration of the Commission's business and is charged with the management of its housing projects. The Commission administers the projects under its annual contributions contract with HUD.

On February 17, 2009, the President signed the American Recovery and Reinvestment Act. The Recovery Act provided an additional \$4 billion to public housing agencies to carry out capital and management activities, including the modernization and development of public housing. The Recovery Act required that \$3 billion of these funds be distributed as formula grants and the remaining \$1 billion be distributed through a competitive process. In March 2009, the Commission received a formula grant of more than \$2.5 million.

According to the Recovery Act, the Commission was required to obligate 100 percent of its formula grant funds within 1 year, expend 60 percent of the funds within 2 years, and fully expend the funds within 3 years. The Commission had obligated 100 percent of its formula grant funds by March 17, 2010 and had spent 100 percent of its formula grant funds by March 17, 2012.

The Commission used its Recovery Act formula grant funds to procure two architectural and engineering agreements totaling \$238,127 and conduct the following 18 projects totaling more than \$2.3 million in Recovery Act grant funds.

Count	Development	Project	Contract amount
1	Aldridge Place	Drainage improvements	\$300,273
2		Repair or replacement of	
	Scattered sites	fencing	28,475
3	Scattered sites	Basement waterproofing	31,750
4		Repair of sidewalks or entry	
	Mince Manor	drives	40,260
5		Repair or replacement of	
	Howard Estates	porches, sidewalks, or steps	40,721
6		Repair or replacement of	
	Atherton East	porches, sidewalks, or steps	147,000
7		Repair or replacement of	
	Aldridge Place	porches, sidewalks, or steps	80,699
8	Howard Estates	Bathroom floor replacement	45,239
9	Aldridge Place	Kitchen floor replacement	46,938
10	Howard Estates	Repair of parking lots	70,000
11		Repair or replacement of	
	Mince Manor	parking lot	173,500
12		Repair or replacement of	
	Atherton East	parking lots	285,500
13	Richert Manor	Replacement of parking lot	190,717
14	River Park	Repair of parking lot	198,248
15	Richert Manor	Exterior painting	96,025
16	Howard Estates	Exterior renovations	294,027
17	Force account		
	labor	Unit renovations	250,000
18	Richert Manor	Lobby floor replacement	\$8,506
Total			\$2,327,878

For the fiscal years ending June 30, 2008 and June 30, 2009, HUD designated the Commission as substandard physical based on poor physical inspection reports. Since this designation classified the Commission as a troubled public housing agency, execution of the Recovery Act annual contributions contract amendments was the Commission's agreement to additional monitoring and oversight by HUD as deemed necessary in order to ensure proper use of the Recovery Act capital funds. The Commission was notified of HUD's minimum baseline strategy of monitoring and oversight, which included a manual review of all of its Recovery Act Capital Fund grants.

Our objective was to determine whether the Commission administered its Recovery Act formula grant in accordance with HUD's requirements and its own policies. Specifically, we wanted to determine whether it followed HUD's and its own procurement requirements for its Recovery Act formula grant activities.

RESULTS OF AUDIT

Finding 1: The Commission Did Not Always Comply With the Recovery Act, HUD's, and Its Own Procurement Requirements

The Commission did not always comply with the Recovery Act, HUD's, and its own procurement requirements. Specifically, it did not adequately support the cost reasonableness of its architectural services' contracts and Recovery Act-funded projects. The deficiencies occurred because the Commission lacked a sufficient understanding of HUD's and its own requirements and did not adequately monitor its architect. As a result, HUD and the Commission lacked assurance that it paid reasonable prices for more than \$960,000 in Recovery Act Capital Fund formula grant projects.

The Commission Did Not Adequately Support the Cost Reasonableness of Recovery Act Funded Activities

We reviewed 100 percent of the Commission's procurement documentation related to its two contracts for architectural services totaling more than \$238,000 and four projects totaling nearly \$723,000 (the scattered sites basement waterproofing; the Atherton East Apartments repair and replacement of sidewalks, porches, and steps; the force account labor unit renovations; and the Howard Estates exterior renovation projects) to determine whether procurements were conducted in accordance with HUD's and the Commission's requirements during the period of March 18, 2009, through March 17, 2012.

The Commission generally planned for its Recovery Act projects and selected the appropriate method of procurement in accordance with Recovery Act and HUD's requirements. However, the Commission did not evaluate the proposals for architectural services in accordance with HUD's or its own requirements.² Specifically, the procurement file did not include documentation of the architectural firms' written cost proposals. Also, the Commission did not maintain documentation showing that it negotiated with the firms to arrive at a fair and reasonable cost.

The Commission also did not maintain in its procurement files the source documentation for the independent cost estimates prepared for the scattered sites' basement waterproofing project; the Atherton East project to repair or replace the

² 24 CFR (Code of Federal Regulations) 85.36(f) and the Commission's Capital Fund Stimulus Grant procurement policy, and request for proposals for architectural and engineering services.

sidewalks, porches, and steps; and the Howard Estates' exterior renovation project. Since it was a troubled public housing agency, execution of the Recovery Act annual contributions contract amendment was the Commission's agreement to additional monitoring and oversight by HUD as deemed necessary to ensure proper use of the Recovery Act capital funds. This additional oversight included following the obligation submission approval requirements, which required the Commission to submit an independent cost estimate and identify the source of data used to develop the cost analysis (for instance, historical means, previous contracts, etc.). However, neither the Commission nor its architect was able to provide the source data to support the cost reasonableness for these three projects.

Further, the Commission did not maintain support showing that it was cost effective to use force account labor to perform unit renovations. The Commission used the winning bid from a sealed bid procurement performed in 2007 and compared the per unit costs for using a contractor (\$33,508 per unit) against using force account labor (\$22,000 per unit) to support the cost effectiveness of using force account labor. However, the Commission did not maintain documentation to support the estimates, and the estimates were based upon costs for a HOME Investment Partnerships Program grant project, not the Recovery Act formula grant.

The actual costs incurred by the Commission for the Recovery Act formula grant averaged \$5,000 per unit, which is a significant difference from the estimate submitted to HUD by the Commission. Therefore, we were unable to evaluate the estimates submitted by the Commission since the work performed was not the same and the Commission could not detail what work was done in each unit. In addition, the contractor's estimates were nearly 2 years old. According to section VII of Public and Indian Housing Notice 2009-12 and section 10.2 of HUD Handbook 7485.3G, the use of force account labor must be approved only when it is cost effective and appropriate to the scope and type of physical improvements and the authority has the capacity to serve as its own main contractor and maintain an adequate level of routine maintenance during force account activity.

Inadequate Cost Analysis

Neither the Commission nor its architect performed a cost analysis in accordance with HUD's requirements for the Atherton East Apartments project to repair or replace the sidewalks, porches, and steps. The bid package for this project included a cost breakdown form, document 00405, which required all bidders to submit costs for various items of work, including demolition and excavation, masonry porch structures, concrete porch slab, handrails and guards, concrete steps, sidewalk replacement, landscape restoration, allowance, general conditions, overhead and profit, and bond. The Commission and its architect stated that their review of the bid submissions included only those documents requested of all

bidders (including document 00405), and they looked only at the total amount for the project, not the individual line items as required by HUD.³

However, we determined that the individual line items indicated on the cost breakdown form were used to evaluate some bid submissions but not all. Specifically, the lowest bidder for this procurement was Sorenson Gross Construction Services. The Commission and its architect CLM Architects, LLC determined that the dollar value submitted by this contractor appeared too low for the handrails and guards work item. Therefore, Sorenson Gross Construction Services was contacted for clarification of its bid regarding this individual work item, and the Commission and its architect determined this bidder to be nonresponsive because the cost for this work item was determined to be materially unbalanced. The next lowest and ultimately winning bidder was Superior Contracting Group. The various work items were not used to evaluate this bidder. Instead, the Commission and its architect CLM Architects, LLC relied only on the bottom line amount, although the total amount of the work items indicated by Superior Contracting Group on the cost breakdown form was nearly \$24,000 less than the total bid amount indicated on the form. In addition, this contractor's dollar amount of \$6,950 for the masonry porch structures work item appeared low in comparison to the architect's reformatted independent cost estimate of \$25,185 and the other bidders' estimates of \$56,376 and \$63,325 for the same work item.

The Commission Lacked Adequate Procedures and Controls

The Commission lacked a sufficient understanding of HUD's and its own procurement and Recovery Act requirements. The Commission did not adequately monitor the architects' work for the Recovery Act formula grant activities. According to the Commission's modernization director, the sources of data for the independent cost estimates prepared by the Commission's architects were not obtained because the Commission relied on the architects' estimates the same way it would rely on pricing information retrieved online, such as the RS Means Construction Cost Estimate.⁴ Additionally, the Commission did not perform a cost analysis for the Atherton East Apartments project to repair or replace the sidewalks, steps, and porches because the contract was awarded based upon the lowest responsive bidder since the sealed bids method of procurement was used.

The Commission could not explain how the independent cost estimates were used to determine the reasonableness of the contractors' proposed costs or evaluate the

³ HUD Handbook 7460.8, REV-2, paragraphs 10.3.A and 6.12.E

⁴ An online database that provides cost information to the construction industry so contractors in the industry can provide accurate estimates and projections for their project costs. It has become a data standard for government work in terms of pricing and is widely used by the industry as a whole.

separate elements that make up a contractor's total cost proposal or price to determine whether the costs are allowable, directly related to the requirement, and reasonable as required by HUD.⁵ The modernization director said that she had used the independent cost estimates only to assist in determining how much the Commission could budget for a project, not to evaluate the bids that were submitted by the contractors.

Conclusion

The Commission lacked a sufficient understanding of HUD's and its own requirements and did not adequately monitor its architect. As a result, HUD and the Commission lacked assurance that it paid reasonable prices for more than \$960,000 in Recovery Act Capital Fund formula grant projects.

Recommendations

We recommend that the Director of HUD's Detroit Office of Public Housing require the Commission to

- 1A. Provide sufficient documentation to support the reasonableness of \$960,904 in expenses or reimburse HUD \$935,412 (\$960,904 - \$2,147 - \$12,165 - \$8,554 - \$1,820 - \$429 - \$377)⁶ for transmission to the U.S. Treasury for the unsupported costs cited in this finding.
- 1B. Develop and implement an adequate contract administration system that complies with HUD's and its own procurement requirements.

⁵ HUD Handbook 7460.8, REV-2, paragraph 10.3.A

⁶ The reduced amounts were included as part of the recommendations in finding 2.

Finding 2: The Commission Did Not Always Comply With HUD's and Its Own Contract Management Requirements

The Commission did not (1) issue payments to its contractor in accordance with HUD's requirements for one project, (2) adequately manage its force account labor unit renovations project, and (3) ensure that its employees were paid the appropriate Federal labor standard wage rates as required by the Davis-Bacon Act. The deficiencies occurred because the Commission lacked an adequate contract administration system to ensure compliance with HUD's and its own requirements. Further, its staff lacked a sufficient understanding of Federal and its own procurement requirements. As a result, it (1) underpaid nearly \$22,000 to its 20 force account labor employees and (2) overpaid more than \$2,100 due to duplicate payments and nearly \$2,200 due to incomplete work. Further, HUD and the Commission lacked assurance that more than \$21,000 in wages, taxes, appliances, materials and supplies was for its Recovery Act funded projects.

Contract Payments Were Not Issued in Accordance With HUD's Requirements

The Commission made progress payments to its contractor, Superior Contracting Group, for the Atherton East Apartments project to repair or replace the sidewalks, steps, or porches and to CLM Architects, LLC for architectural services performed. However, it failed to ensure that work was completed in accordance with the contract and supporting documentation before it paid for the work.⁷ As of December 2010, Superior Contracting Group had submitted invoices totaling \$147,000 for the entire cost associated with this project. According to the invitation for bids, the contractor's bid submissions, and the executed contract, this project involved work at 10 buildings. However, during walk-through observations performed on April 17, 2013, we determined that 1 of the 10 buildings did not receive any repairs or replacement of sidewalks, steps, or porches. However, the Commission failed to deduct the costs of the activities that were not completed from the progress payments made for this project.⁹

Based on the independent cost estimate for this project, we estimated that the cost to repair or replace the sidewalks, porches, or steps at building 17 was \$1,820 (for a small single unit). In addition, since the Commission's architect oversaw this project, it did not provide adequate contract administration services under its agreement with the Commission. The architect's invoices indicated that \$3,765 was allocated for the construction phase of the Atherton East project. Since the work at 1 of 10 buildings for this project was not completed, we estimated that \$377 (\$3,765 x 1/10) was inappropriately paid to the architect due to the lack of oversight.

⁷ HUD Handbook 7460.8, REV-2, paragraph 11.2.E.7(c)

As a result of our audit, the Commission provided documentation that the repair or replacement of sidewalks, porches, or steps at building 17 of Atherton East Apartments was completed in accordance with contract documents in July 2013. However since this project was completed after the Recovery Act expenditure deadline of March 17, 2012, the Recovery Act formula grant funds associated with this work was ineligible.

The Commission's Force Account Labor Unit Renovations Were Not Adequately Managed

The Commission did not adequately manage its force account labor unit renovations as required by HUD.⁸ Specifically, it did not provide adequate supporting documentation, such as purchase orders, labor logs, inspection reports, and inventory records, for more than \$21,000 in payments for materials and supplies, wages and taxes, and appliances. The Commission inappropriately drew down funds through HUD's Line of Credit Control System to pay duplicate expenses and purchase an appliance that was installed in a housing unit that was not part of a Recovery Act-funded project. The following table shows the total amount of unsupported and ineligible expenses incurred by the Commission for its force account labor.

Payment description	Unsupported payments	Ineligible payments
Materials and supplies	\$12,165	\$0
Wages and taxes	8,554	0
Materials and supplies	0	\$2,147
Appliances	\$429	0
Total	\$21,148	\$2,147

The Commission Did Not Ensure That Its Employees Were Adequately Compensated

For the three contractual agreements reviewed, the Commission generally complied with the requirements of the Davis-Bacon Act. However, the Commission failed to pay the prevailing wage rate for the unit renovations performed by its force account labor employees in accordance with HUD's requirements.⁹ As a result, 20 of its temporary employees were underpaid a total of \$21,861 in wages.

⁸ Section VII of Public and Indian Housing Notice 2009-12 and HUD Handbook 7485.3G, paragraph 10.2

⁹ 24 CFR 968.110(e)

The Commission Did Not Comply With HUD's Requirements

The Commission lacked an adequate contract administration system to ensure compliance with HUD's and the Commission's requirements.¹⁰ Further, its staff lacked a sufficient understanding of Federal and its own procurement requirements. The Commission's modernization director said she did not know why all of the work for the Atherton East Apartments project to repair or replace the sidewalks, porches, or steps was not completed. However as previously discussed, the Commission provided documentation that the contractor completed the work at building 17 of Atherton East Apartments in July 2013 (after the expenditure deadline of March 17, 2012).

Further, according to the Commission's modernization director, the former executive director hired a modernization special project coordinator to oversee the force account labor employees and did not allow her to supervise the work of the coordinator, who generally prepared the purchase orders. However, all staff employees received a copy of the Commission's procurement policy; therefore, he should have been aware of the purchase order requirements. The modernization director said that the former executive director allowed the coordinator to purchase additional items under previously prepared purchase orders. Regarding the duplicate payments, the modernization director said she did not know how the invoices were submitted for payment twice. However, she had contacted the vendor and taken steps to resolve the duplicate payments.

Wages and taxes for the force account labor unit renovations were unsupported because the Commission did not always consider the different funding sources when preparing requisitions for HUD's Line of Credit Control System. Initially, the modernization director provided the personnel director with a breakdown of each employee's work, with consideration of work performed for the grant. However, these procedures were not continued when the coordinator was assigned the responsibility of overseeing the force account labor employees. Therefore, the personnel director no longer received a breakdown of the work performed. Instead, the requisitions were based solely upon the employees' timecard reports, without consideration of the recorded information indicated on the employees' labor logs for the force account labor.

The Commission did not pay its force account labor employees Davis-Bacon wages because the modernization director said that HUD had previously told her that the Commission's regular maintenance wages could be applied. However, she was not familiar with HUD's requirements concerning the Recovery Act

¹⁰ 24 CFR 941.402(b), the Commission's Capital Fund Stimulus Grant procurement policy, and 24 CFR 85.40(a)

formula grant. In addition, she said that HUD's criteria regarding the use of HUD determined wages versus the Davis-Bacon wage rates were not clear.

Conclusion

The Commission lacked an adequate contract administration system to ensure compliance with HUD's requirements. Further, its staff lacked a sufficient understanding of Federal and its own procurement requirements. As a result, it (1) underpaid nearly \$22,000 to its 20 force account labor employees and (2) overpaid more than \$2,100 due to duplicate payments and nearly \$2,200 due to incomplete work. Further, HUD and the Commission lacked assurance that more than \$21,000 in wages, taxes, appliances, materials and supplies was used for its Recovery Act-funded projects.

Recommendations

We recommend that the Director of HUD's Detroit Office of Public Housing require the Commission to

- 2A. Provide documentation or reimburse HUD \$12,165 for transmission to the U.S. Treasury for the materials and supplies for its force account labor unit renovations due to missing or inadequate purchase orders, invoices, receipts, or inventory records cited in this finding.
- 2B. Provide documentation or reimburse HUD \$8,554 from the appropriate fund for transmission to the U.S. Treasury for its force account labor employees due to missing labor logs or labor logs that indicated work on projects other than the Recovery Act formula grant work.
- 2C. Reimburse HUD \$2,147 from its capital funds for transmission to the U.S. Treasury for the duplicate payment made for its materials and supplies for its Recovery Act formula grant force account labor unit renovations.
- 2D. Reimburse HUD \$2,197 from its capital funds for transmission to the U.S. Treasury for the work at building 17 of Atherton East Apartments completed after the expenditure deadline of March 17, 2012.
- 2E. Provide sufficient documentation to support that the appliance was installed in a unit renovated under the Recovery Act formula grant or reimburse HUD \$429 from its capital funds for transmission to the U.S. Treasury.
- 2F. Develop and implement an adequate contract administration system to ensure that its contracts and projects are managed in accordance with HUD's requirements and the Commission's procurement policy.

We recommend that the Director of HUD's Detroit Office of Labor Relations require the Commission to

- 2G. Reimburse its 20 temporary employees \$21,861 from its capital funds for the wages paid for the force labor unit renovations that were less than required by the Davis-Bacon Act.
- 2H. Develop and implement adequate written procedures and controls to ensure that its employees are paid at the appropriate Federal prevailing wage rates for covered contracts or work and provide training to its employees on Federal labor requirements.

SCOPE AND METHODOLOGY

We performed our onsite audit work between December 2012 and June 2013 at the Commission's office located at 3820 Richfield Road, Flint, MI. The audit covered the period March 18, 2009, through March 17, 2012, but was expanded when necessary to include other periods.

To accomplish our objective, we reviewed

- Applicable laws; regulations; Federal Register notices; HUD's program requirements at 24 CFR (Code of Federal Regulations) Parts 85, 902, 905, 941, 965, and 968; 29 CFR Parts 5 and 541; HUD public and Indian housing notices; HUD Handbook 7460.8, REV-2; HUD Handbook 7485.3G; HUD Guidebook 7510.1; the United States Housing Act of 1937 as amended; Office of Management and Budget (OMB) requirements at 2 CFR Part 225; OMB Circular A-133; and OMB Memorandums M-09-10, M-09-15, M-09-21, M-10-08, M-10-14, M-10-17, and M-10-34.
- The Commission's accounting records; annual audited financial statements for fiscal years 2008, 2009, and 2010; bank statements; general ledgers; contract and procurement files; policies and procedures; board meeting minutes for March 2009 through September 2011; organizational charts; program annual contributions contract with HUD; and HUD's Line of Credit Control System information and request for payment. Assessment of the reliability of the data in this system was limited to the data sampled, which was reconciled to Commission's records.
- HUD's files for the Commission.

We also interviewed the Commission's employees and HUD staff.

Finding 1

We reviewed the Commission's architectural contracts and statistically selected four additional projects to determine whether the Commission followed HUD's and its own requirements during the contract administration process during the period March 18, 2009, through March 17, 2012. These contracts and projects included (1) the architectural and engineering contract with CLM Architects; (2) the scattered sites basement waterproofing project; (3) the Atherton East Apartments project to repair or replace sidewalks, porches, or steps; (4) the force account labor unit renovation project; and (5) the Howard Estates exterior renovation project. The total amount of Recovery Act funds spent on the contracts and projects reviewed totaled more than \$900,000.

Finding 2

We used the one contract and four projects selected in finding 1 to review the Commission's contract management process during the period March 18, 2009, through March 17, 2012.

For our site observations, we performed a 100 percent review of the scattered site basement waterproofing activity. We used data mining software to statistically select five buildings to observe the repair or replacement of sidewalks, porches, and steps at Atherton East Apartments and five buildings to observe the exterior renovations at Howard Estates Apartments. We were unable to perform site observations for the force labor unit renovations since the Commission did not maintain documentation of the type of work that was performed and the type of materials or supplies that were used in each of the 49 units renovated.

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

INTERNAL CONTROLS

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

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

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

Relevant Internal Controls

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

- Effectiveness and efficiency of operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Reliability of financial reporting – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.
- Compliance with applicable laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiencies

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

- The Commission did not comply with the Recovery Act, HUD's, and its own procurement requirements (see finding 1).
- The Commission lacked adequate procedures and controls to ensure compliance with HUD's and its own contract management requirements for its Recovery Act formula grant (see finding 2).

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/
1A		\$935,412	
2A		\$12,165	
2B		\$8,554	
2C	\$2,147		
2D	<u>\$2,197</u>		
2E		<u>\$429</u>	
2G			<u>\$21,861</u>
Totals	<u>\$4,344</u>	<u>\$956,560</u>	<u>\$21,861</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 Office of Inspector General (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.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments



FLINT HOUSING COMMISSION

3820 Richfield Rd. • Flint, Michigan 48506
Phone: (810) 736-3050

MI 9-1
Richert Manor
902 E. Court St. 48503
(810) 736-3094

MI 9-1
Garland Apartments
820 & 906 Garland St. 48503
(810) 736-3094

MI 9-1
Forest Park
4060 M.L. King Ave. 48505
(810) 736-3094

MI 9-2
Howard Estates (Family)
801 Flora Park 48503
(810) 234-4614

MI 9-3
Atherton East (Family)
3123 Chambers 48507
(810) 743-4810

MI 9-5
River Park Apartments
(Family)
7002 Pemberton Dr. 48505
(810) 789-3464

MI 9-6
Centerview Apartments
2001 N. Center Rd. 48506

MI 9-8 & MI 9-10
Scattered Site Houses
(Family)

MI 9-11
Mince Manor (Elderly)
3800 Richfield Rd. 48506
(810) 736-3377

MI 9-14
Aldridge Place (Family)
5838 Edgar Holt Drive 48505
(810) 785-8102

MI 9-15
Kenneth M. Simmons Square
2102 Stedron 48504
(810) 787-5910

Section 8 Program
(810) 736-3050

August 27, 2013

Kelly Anderson
Regional Inspector General for Audit-Region 5
U.S. Department of Housing and Urban Development
Office of Inspector General
77 West Jackson Blvd.
Chicago, IL 60604

Dear Ms. Anderson:

In response to the draft, report of your audit dated August 9, 2013 and your Exit Conference on August 22, 2013, regarding the American Recovery and Reinvestment Act Capital Fund Formula Grant 2009S, the Flint Housing Commission would like to give our written comments.

In response to Finding #1:

The Flint Housing Commission disagrees with the statement that the FHC failed to consider cost effectiveness or that expenditures are unsupported.

The Flint Housing Commission acted within reason with hiring architectural firms to supply bid packages for the 2009S ARRA grant. We signed the ACC for the 2009S ARRA Grant on March 3, 2009 and were told that HUD need the ACC's in to them by March 9, 2009 in order to release the funds to the Housing Commission by March 18, 2009. We believe this meant we were receiving the grant funds.

The FHC believed, from the ACC, that we would receive funding, so the FHC put out an ad and a request for proposals on March 8, 2009 for architectural firms to handle the work that would be in the ARRA grant. In the Request for Proposals, it stated on page 6 of the request, "If the funds for the grant do not get approved or released, the funds for the architect/engineering fees will not be available and any and all contracts will be null and void." Contracts were not signed until April 27, 2009, 40 days after we were notified the funds were released.



Fax: (810) 736-0158

Comment 1

Comment 1

Ref to OIG Evaluation

Auditee Comments

Comment 2

The Flint Housing Commission's committee choosing the architectural firm(s) read all proposals, rated all proposals, interviewed the top three candidate and negotiated with the best firms for the amount of the contract based on information we had on file. This is per our Procurement and HUD's Procurement Policy.

Comment 3

All bid packages and contracts were viewed by the architects and recommendations were given to the Housing Commission. The lowest bidder, in all but one case, was the bid that was approved, per HUD regulation CFR 24, Part 85.36, 12 (d)(2)(D). In one instance, the contractor left out a large amount of material and admitted that in his written review. He was deemed un-responsive and we went to the next low bidder.

Comment 4

The Flint Housing Commission did comply with the Recovery Act, HUD's and our own Procurement requirement in hiring architects, we did monitor the architectural work, and since we used low bidder on the projects, we had assurance that we paid reasonable prices for all our contracts with the Recovery Act Capital Fund Grant Formula Grant 2009S.

Comment 5

In Response to Finding #2:

In response to Finding #2, the Flint Housing Commission believes it has an adequate contract administration system in place.

Comment 6

Since the Flint Housing Commission has been given permission in the past, from the Department of Labor, to pay our temporary employees, who did work through the grant, to be paid as a "Maintenance Tech", the FHC was under the understanding that if the work was work that maintenance usually does (on their job descriptions), then we could pay them the maintenance wage to do the same work.

Comment 7

Comment 8

The Flint Housing Commission has already responded to the OIG regarding the change of work that was not recorded in the files properly. This work has been completed and the information submitted to the OIG. In regards to appliances, the FHC removes appliances from units when a move out occurs. These appliances may be installed into a different unit.



Terrence Clark
Executive Director

CC: Anthony Smith, OIG; Richard Wears; Dan Micoff

OIG Evaluation of Auditee Comments

Comment 1 Based upon additional documentation provided by HUD, the deficiency regarding the ineligible obligation related to the architectural and engineering services has been removed from the audit report.

Comment 2 The Commission's procurement and capital fund stimulus grant procurement policies states that for the competitive proposals procurement method, the proposals must be evaluated only on the criteria stated in the request for proposals. They also state that the Commission must maintain records sufficient to detail the significant history of each procurement action. These records should include the basis for contract price.

The Commission's request for proposals for its architectural and engineering services, states that in evaluating proposals, the Commission would contact and request written cost proposals. However its procurement files did not include written cost proposals that were submitted by the top three firms. The request for proposal also states that the Commission would then select and negotiate with that firm to arrive at a fair and reasonable cost. In the event that an agreeable price cannot be obtained, the Commission would begin negotiations with the next lower ranked firm and so on until an agreement has been reached. However, the Commission's procurement files did not include documentation to support that negotiations occurred with the two firms that were awarded the architectural and engineering services contract.

Further, in its obligations submission approval requirements package, dated July 30, 2009, the Commission stated that costs were negotiated using past architectural and engineering fees and the State of Michigan architectural fee schedule. The type of work being completed also played a part in the cost of the architectural fees. However, the Commission did not provide a copy of the previous architectural and engineering fees, and the architectural fee schedule, which was from 2003, did not provide detail of the Commission's analysis of costs.

During the course of the audit, the Commission did not (1) provide documentation that it evaluated the proposals for its architectural and engineering services in accordance with the request for proposals and its own procurement policy or (2) provide the previous architectural and engineering fees or the details of its analysis of the State of Michigan's architectural fee schedule that were used to negotiate costs. Therefore, we determined that it lacked sufficient support that the cost for these services was reasonable.

Comment 3 The audit report has been revised to indicate that neither the Commission nor its architect performed a cost analysis for the Atherton East Apartments project to repair or replace the sidewalks, porches, and steps in accordance with HUD's requirements. As indicated in the report, the instance where the contractor left out

a large amount of material pertained to Sorenson Gross Construction Services' dollar value submitted for the handrails and guards work item.

The report acknowledges that the Commission and its architect performed a cost analysis on Sorenson Gross Construction Services' individual work items. However, an adequate cost analysis was not performed for the individual work items of the winning bidder Superior Contracting Group. Because the Commission did not perform a cost analysis in accordance with HUD's requirements (specifically, 24 CFR 85.36(f)(1) and paragraphs 10.3.A and 6.12.E of HUD Handbook 7460.8, Rev-2), the nearly \$24,000 difference in the total of the individual line items and the total bid amount indicated on the cost breakdown form submitted by Superior Contracting Group was not accounted for. In addition, the contractor's cost for its masonry porch structure work item appeared low in comparison to the architect's independent cost estimate and the other bidders' estimate, but this difference was not evaluated.

Comment 4 We disagree with the Commission that it complied with Recovery Act, HUD's and its own procurement requirements in monitoring its architectural work and assuring reasonable prices for its contracts and projects. As indicated in the audit report and comment 2, the Commission did not properly evaluate its architects' cost proposals in accordance with its policies. Further, it did not always (1) maintain documentation to support independent cost estimates or (2) perform adequate cost analyses for its Recovery Act projects to ensure it paid reasonable prices.

Comment 5 We disagree with the Commission that it had an adequate contract administration system. The audit scope was limited to the period covering the Recovery Act formula grant. Based on the deficiencies cited in both the contract management and contract administration processes, discussed in findings 1 and 2, the Commission did not have an adequate contract administration system for its Recovery Act formula grant.

Comment 6 The Commission did not provide documentation from the Department of Labor regarding permission to pay temporary employees its maintenance technician wages. Rather, the Commission provided documentation in which a HUD labor relations specialist stated in August 2011 that temporary employees who replaced doors on units at one of its apartment complexes could be paid at the rate of the Commission's maintenance tech. However, there was no discussion of Davis-Bacon wage requirements in this correspondence. Further, the work performed in renovating its vacant units, based upon the invoices provided, did not just involve replacing doors. Instead, development-type work was performed, including countertop installations, window installations, floor installations, electrical work (due to the purchase of receptacles), cleaning, painting, and other work.

HUD's regulations and policies (including HUD's Frequently Asked Questions #2, dated October 5, 2009 and 24 CFR 968.110(e)) indicate that the Davis-Bacon wage rates were applicable for the Recovery Act capital fund formula grant. In

addition, HUD's Labor Relations Letter 2004-02 states that force account employees are entitled to receive no less than the wages determined to be prevailing pursuant to the Davis-Bacon Act (for development work) and the prevailing wages determined or adopted by HUD (for operations work). HUD's Making Davis-Bacon Work Guidance states that Davis-Bacon wage rates must be paid to all laborers and mechanics employed in the development. This means the force account labor must receive the prevailing wages applicable to the work they perform.

Since the Commission's documentation did not indicate what type of work was performed in each unit or by each employee for the duration of the force account labor unit renovation project, the Davis-Bacon wage rate was applied to all temporary employees who participated in this Recovery Act project.

Further, the Commission's executive director was instructed by HUD, in email correspondence dated October 8, 2009, to follow the applicable labor standards for its force account labor, including Davis-Bacon wage rates.

Comment 7 We agree with the Commission that it provided documentation regarding the incomplete work discussed in finding 2. The audit report has been revised to reflect that the Commission completed the repair or replacement of sidewalks, porches, or steps at building 17 of the Atherton East Apartments in accordance with contract documents. However, since this work was completed after the expenditure deadline of March 17, 2012, the cost associated with the work is still an ineligible expense of the Commission's Recovery Act capital fund formula grant.

Comment 8 During the administration of its Recovery Act formula grant, the Commission did not maintain inspection records for each unit or inventory records of its appliances. As a result of our audit, the Commission performed an inventory of its appliances and provided its inventory records in July 2013, which included the appliances purchased using Recovery Act funds for the force account labor unit renovation project. These inventory records did not indicate (1) when the appliances were installed in the units, (2) whether they were moved out of a unit, or (3) whether they were transferred, as specified on its inventory log. Based on these inventory records, we concluded that 3 of the 4 appliances purchased with Recovery Act funds were installed in units renovated using Recovery Act funds. However, the Commission did not provide documentation to support that the fourth appliance was ever installed in a unit renovated using Recovery Act funds.

Appendix C

FEDERAL AND THE COMMISSION'S REQUIREMENTS

Finding 1

HUD's Recovery Act Capital Fund Formula Grant Frequently Asked Questions #1, dated April 10, 2009, eligible use of funds, question 8 asked, "...some public housing agencies have made obligations after Recovery Act enactment but before they have received the annual contributions award. With proper support that these obligations are proper and in connection with Recovery Act, will public housing agencies be able to pay costs incurred after enactment but before receiving their annual contributions contract award from Recovery Act Capital Fund resources?" HUD answered that "public housing agencies can begin to obligate Recovery Act funds starting March 18, 2009. The public housing agency must be sure that any obligations it is recording against Recovery Act funds is for new work that has not been previously obligated. Public housing agencies should contact their local field office with questions regarding eligible obligations."

HUD regulations at 24 CFR 85.36(d)(4) define cost analysis as verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits.

HUD regulations at 24 CFR 85.36(f)(1) state that a cost analysis must be performed when the offeror is required to submit the elements of its estimated cost.

HUD Handbook 7460.8, REV-2, paragraph 10.3.A, states that "for every procurement, public housing agencies are required to perform a cost or price analysis to determine that the price is reasonable. Public housing agencies should always compare the prices offered with the independent cost estimate. While this initial cost estimate may not be sufficient for price reasonableness, it can assist the contracting officer in determining the extent to which the offerors understand the public housing agencies' requirements. A cost analysis is an evaluation of the separate elements that make up a contractor's total cost proposal or price to determine whether they are allowable, directly related to the requirement, and reasonable."

Paragraph 10.3.E of the handbook states with respect to price reasonableness that the procurement file should be documented to support the actions taken.

Paragraph 6.12.E of the handbook states that any bid may be rejected if the contracting officer determines that the price is unreasonable. Determining a bid price to be unreasonable includes not only the total price of the bid, but the prices for individual items as well. Any bid may be rejected if the prices for any of the items are materially unbalanced (such as bidding a high price for the first items and then low prices for later items).

Paragraph 7.2.E of the handbook states that price must be a factor in making awards. In terms of evaluating price, a public housing agency has two options, which must be indicated in the

request for proposals: “(2) Where Price and Other Technical Factors are Considered. Under this method, technical factors are first determined and offerors are ranked. Then, prices are evaluated. The public housing agency can award to the offeror whose price and technical factors are the most advantageous to the public housing agency. This method is also known as the ‘trade-off’ method in that the public housing agency trades-off, or weighs the importance of, price versus technical factors. All amendments must be in writing.”

Paragraph 7.2.M of the handbook states that the evaluation of price is made using the cost and price analysis techniques in Chapter 10 and other evaluation processes described in the request for proposals.

Paragraph 7.2.N of the handbook states that after the evaluation committee has evaluated all proposals, the contracting officer should determine a competitive range. The competitive range includes the proposals that have a reasonable chance of being selected for award considering their technical evaluation results and their proposed costs or prices. The contracting officer analyzes the proposed cost or pricing information to decide whether the offers propose a reasonable total cost or price. The contracting officer then considers the combination of technical and cost (the “total package”) presented by each proposal to decide whether it should be kept in the running for negotiations and possible award. Before conducting negotiations, technical proposals included in the competitive range should be classified as acceptable, potentially acceptable, or unacceptable. The competitive range, including the contracting officer’s rationale for it, must be documented in the contract file.

The Commission’s Capital Fund Stimulus Grant procurement policy, adopted by its board of commissioners on September 25, 2009, states the following:

- Section III, Part D, states that the board of commissioners designates the executive director as the contracting officer. The executive director is responsible for ensuring that procurement actions comply with this policy. The executive director may delegate all or some procurement authority as is necessary and appropriate to conduct the business of the Commission. The executive director must appoint delegations of contract authority in writing. The appointment should state the scope and limitations of authority. The executive director or designee(s) must ensure that a cost or price analysis is conducted on responses for all procurement actions that exceed \$2,500.
- Section IV.E.3 discusses evaluations and states that the proposals must be evaluated only on the criteria stated in the request for proposals. When not apparent from the evaluation criteria, the Commission should establish an appropriately appointed evaluation committee.
- Section IV.E.4 discusses negotiations and states that unless there is no need for negotiations with any of the offerors, negotiations should be conducted with offerors that submit proposals determined to have a reasonable chance of being selected for award, based on evaluation against the technical and price factors as specified in the request for proposals.

Regulations at 24 CFR 85.36(b)(9) state that grantees and subgrantees must maintain records sufficient to detail the significant history of a procurement. These records must include but are

not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

The Commission's request for proposals for architectural and engineering services, dated March 5, 2009, states that the housing authority will use the following procedure to evaluate proposals: An evaluation panel (committee) of three or more members will be established. The evaluation panel will evaluate the qualifications of all respondents. The committee will then interview the top three firms. Then the top ranked firm, after the interviews, will be contacted and asked to submit a written cost proposal. The housing authority will then negotiate with that firm to arrive at a fair and reasonable cost. In the event that an agreeable price cannot be obtained, the housing authority will begin negotiations with the next lower ranked firm and so on until an agreement has been reached.

Finding 2

The American Recovery and Reinvestment Act of 2009, January 6, 2009, Public Law 111-5, Section 1606, states that despite any other provision of law and in a manner consistent with other provisions in the Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government based on the Act must be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of Title 40, United States Code.

HUD's Recovery Act Capital Fund Formula Grant Frequently Asked Questions #2, dated October 5, 2009, general question 12, states that the Davis-Bacon wage requirements apply to the activities funded with Recovery Act Capital Fund formula grants.

HUD regulations at 24 CFR 968.110(e) state that with respect to modernization work or contracts over \$2,000 (except for nonroutine maintenance work), all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR Part 70) who are employed by the public housing agency or its contractors must be paid not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor based on the Davis-Bacon Act (40 U.S.C. 276a-276a-5).

HUD regulations at 24 CFR 968.140 state that it is the responsibility of the public housing agency, not HUD, to provide, by contract or otherwise, adequate and competent supervisory and inspection personnel during modernization, whether work is performed by contract or force account labor and with or without the services of an architect or engineer, to ensure work quality and progress.

HUD's Procurement Handbook 7460.8, REV-2, paragraph 1.9, defines inspection as the examination and testing of supplies and services to determine conformance with the contract requirements.

Paragraph 11.2.C of the handbook states that the quality of the inspection is critical, and the authority should ensure that either the architect, engineer, or designated person responsible for

inspection is fully qualified and performs the inspections frequently and thoroughly. “(1) All progress inspections should be documented using an appropriate public housing agency inspection report form. The inspection report should include a description of the work completed and a determination as to whether or not the work is acceptable. If payment is made on a unit price basis, quantities must be verified. If payment is made on a time and materials basis, the report should show that the time charged was spent on public housing agency work and that materials were charged at cost. A copy of the inspection report should be included in the contract file. Based on the progress report, the contracting officer should initiate any needed follow-up actions to ensure that the terms of the contract are being fulfilled.”

Paragraph 11.2.E.7(c) of the handbook states, “The public housing agency should review each contractor request and should approve the payment if the following conditions have been met (if the contractor requests payment for items that have not been acceptably completed, the authority should delete those items and adjust the payment accordingly), including that the work has been performed in accordance with the construction documents.”

HUD’s regulations at 24 CFR 941.402(b) state that the public housing agency must be responsible for contract administration and should contract for the services of an architect or other person licensed under State law to assist and advise the public housing agency in contract administration and inspections to ensure that the work is done in accordance with HUD requirements.

HUD’s regulations at 24 CFR 85.40(a) state that grantees are responsible for managing the day-to-day operations of grant- and subgrant-supported activities. Grantees must monitor grant- and subgrant-supported activities to ensure compliance with applicable Federal requirements and that performance goals are achieved. Grantee monitoring must cover each program, function or activity.

The Commission’s Capital Fund Stimulus Grant procurement policy, adopted by its board of commissioners on September 25, 2009, states in Section IX.D that the Commission must maintain a system of contract administration designed to ensure that contractors perform in accordance with their contracts. These systems shall provide for inspection of supplies, services, or construction, as well as monitoring contractor performance, status reporting on major projects including construction contracts, and similar matters.