



**City of Eagle Pass Housing Authority
Eagle Pass, TX**

**American Recovery and Reinvestment Act
Capital Funds Formula Grant**



Issue Date: August 14, 2013

Audit Report Number: 2013-FW-1007

TO: David G. Pohler, Director of the San Antonio Office of Public Housing, 6JPH

//signed//

FROM: Gerald R. Kirkland,
Regional Inspector General for Audit, Fort Worth Region, 6AGA

SUBJECT: The City of Eagle Pass, TX, Housing Authority Generally Followed Recovery Act Public Housing Capital Fund Requirements

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the City of Eagle Pass Housing Authority's, Eagle Pass, TX administration of the Recovery Act Capital Funds Program.

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

The Inspector General Act, Title 5 United States Code, section 8L, 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 817-978-9309.



August 14, 2013

The City of Eagle Pass, TX, Housing Authority Generally Followed Recovery Act Public Housing Capital Fund Requirements

Highlights

Audit Report 2013-FW-1007

What We Audited and Why

We audited the City of Eagle Pass Housing Authority's (Authority) American Recovery and Reinvestment Act of 2009 (Recovery Act) grant activities. The Authority was selected based on the U.S. Department of Housing and Urban Development's (HUD), Office of the Inspector General's (OIG) annual plan to conduct oversight of the Recovery Act funds provided to public housing agencies and our regional risk evaluation. Our audit objective was to determine whether the Authority (1) properly obligated and spent its Recovery Act formula grant funds, and (2) properly obtained its Recovery Act contracts.

What We Recommend

We recommend that HUD's Director of the San Antonio Office of Public and Indian Housing instruct the Authority to add a term limit to its current architectural and engineering professional service contract and any other open ended contracts currently in effect, and adopt a procurement procedure that ensures future contracts contain the required contract limit maximums.

What We Found

The Authority generally had adequate policies, procedures, and controls to oversee its obligation and expenditure of Recovery Act funds. In addition, it properly obtained its Recovery Act funded contracts in accordance with HUD requirements. However, the Authority made a minor contracting error as it did not ensure one professional service contract had required contract term limits. The Authority did not include the contract term limits because it was unaware of HUD's requirements. By not adopting term limits in its contract, the Authority cannot be sure it is receiving the best price for goods and services under full and open competition.

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BACKGROUND AND OBJECTIVES

The City of Eagle Pass Housing Authority (Authority) was established on March 26, 1949 by the City of Eagle Pass City Council who formed the Authority's board of commissioners. The Authority currently manages 502 low rent units with a current operating subsidy of more than \$839,000.

In February 2009, the President signed the American Recovery and Reinvestment Act of 2009 into law. The Recovery Act provided \$4 billion for public housing agencies to carry out capital and management improvements, including modernization and development of housing. The Recovery Act required public housing agencies to obligate 100 percent of the funds within 1 year of the date on which funds become available to the agency for obligation and expend 60 percent within 2 years and 100 percent within 3 years of such date.

The Authority received \$940,783 in a Recovery Act Capital Fund formula grant to refurbish projects selected from its 1- and 5-Year Action Plan. The Authority received its grant on March 18, 2009. It had until March 17, 2010 to obligate its funds and until March 17, 2012 to fully expend its funds. The Authority planned to remodel one multifamily high-rise building; however, its solicitation failed to find a qualified contractor in a timely manner, which risked the Authority's grant. To reduce risk of not meeting the obligation deadline, the Authority added three projects and subsequently contracted to complete four projects with its Recovery Act funds.

Our audit objectives were to determine whether the Authority (1) properly obligated and spent its Recovery Act formula grant funds, and (2) properly obtained its Recovery Act contracts.

RESULTS OF AUDIT

Finding 1: The Authority Generally Complied with Recovery Act Requirements, But It Had a Minor Contracting Exception

The Authority appropriately obligated and expended its Recovery Act funds according to the requirements. In addition, the Authority had adequate policies, procedures, and controls to generally oversee its Recovery Act funded procurements. However, the Authority made a minor contracting error as it did not ensure one professional service contract had required contract term limits. The Authority did not include a term limit because the Authority was unaware of HUD's policy that requires a finite period for contracts including options. By not adopting term limits in its contract, the Authority cannot be sure it is receiving the best price for goods and services under full and open competition.

The Authority Appropriately Obligated and Expended Its Recovery Act Funds

The Authority established procedures and controls to ensure that it appropriately selected its Recovery Act projects from its 1- and 5-Year Action Plan. The Authority's projects met the Recovery Act's requirements for use of funds. Both the funds expenditures and projects' completion dates met the Recovery Act deadlines. The table below details the cost of the projects and the amount of Recovery Act Funds used.

Recovery Act projects	Project contracted cost	Recovery Act funds used
Multi-family housing remodeling	\$992,000	\$628,456
Air conditioning	143,500	143,300
Playground	45,000	45,000
Window screens	34,027	34,027
Architect & engineering contractor	90,000	90,000
Total	\$1,304,527	\$940,783

The total costs for the Authority's projects exceeded the available Recovery Act grant funds. Therefore, it used its capital funds and other program funds to pay the projects' remaining cost balances.

The Authority Appropriately Procured Services for Its Recovery Act Projects

The Authority had sufficient policies and controls to effectively manage its procurement process. The Authority explained that its primary Recovery Act project required a second solicitation to find a qualified contractor, which pushed the contract closing date to February 2010. In anticipation of not finding a qualified contractor before the obligation deadline, the Authority added three other ready projects. The Authority signed its final Recovery Act contract in February 2010, and completed all of the projects within the deadlines established by the Recovery Act.

The Authority's Service Contract Lacked an End Date

A review of the Authority's architectural and engineering professional service contract found that it lacked an end date. The Authority acknowledged that its contract did not have an end date; however, it stated the contract contained a clause allowing it to terminate the contract so long as it gave no less than 7 days written notice. Further, the Authority was unaware of HUD's policy that required a finite period for contracts including options. HUD views open ended contracts restrictive of competition and requires contract language limiting a contract period to a maximum of 5 years.¹

Conclusion

The Authority generally complied with the Recovery Act's requirements. The Authority appropriately obligated and expended its funds. In addition, the Authority appropriately procured contractors to complete those projects. The Authority had one minor issue concerning the end date or term limit in one contract. This occurred because the Authority was unaware of HUD's policy that requires a finite period for contracts including options. The Authority needs to take steps to ensure its current and future contracts meet contract term limits. By not adopting term limits in its contract, the Authority cannot be sure it is receiving the best price for goods and services under full and open competition. By adopting procedures that limit contract terms in future contracts, the Authority should have better assurance that the goods and services it receives are at the best price and obtained using full and open competition.

¹ HUD Handbook 7460.8 REV-2, Chapter 10.8.C.2

Recommendations

We recommend that the Director of San Antonio Office of Public and Indian Housing require the Authority to

- 1A. Add a term limit to its current architectural and engineering professional service contract and any other open ended contracts currently in effect.
- 1B. Adopt a procurement procedure to ensure that future contracts contain the required contract limit maximums.

SCOPE AND METHODOLOGY

We conducted our audit work at the Authority's administrative offices in Eagle Pass, TX, the San Antonio, TX Office of Public Housing, and the HUD OIG offices in San Antonio and Fort Worth, TX, between May 1 and June 14, 2013. The audit generally covered the period from March 18, 2009, to August 25, 2010.

To accomplish our objectives, we performed the following steps as they related to the Authority's Recovery Act Capital Fund formula grant:

- Reviewed relevant laws, regulations, and HUD guidance.
- Reviewed the Authority's Recovery Act Capital Fund formula grant agreement, annual statement, and 5-Year Action Plan.
- Reviewed the Authority's procurement records and environmental certification.
- Reviewed the Authority's board of commissioners meeting minutes to confirm that the Authority had approved all the Recovery Act Capital Fund contracts.
- We conducted data validation and reliability testing of the Authority's Recovery Act Capital Fund general ledger transactions, and, based on that testing, we concluded that the data was generally reliable for the purposes of our audit objectives.
- Reviewed 100 percent of the Authority's procurements to determine if its obligations met the appropriate deadlines.
- Reviewed 100 percent of the Recovery Act Capital Fund expenditures to confirm that all costs were eligible, supported, and paid by the expenditure deadline.
- Interviewed the Authority's executive director, finance director, and capital funds program supervisor.
- Interviewed the Authority's architect responsible for the Recovery Act Capital Fund projects.
- Conducted site visits to inspect all the Authority's Recovery Act Capital Fund projects.
- Interviewed HUD's Office of Public Housing staff in San Antonio, TX.

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:

- Policies and procedures that management implemented to reasonably ensure that disbursements are timely, eligible, and supported.
- Policies and procedures that management implemented to reasonably ensure that obligations are timely and procurements are 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.

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

Appendix A

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments



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Housing Authority of the City of Eagle Pass

August 6, 2013

Gerald R. Kirkland
819 Taylor Street
Suite 13A09
Fort Worth, Texas 76102

RE: TX019 ARRA Audit Report

Dear Mr. Kirkland:

The PHA has reviewed all contracts and will place on the next Board of Commissioners regular meeting (August 22, 2013) the following items:

Authorize Executive Director To Request Proposals (RFQ's) For Architect and Engineering Services; and

Authorize Executive Director To Request Proposals (RFQ's) For Legal Services.

As of to date these are the only two contracts which need the language as per duration of contracts as it read in HUD handbook 7460.8, Rev- 2, paragraph 10.8.C.2.

Should you have any questions, please feel free to call me at (830)773-5822.

Sincerely,

Carla Mancha
Executive Director

Providers of Safe, Decent and Affordable Housing

Comment 1

OIG Evaluation of Auditee Comments

Comment 1 We appreciate the Authority taking the necessary proactive steps to locate its contracts that did not have a term limit and correct this minor issue. HUD will need to follow-up with the Authority to ensure term limits are added to their current contracts and contracting procedures are created to ensure future contracts contain contract term limits.