



The State of Iowa

CDBG Disaster Recovery Program



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

Issue Date: May 6, 2013

Audit Report Number: 2013-KC-1002

TO: Yolanda Chávez, Deputy Assistant Secretary for Grant Programs, DG

//signed//

FROM: Ronald J. Hosking, Regional Inspector General for Audit, Region 7AGA

SUBJECT: The State Did Not Monitor the City of Cedar Rapids' Voluntary Property Acquisition Program in Accordance With Its Approved Disaster Recovery Action Plans

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 State of Iowa.

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 913-551-5870.



May 6, 2013

The State of Iowa Did Not Monitor the City of Cedar Rapids' Voluntary Property Acquisition Program in Accordance With Its Approved Disaster Recovery Action Plans

Highlights

Audit Report 2013-KC-1002

What We Audited and Why

We audited the State of Iowa's monitoring of the City of Cedar Rapids' voluntary property acquisition program. We selected the State for review based on a prior audit of the City's voluntary property acquisition program. During fiscal years 2009 through 2012, the State awarded the City more than \$166 million in disaster funding. Our audit objective was to determine whether the State monitored the City's voluntary property acquisition program in accordance with its approved Disaster Recovery action plans.

What We Recommend

We recommend that the U.S. Department of Housing and Urban Development (HUD) require the State to update its monitoring checklists to include elements of 24 CFR (Code of Federal Regulations) 85.36(f) and all of the required contract provisions found at 24 CFR 85.36(i).

What We Found

The State did not monitor the City's voluntary property acquisition program in accordance with its approved Disaster Recovery action plans. Its monitoring checklists did not include all of its procurement requirements, such as cost reasonableness and all required contract provisions.

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BACKGROUND AND OBJECTIVE

In the late spring and early summer of 2008, the State of Iowa suffered a series of disastrous tornadoes, followed by record-breaking floods. In May 2008, following these events, the Federal Emergency Management Agency declared various counties in the State as disaster areas. This declaration allowed the counties to receive Federal aid from certain Federal agencies.

The U.S. Department of Housing and Urban Development (HUD) awarded more than \$890 million in disaster funding through its Community Development Block Grant (CDBG) Disaster Recovery program to the State. The appropriation law required the State to submit action plans to HUD, which described the State's overall plan for disaster recovery. Specifically, the State's action plans required it to perform monitoring activities that addressed program compliance with contract provisions, including those related to the national objective, financial management, and regulations at 24 CFR (Code of Federal Regulations) Part 85.

The State tasked the Iowa Economic Development Authority (State) with administering its disaster recovery activities. Created in 2011 to replace the Iowa Department of Economic Development, its mission is to strengthen economic and community vitality by building partnerships and leveraging resources to make Iowa the choice for people and business. The State distributed a substantial portion of the funds for planned activities in the areas of housing buyouts, housing production, and infrastructure projects.

During calendar years 2009 through 2012, the State awarded the City of Cedar Rapids more than \$166 million to carry out the City's voluntary property acquisition (buyout) program. This program assisted property owners and tenants of flood-damaged homes and businesses, allowing them to relocate outside the flood-impacted area. At the time of our review, the City had spent \$23.2 million on procurement contracts for its buyout program.

In a previous audit of the City's buyout program (audit report 2013-KC-1001, issued October 23, 2012), we found that the City did not establish cost reasonableness or include all of the required contract provisions for two of its Disaster Recovery contracts. This report contains a finding on the State's monitoring of the City's buyout program.

The objective of our review was to determine whether the State monitored the City's voluntary property acquisition program in accordance with its approved Disaster Recovery action plans.

RESULTS OF AUDIT

Finding: The State Did Not Monitor the City's Voluntary Property Acquisition Program in Accordance With Its Approved Disaster Recovery Action Plans

The State did not monitor the City's voluntary property acquisition program in accordance with its approved Disaster Recovery action plans. The State's monitoring checklists did not address all of its procurement requirements. As a result, the State did not identify existing procurement violations by the City, and HUD lacked assurance that the State received the best value for the \$23.2 million spent on procurement contracts.

Monitoring Was Not in Accordance With Action Plans

The State did not monitor the City's voluntary property acquisition program in accordance with its approved Disaster Recovery action plans. The State's Disaster Recovery action plans required the State to monitor subgrantees for compliance with contract provisions, including national objectives, financial management, and requirements of 24 CFR Part 85.

Regulations at 24 CFR 85.36(f) required grantees and subgrantees to perform a cost or price analysis in connection with every procurement action. These analyses are used to determine the cost reasonableness of proposed contract costs. During its monitoring, the State did not determine whether the City adequately performed the required cost or price analyses.

Further, regulations at 24 CFR 85.36(i) contained required contract provisions for procurement contracts. During its monitoring, the State did not determine that the City's procurement contracts contained all of the required provisions.

Monitoring Checklists Did Not Address All Procurement Requirements

To conduct its onsite monitoring reviews, the State used a series of checklists covering a variety of activities, including procurement and contract management. However, the State's monitoring checklists did not address all of its procurement requirements set forth at 24 CFR 85.36, which the State's action plans required it to monitor for compliance. The checklists did not include items such as (1) cost reasonableness and (2) all required contract provisions. The procurement

checklist included activities related to (1) written policies, procedures, and code of conduct; (2) requests for proposals; and (3) methods of procurement, including competitive sealed bids and sole source procurement. The checklist did not address the required cost or price analyses found at 24 CFR 85.36(f).

The State's contract management monitoring checklist did not address all required contract provisions found at 24 CFR 85.36(i). Although the checklists included some of the required provisions, it did not include provisions related to (1) notice of awarding agency requirements and regulations pertaining to reporting and (2) compliance with all applicable standards, orders, or requirements issued under the Clean Air and Clean Water Acts, including the Environmental Protection Agency regulations relating to energy efficiency.

Violations Were Not Identified

The State did not identify the City's existing procurement violations, and HUD lacked assurance that the State received the best value for the \$23.2 million spent on procurement contracts. On July 21, 2011, the State conducted a monitoring review of the City's procurement for its voluntary property acquisition program. The State did not find any instances of noncompliance. However, a later Office of Inspector General (OIG) audit of the City (audit report 2013-KC-1001, issued October 23, 2012) found that the City did not establish cost reasonableness or include all of the required contract provisions for two of its Disaster Recovery contracts.

Recommendations

We recommend that HUD's Deputy Assistant Secretary for Grant Programs require the State to

- 1A. Update its monitoring checklists to include elements of 24 CFR 85.36(f) and all of the contract provisions required by 24 CFR 85.36(i).

SCOPE AND METHODOLOGY

Our review period covered October 1, 2009, through September 30, 2012. We performed onsite work from November 26, 2012, through January 11, 2013, at the State offices located at 200 Grand Avenue, Des Moines, IA.

To accomplish our objective, we reviewed

- Applicable Code of Federal Regulations, the Stafford Act, and Office of Management and Budget circulars;
- The State CDBG Disaster Recovery (1) action plans, (2) Management Guide, (3) policies and procedures, and (4) monitoring plans and review reports;
- HUD CDBG Disaster Recovery monitoring review reports;
- Applicable sections of the Iowa Administrative Code;
- Other relevant reviews and the State's single audit reports;
- Relevant grant agreements and related contractor contracts; and
- Voluntary property acquisition program expenditures.

We also interviewed relevant Iowa Economic Development Authority and contractor staff.

We reviewed a sample of 4 of the City's 145 voluntary property acquisition program expenditures that the State had submitted to HUD as of November 29, 2012. Our sample contained expenditures from each of the major activities of the City's program, which consist of (1) property acquisition, (2) demolition, (3) relocation assistance, and (4) administrative fees. We reviewed the two draws with the highest dollar values, which included significant expenses for property buyout and relocation activities. In addition, we reviewed the draws with the highest demolition and administrative fee expenditures to ensure that our sample contained expenditures from each of the four activities. Cumulatively, we tested nearly \$7.1 million of the more than \$79 million in expenditures.

We also reviewed the two onsite monitoring review reports the State performed for the City's voluntary property acquisition program to determine whether the monitoring activities complied with applicable regulations, policies, and procedures. We noted issues with the State's monitoring of the City's procurement process as detailed in the finding.

We relied on the City's and the State's computer-processed data. We performed sufficient tests of the data using data analysis techniques, and based on the assessments and testing, we concluded that the data were sufficiently reliable to be used in meeting our objective.

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 objective:

- Controls over the monitoring of the State's Disaster Recovery program subrecipients.

We assessed the relevant controls identified above.

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

Significant Deficiency

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

- The State's monitoring checklists did not address all of its procurement requirements and, therefore, did not ensure that subrecipients complied with applicable laws and regulations.

Appendix A

AUDITEE COMMENTS

Auditee Comments

The auditee elected not to provide written comments.

Appendix B

CRITERIA

24 CFR 85.36

(f) Contract cost and price

1. Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, 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, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.
2. Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
3. 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 (see Sec. 85.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(i) Contract provisions.

A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

1. Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

2. Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
3. Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)
4. Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. [United States Code] 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)
5. Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)
6. Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327A 330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)
7. Notice of awarding agency requirements and regulations pertaining to reporting.
8. Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
9. Awarding agency requirements and regulations pertaining to copyrights and rights in data.
10. Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
11. Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.
12. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations

(40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

13. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94A 163, 89 Stat. 871).

State of Iowa Disaster Action Plan for Disaster Recovery #2 - Utilizing Supplemental CDBG Disaster Recovery Funding from the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Public Law 110-329)

Monitoring Standards and Procedure

The State will utilize time-tested State of Iowa CDBG Program monitoring policies and procedures for ensuring compliance with federal guidelines. These policies and procedures are consistent with those used by HUD to monitor state-administered and entitlement programs. In addition, the office of the Auditor of State (which reports to the Governor and the Legislature) and HUD frequently perform monitoring, assessment or auditing to ensure that the State is in compliance with state and federal rules and regulations and to assist the state in providing guidance to CDBG recipients. The CDBG Program responds to these independent internal audit functions by modifying internal and external administration of the funding.

The State will utilize its existing monitoring process to ensure that all contracts funded under this disaster recovery allocation are carried out in accordance with federal and state laws, rules and regulations. Expenditures will be disallowed if the use of the funds does not address disaster-related needs or are clearly not for the greatest needs. In such case, the local government receiving the funding would be required to refund the amount of the grant that was disallowed. The State will develop revised monitoring checklists, appropriate for the Disaster Recovery funding, and applicable waivers and alternative requirements. In addition to the usual information collected through the CDBG Monitoring Checklist, the revised version will include a set of questions designed to address the issue of non-duplication of benefits.

In determining appropriate monitoring of the grant, the State will consider prior CDBG grant administration, audit findings, as well as factors such as complexity of the project. The State will determine the areas to be monitored, the number of monitoring visits, and their frequency. All grants will be monitored at least once on site during the life of the activity. The monitoring will address program compliance with contract provisions, including national objective, financial management, and the requirements of 24 CFR Part 85. The State will utilize the checklists similar to those used in monitoring regular program activities.