



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

September 30, 2014

MEMORANDUM NO:
2014-DE-1802

Memorandum

TO: LeRoy Brown
Director, Denver Office of Community Planning and Development, 8AD

Craig Clemmensen
Director, Departmental Enforcement Center, CACB

//signed//

FROM: Ronald J. Hosking
Regional Inspector General for Audit, Denver Region, 8AGA

SUBJECT: Complaint Allegations Substantiated - City of Colorado Springs' HOME and CDBG Programs

INTRODUCTION

We audited the City of Colorado Springs (City) in response to a citizen's complaint received by our office. The complainant alleged the City committed HOME Investment Partnerships Program (HOME) funds without written agreements, delayed the reporting of Community Development Block Grants (CDBG) program income in a timely manner, and improperly charged some of its program and administrative costs to its HUD grants. Our objective was to determine whether the allegations were valid.

The allegations related to commitment of HOME funds without written agreements were valid. The City fabricated a contract to avoid deobligation of more than \$68,000 in HOME funding. In addition, the City committed four projects totaling \$1.625 million in HOME funds without written agreements.

The allegations related to the failure to report CDBG program income in a timely manner were valid. The City received CDBG program income on January 4, 2013 but did not deposit the funds until February 14, 2013 in order to avoid a deficiency in HUD's January 31, 2013 review of the City's timely expenditure of CDBG funds.

The allegations related to improper charging of program and administrative costs were also valid. The City improperly charged at least 50 percent of the salaries for two of its administrative staff

as direct program costs. In addition, the City paid more than \$20,000 in HOME and CDBG funds for the maintenance and cleaning of a vacant office building.

This memorandum addresses the allegations made by the complainant so that HUD can take quick action regarding the fabricated HOME contract and recapture the funds immediately. We plan to initiate two separate audits of the City's HOME and CDBG programs to develop the issues identified in this memorandum. Those reports will also address recommendations related to the other issues identified in this memorandum.

SCOPE AND METHODOLOGY

To achieve our audit objective, we conducted interviews with

- The HUD's Office of Community Planning and Development management and staff located in its Denver, CO, office;
- The City's management and staff;
- The City of Colorado Springs, Office of the City Auditor, management and staff; and
- Relevant City contractors

We also reviewed the following documents:

- Federal regulations and HUD requirements;
- Prior HUD monitoring reviews;
- Grant agreements and written communications with HUD;
- Initial citizen complaint;
- The City Auditor's report 14-06, dated April 2014;
- The City's budgetary reports, accounting records, financial source documentation, inventory of HOME funded loans, and payroll reports;
- The City's HOME project files; and
- The City's written policies and procedures for CDBG and HOME

For this memorandum, we traced or verified information for each allegation to supporting documentation to draw our conclusions. Therefore, we did not rely on computer-processed data or select samples for our audit purposes.

We did not conduct our work in accordance with generally accepted government auditing standards. However, this had no effect on the significance of the conditions identified in this memorandum report. We designed the review with focus on validating the complaint allegations. As a result, we significantly reduced the scope to items and conditions discussed in this report. We believe that the evidence obtained provides a reasonable basis for our findings based on our objectives.

Our audit generally covered the period January 1, 2009, through December 31, 2013, and was expanded as necessary. We performed our work from July to August 2014 at the City's administrative offices located at 30 S Nevada Ave, Suite 604, Colorado Springs, CO 80903.

BACKGROUND

The Housing Development Division (Division) administers the City's Affordable Housing, Capital Improvement, Housing Rehabilitation, and Human Service Funding programs. The Division is located within The Office of Economic Vitality that reports to the City of Colorado Spring's Mayor's office. The Division's main offices are located at 30 S Nevada Ave, Suite 604, Colorado Springs, CO 80903.

The Division's mission is to provide oversight and administration of Federal and local programs through the development of partnerships, preservation of neighborhoods, affordable housing development and preservation, and stimulating economic revitalization.

In fiscal year 2013, the City received nearly \$2.5 million in CDBG funds and nearly \$1 million in HOME funds. In administering its Federal grants, the City must follow Federal regulations including those in the Code of Federal Regulations, Office of Management and Budget circulars, HUD handbooks, and the Department's policies and procedures.

The objective of our review was to determine the validity of allegations that the City committed HOME funds without written agreements, delayed the reporting of CDBG program income in a timely manner, and improperly charged some of its program and administrative costs to its HUD grants.

We grouped the specific allegations from the complaint as follows:

Home Commitments Without Written Agreements

- The City altered a written agreement to avoid losing \$68,681 in HOME funding.
- The City committed four projects totaling \$1.625 million in HOME funds without written agreements.

Delayed the Reporting of CDBG Program Income in a Timely Manner

- The City received CDBG program income on January 4, 2013 but did not deposit the check until February 14, 2013

Improperly Charged Some of its Program and Administrative Costs to its HUD Grants

- The City improperly charged at least 50% of the salaries for two of its administrative staff as direct program costs.
- The City paid \$20,304 in HOME and CDBG funds for the maintenance and cleaning of a vacant office building.

RESULTS OF REVIEW

The results of our review for each specific allegation are as follows:

The complainant alleged that the City altered a HOME contract to avoid losing funds. We substantiated this allegation.

The City's former executive director fabricated a written agreement to avoid losing more than \$68,000 in HOME funding. The City altered a HOME written agreement without support and without informing the contractor, and sent false written statements to HUD in order to avoid deobligation of its HOME funding.

The HOME statute, Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990 as amended, at Section 218(g) (42 U.S.C. 12748) states: "If any funds becoming available to a participating jurisdiction under this title are not placed under binding commitment to affordable housing within 24 months after the last day of the month in which such funds are deposited in the jurisdiction's HOME Investment Trust Fund, the jurisdiction's right to draw such funds from the HOME Investment Trust Fund shall expire."

The HOME Program regulation at 24 CFR 92.2, fully defines the term "commitment" to mean a "legally binding agreement" or an "executed written agreement".

On July 13, 2013, HUD informed the City of a shortfall of more than \$68,000 in the City's timely commitment of HOME funds. In order to avoid deobligation of these funds, HUD requested to see any commitment of HOME funds made prior to the commitment deadline of June 30, 2013.

On July 30, 2013, the City's former executive director stated to HUD in a written communication that one of its earlier executed HOME contracts, originally for less than \$345,000, was actually more than \$430,000 due to a clerical error. The City sent HUD a contract with the higher amount in the face and body of the contract. However, the signatory page showed the amount of less than \$345,000 printed on it but this amount was crossed out and more than \$430,000 was hand-written in its place. The former executive director also stated to HUD that the City had sent written communication to the contractor informing them of this clerical error. The City provided a copy of this written communication to HUD as support for the increased commitment amount.

HUD accepted the City's statements and written representations and halted the deobligation of the shortfall.

We found the original contract was for the lower amount of less than \$345,000. Additionally, we found no documentation or change orders to support the higher amount. The contractor stated they signed the contract for less than \$345,000 and that they lacked the capacity to take on a contract for more than \$430,000. They said they were never informed of any amendment to the original contract nor did they receive the letter the City told HUD it sent to the contractor.

The complainant alleged that the City committed HOME funds without written agreements. We substantiated this allegation.

The City committed four projects totaling \$1.625 million in HOME funds without written agreements.

Grantees of HOME and CDBG funds use HUD’s Integrated Disbursement and Information System (IDIS) to report the commitment and use of their grant funds. To report the commitment of HOME funds to selected projects, grantees set up a new activity in IDIS with its description and amount of funds used. The system will not accept the new entry unless the grantee certifies all entered information is supported by written agreements following the requirements of 24 CFR 92.2. HUD uses this information as part of its monitoring efforts to ensure its grantees comply with program requirements.

The City set up four activities in IDIS totaling \$1.625 million but could not provide the written agreements to support those activities.

Table 1 shows additional detail on the four projects.

Table 1: HOME Commitments without written agreements

Project name	Committed HOME funds
Englewood Development Village Springs	\$700,000
Christian Church Homes	\$300,000
Austin Bluffs Development	\$325,000
Bentley Commons Expansion	\$300,000
Total	\$1,625,000

We plan to further develop this finding in a future audit of the City’s Community Planning and Development programs.

The complainant alleged that the City delayed the deposit and reporting of CDBG program income in a timely manner to avoid a HUD deadline. We substantiated this allegation.

The City received a check for \$150,000 in CDBG program income on January 4, 2013 but did not deposit the check until February 14, 2013 to avoid a deficiency finding from

HUD's January 31, 2013 review of the City's timely expenditure of CDBG funds under 24 CFR 570.902.

HUD conducts a CDBG timeliness check of its grantees on an annual basis under 24 CFR 570.902. The purpose of the check is to determine whether grantees are spending their CDBG entitlement and program income in a timely manner.

During our review, the City informed us that reporting the \$150,000 in January would have led to a deficiency in its upcoming timeliness check.

We plan to further develop this finding in a future audit of the City's CPD programs.

The complainant alleged that the City charged salaries for several positions as direct program costs when they are actually administrative costs. We substantiated this allegation.

The City improperly charged at least 50 percent of the salaries for two of its administrative staff as direct program costs. According to senior City officials, it is unlikely those staff actually worked that percentage of their time on direct program activities.

Grantees of CDBG and HOME funds may use up to 20 percent of their grants for general program administrative costs under 24 CFR 570.200(g). The remaining grant may be used to pay activity delivery costs "incurred for implementing and carrying out eligible CDBG activities". Costs, such as administration for rehabilitation services, do not apply towards the grantee's 20 percent cap. Similar to CDBG, a HOME grantee may use up to 10 percent of their grant for general administration and planning under CPD Notice 06-01.

The former Executive Director at the City's housing division applied 50 percent of their own salary and up to 100 percent of another senior administrative staff person's salary to "administration for rehabilitation services" which does not apply to the City's 20 percent administrative cap.

City officials stated the former executive director did this to not exceed the City's administrative cap. City officials stated it is unlikely these two employees, given their responsibilities, actually worked at least 50 percent of their time on the rehabilitation services.

We plan to further develop this finding in a future audit of the City's CPD programs.

The complainant alleged that the City used HOME and CDBG funds to pay for a vacant office building. We substantiated this allegation.

The City paid more than \$20,000 in HOME and CDBG funds for the maintenance and cleaning of a vacant office building. While no staff were located there from February 1, 2014 to present, the City said this building is its only Americans with Disabilities Act

compliant location where disabled persons could apply in person for the City's HOME programs in that part of Colorado Springs. Disabled persons can still apply at the City's downtown office.

RECOMMENDATIONS

We recommend the Director of the Denver Office of Community Planning and Development

- 1A. Recapture \$68,681 from the City's non-Federal funds for the portion of the contract the City's former executive director fabricated in order to stop HUD from recapturing funds due to a shortfall.
- 1B. Require that the City provide support showing the \$20,304 used for the vacant office building actually supported eligible activities. For any funds not supported, recapture the funds from non-Federal funds.

We also recommend the Director of the Departmental Enforcement Center

- 1C. Take appropriate administrative actions, up to and including debarment, against the City's former executive director for their actions in providing fabricated documents to HUD which resulted in HUD halting the recapture of non-committed funds.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Ineligible 1/	Unsupported 2/
1A	\$68,681	
1B		\$20,304

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.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments



HOUSING DEVELOPMENT

Memorandum

To: Ronald J. Hosking, Regional Inspector General for Audit

CC: Steve Bach, Mayor
Steve Cox, Chief of Staff
Denny Nester, City Auditor
G. Todd Gagon, Assistant Regional Inspector General for Audit

From: Aimee Cox, Community Initiatives Manager *AC*

Date: September 24, 2014

Re: Discussion Draft Audit Report: *Complaint Allegations Substantiated – City of Colorado Springs' HOME and CDBG Programs*

Comment 1

I have reviewed the Discussion Draft Audit Report: *Complaint Allegations Substantiated – City of Colorado Springs' HOME and CDBG Programs* prepared by the U.S. Department of Housing and Urban Development (HUD) Office of Inspector General (OIG) and submit the following comments on behalf of the City of Colorado Springs:

1. The HUD OIG Audit Report validates findings previously made by the City Auditor and presented in *14-06 Housing Development Division Audit Report* (April 2014). We agree with the findings.
2. When the City identified management issues with the HOME and CDBG programs, City leadership took prompt, responsible action to address the issues, including making personnel changes.
3. We look forward to working directly with the Director of the Denver Office of Community Planning and Development to resolve outstanding issues as quickly as possible.
4. We will continue to fully cooperate with HUD OIG in future audit work.

Thank you for the opportunity to respond to the Discussion Draft Audit Report: *Complaint Allegations Substantiated – City of Colorado Springs' HOME and CDBG Programs*. Please contact me at aicox@springsgov.com or 719.385.6609 if you have any questions.

OIG Evaluation of Auditee Comments

Comment 1 We appreciate the cooperation of the City during this review.