



**Office of Community Planning and Development
Washington, DC**

Neighborhood Stabilization Program



Issue Date: March 10, 2014

Audit Report Number: 2014-LA-0002

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

//SIGNED//

FROM: Tanya E. Schulze, Regional Inspector General for Audit, Los Angeles Region 9, 9DGA

SUBJECT: CPD Did Not Monitor NSP Grantees' Payments of Developer Fees to Developers

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 Office of Community Planning and Development (CPD), Neighborhood Stabilization Program's (NSP) monitoring of developer fees paid to for-profit developers by NSP grantees to ensure compliance with HUD requirements.

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 213-534-2471.



March 10, 2014

CPD Did Not Monitor NSP Grantees' Payments of Developer Fees to Developers

Highlights

Audit Report 2014-LA-0002

What We Audited and Why

We reviewed the U.S. Department of Housing and Urban Development, (HUD) Office of Community Planning and Development's (CPD) monitoring of its Neighborhood Stabilization Program (NSP) grantees' incurred developer fees based on a prior external audit¹, which indicated that CPD field offices may not have provided adequate oversight of NSP grantees to ensure that for-profit developers did not incur questionable developer fees. Our objective was to determine whether CPD adequately monitored its NSP grantees to ensure that the developer fees paid to for-profit developers met HUD requirements.

What We Recommend

We recommend that CPD revise its NSP monitoring procedures and controls to ensure that it addresses the review of developer fees and considers the potential higher level of risk associated with grantees that use developers to carry out NSP activities. CPD should also require its CPD field offices to maintain a list of NSP grantees that, at a minimum, includes each grantee's developers and the respective organizational structures for

risk assessment purposes and added monitoring controls.

What We Found

CPD did not implement adequate program monitoring procedures and controls to ensure that NSP grantees paid developer fees in accordance with HUD requirements. While developers are permitted to charge a developer fee, some for-profit developers improperly claimed additional project management costs that should have been paid through agreed-upon developer fees. CPD had issued policy alerts explicitly stating that these incurred fees were considered "double-dipping" and not allowed under NSP.

¹ 2012-LA-1003 issued December 22, 2011

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BACKGROUND AND OBJECTIVE

Authorized under section 2301 of Title III of the Housing and Economic Recovery Act of 2008 as amended, Congress appropriated \$4 billion for the Neighborhood Stabilization Program (NSP) to provide grants to every State and certain local communities to purchase foreclosed-upon or abandoned homes and to rehabilitate, resell, or redevelop these homes to stabilize neighborhoods and stem the decline in value of neighboring homes. The Act states that amounts appropriated, revenues generated, or amounts otherwise made available to States and units of general local government under section 2301 must be treated as though such funds were Community Development Block Grant funds under Title I of the Housing and Community Development Act of 1974. The U.S. Department of Housing and Urban Development (HUD) allocated more than \$3.9 billion in NSP funds to more than 300 grantees.

Congress amended the NSP and increased its funding as part of the American Recovery and Reinvestment Act of 2009 and Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The Recovery Act provided HUD an additional \$2 billion in NSP funds (NSP2) to competitively award to States, local governments, nonprofit organizations, or consortia or nonprofit organizations, which could submit proposals in partnership with for-profit organizations. The Recovery Act also states that HUD's Secretary may use up to 10 percent of the funds for capacity building of and support for local communities receiving NSP funding under the 2008 Act or the Recovery Act. Further, up to 1 percent of the funds must be available to HUD for staffing, training, providing technical assistance, technology, monitoring, travel, enforcement, research, and evaluation activities. In January 2010, HUD awarded more than \$1.9 billion to 56 grantees. The Dodd-Frank Act provided HUD an additional \$1 billion in NSP funds (NSP3) to award to all States and select governments on a formula basis. The minimum grant amount was \$1 million for non-State grantees, and the basic allocation was adjusted to ensure that every State received a minimum of \$5 million. The net result was that these funds were targeted for communities with the most severe neighborhood problems associated with the foreclosure crisis. HUD awarded the formula-based grants to 270 States and selected local governments.

Since Federal fiscal year 2009, HUD has awarded more than \$6.8 billion in NSP funds nationwide. HUD's Office of Community Planning and Development (CPD) Office of Block Grant Assistance is responsible for program oversight.

The objective of the review was to determine whether CPD adequately monitored its NSP grantees to ensure that the developer fees paid to for-profit developers met HUD requirements.

RESULTS OF AUDIT

Finding: CPD Did Not Monitor NSP Grantees' Payments of Developer Fees to Developers

CPD did not implement adequate program monitoring procedures and controls to ensure that the developer fees paid to developers by NSP grantees met HUD requirements. While developers are permitted to charge a developer fee, some for-profit developers² improperly claimed additional project management costs that should have been paid through agreed-upon developer fees. According to CPD, these deficiencies were attributed to a focus on NSP grantees' overall program progress and meeting the national objectives, without adequately considering the potential risk of questioned costs, such as project management costs incurred by developers. In addition, CPD did not ensure that its process for selecting grantees for monitoring identified those grantees and activities that represented the greatest risk to the program for fraud and waste. As a result, CPD did not ensure that it identified those NSP grantees with developers that may have incurred questionable NSP project costs.

Program Guidance Lacked Detailed Written Procedures and Consideration of Risk

Developers are permitted to charge a developer fee. However, CPD's NSP Policy Alert, dated August 27, 2010 (see appendix B), and updated on November 16, 2011, prohibited these entities from double-dipping, or collecting both a developer fee and a project management fee for services provided to the grantees. Project management costs incurred by for-profit developers are paid through developer fees (see appendix B).

However, CPD's NSP monitoring procedures and controls were insufficient to meet HUD Handbook 1840.1, REV-3, section 1-2, requirements to protect against fraud and waste (see appendix B). CPD's Handbook 6509.2, Community Planning and Development Monitoring Handbook, and risk analysis for monitoring CPD grant programs did not provide field offices guidance to

² Throughout the audit report, there is a switch between the terms "developers" and "for-profit developers." During discussions related to program monitoring procedures and controls, the term "developers" is mentioned since the procedures and controls pertained to all developers regardless of whether these entities are a for-profit or private non-profit. During discussions related to the results of the review of a sampled grantee and CPD field offices, the term "for-profit developers" is mentioned since a prior external audit (2012-LA-1003 issued December 22, 2011) indicated potential issues related to questionable developer fees paid to a for-profit developer. Therefore, the objective of this review was to determine whether CPD adequately monitored its NSP grantees to ensure that the developer fees paid to these entities had met HUD requirements.

specifically address the review of developer fees and assign a higher level of risk to grantees that use developers to carry out NSP activities.

CPD's Handbook Lacked Detailed Written Procedures

Chapter 8 of Handbook 6509.2, Community Planning and Development Monitoring Handbook, provided guidance for conducting comprehensive monitoring of grantees' NSP projects. In addition, this chapter stated that it was important to note that the NSP exhibits attached to chapter 8 required the CPD reviewer to use the existing Community Development Block Grant exhibits in chapters 3 and 4 of the Handbook. However, these procedures and exhibits did not specifically discuss the monitoring of incurred developer fees. CPD Los Angeles field office staff explained that the area of developer fees was reviewed as part of its compliance monitoring of program underwriting and expenditures. A CPD headquarters official confirmed that local field offices reviewed developer fees as part of the review of the grantees' underwriting. However, CPD's fiscal year 2010 monitoring report of the County of San Bernardino's NSP found no indications of the developer fees having been reviewed. The same headquarters official stated that available resources for sampled Region 4 (Jacksonville, FL) and Region 5 (Detroit, MI) CPD field offices did not permit "deep investigations" into such expenses during the respective monitoring reviews. As a result, these regions did not conduct in-depth reviews, which included assurance that NSP grantees paid developer fees to developers in accordance with HUD requirements. Instead, the focus of these field offices was to ensure that incurred costs and developer fees related to the grantees' programs were reasonable and not used to unduly enrich for-profit developers.

Risk Analysis Guidance Lacked Consideration of Risk

According to several CPD notices, including CPD Notice CPD-09-04 (see appendix B), CPD's risk analysis process provided information needed for CPD field offices to target resources to grantees that posed the greatest risk to the integrity of CPD programs. The Notice included the information related to the identification of the grantees to be monitored on site and remotely, the program areas to be covered, and the depth of the review. The risk analysis subfactor to assess programmatic risk based on the grantee's use of subrecipients to carry out its programs did not take into consideration the potentially higher risk associated with using developers as opposed to subrecipients or public nonprofit entities.

CPD Los Angeles field office staff agreed and stated that the use of any third parties, including subgrantees and developers, regardless of being a private nonprofit or for-profit, would result in the same risk score in that risk category. A CPD headquarters official stated that CPD's foremost emphasis during its NSP

monitoring reviews had been the grantees' overall program progress and meeting the national objectives of the program. CPD did not consider the issue of developers incurring ineligible project management costs as a significant risk to grantees' programs.

We also noted that the CPD Los Angeles field office, as well as sampled Regions 4 and 5 field offices, did not keep a list of NSP grantees that used developers since grantees were not required to provide information about designated developers and subrecipients involved in the program. CPD should establish and maintain a formal list to assist in identifying grantees that use developers. By doing so, CPD can identify potential instances of program abuse.

NSP Grantees Compensated Developers for Ineligible Costs

While developers are permitted to charge a developer fee, CPD's NSP Policy Alert, dated August 27, 2010 (see appendix B), and updated on November 16, 2011, prohibited these entities from double-dipping, or collecting both a developer fee and a project management fee for services paid through the developer fee (see appendix B).

County of San Bernardino

The County of San Bernardino and the Cities of Rialto and Victorville used combined NSP funding to acquire and rehabilitate two multifamily properties.³ One of the properties had many instances of project management costs being claimed and received by the for-profit developer that the grantee should have paid through an agreed-upon developer fee. Specifically, the County and City of Rialto approved and reimbursed the for-profit developer for ineligible project management services that should have been paid for through the developer fees it had already received.⁴ County staff explained that the for-profit developer's claims were related to the construction contractor's profit and fees as these profits and fees were billed separately from the costs of construction, which were billed without a profit margin. However, the construction contractor's invoices that were part of the for-profit developer's payments from the grantee showed that the grantee paid the construction contractor's profit and fees as part of each construction claim. Consequently, County staff did not provide an explanation for these payments.

City of Modesto

We previously conducted an external audit of the City of Modesto's NSP2 (audit report 2012-LA-1003, issued December 22, 2011) to determine whether the City administered its NSP2 grant in accordance with HUD requirements. Specifically,

³ The Cities of Rialto and Victorville were not part of our sample review.

⁴ We will perform a separate review the County of San Bernardino's NSP to address the questionable project management costs.

the review focused on whether the City administered the program to ensure that developers used program funds for eligible program acquisition and rehabilitation costs. The City did not always use program funds for eligible costs to acquire and rehabilitate properties. It approved ineligible project management fees and unsupported expenditures during the rehabilitation of NSP-funded properties. Accordingly, the City had to adjust the loan amounts and developer contribution amounts for each of the properties affected by the ineligible project management fees.

Conclusion

CPD did not implement adequate program monitoring procedures and controls to ensure that NSP grantees paid developer fees in accordance with HUD requirements. CPD attributed these deficiencies to a focus on the grantees' overall program progress and meeting the national objectives. This focused attention did not allow CPD to consider potential questioned costs, such as the double billing of project management costs by developers, as a significant risk. This weakness increased the risk that grantees may have made payments to developers that did not meet HUD requirements. Our previous external audit and a visit to additional grantees, as part of this internal review, identified questionable developer costs. The questionable developer costs identified may have been understated due to CPD's limited records identifying grantees that used developers. Implementation of additional controls and procedures will help to ensure that CPD can identify such instances of potential program abuse.

Recommendations

We recommend that the Deputy Assistant Secretary for Grant Programs

- 1A. Revise its program monitoring procedures and controls to ensure that CPD addresses the review of developer fees and considers the potential higher level of risk of NSP grantees that use developers.
- 1B. Require its CPD field offices to maintain a list of NSP grantees that, at a minimum, includes grantees' contracted developers to provide better visibility and identification of potential high risk NSP grantees that use developers with questionable developer fees.

SCOPE AND METHODOLOGY

We conducted the audit work between July and December 2013 at our office in Los Angeles, CA, with a site visit to the County of San Bernardino in San Bernardino, CA. The audit period covered March 1, 2009, to June 30, 2013, but was expanded as necessary to accomplish our objective.

To accomplish our objective, we

- Reviewed relevant background information, including prior Office of Inspector General (OIG) audit reports;
- Reviewed applicable HUD laws, regulations, and other HUD program requirements;
- Reviewed CPD's controls and procedures as they related to our objectives;
- Interviewed CPD's Office of Block Grant Assistance headquarters staff and CPD local field office staff; and
- Reviewed sampled NSP grantees' files pertaining to project contracts and expenditures.

We nonstatistically selected as our sample two NSP grantees, Riverside County and the County of San Bernardino, that used for-profit developers for performing respective program work. HUD awarded more than \$96 million in NSP funds to both grantees. As of July 29, 2013, the grantees had cumulatively drawn 80 percent of NSP funds. The sample of NSP activities consisted of 20 single-family and two multifamily properties related to the Counties of Riverside and San Bernardino, respectively. We reviewed two additional CPD regions to determine whether the potential issues identified in Region 9 existed in those regions. Specifically, we included Regions 4 (Jacksonville, FL) and 5 (Detroit, MI) in the review since these regions received the two largest allocations of NSP funding.

We considered data posted on HUD's Web site to obtain our audit universe and select our sample. We confirmed several grant amounts listed in HUD's data to grant amounts stated in executed NSP agreements. We determined that the data were reliable for our intended use in addressing the audit 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 finding 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 Control

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

- Policies and procedures – Controls that CPD has implemented to confirm that it adequately monitors NSP grantees to ensure that the developer fees paid to developers meet HUD requirements.

We assessed the relevant control 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:

- CPD did not implement adequate program monitoring procedures and controls to ensure that NSP grantees paid developers developer fees in accordance with HUD requirements (finding).


APPENDIXES

Appendix A

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

	 <p>U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT WASHINGTON, DC 20410-7000</p> <p>OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT</p> <p>MEMORANDUM</p> <p>To: Tanya E. Schulze Regional Inspector General for Audit, Los Angeles Region, 9DGA</p> <p>From: Yolanda Chavez Deputy Assistant Secretary for Grant Programs, DG</p> <p>CC: Maria Cremer, William Vasquez, Stan Gimont, Jessie Kome, John Laswick, David Noguera</p> <p>Subject: Discussion Draft CPD's Monitoring of NSP Grantees' Incurred Developer Fees</p> <p>Date: February 18, 2014</p> <p>Discussion</p> <p>Thank you for sharing the results of your review of this matter. CPD takes seriously its responsibility to ensure that costs are reasonable and necessary, as mandated by OMB regulations. As you know, CPD has a risk-analysis system for all CPD Programs, including NSP, based on Handbook 1840.1 REV-3; it is implemented by annual CPD Policy Notices on Risk Analyses, as part of the CPD Monitoring Handbook 6509.2 REV-5. The most recent CPD Notices were 2013-09 and 2012-02.</p> <p>The problem is not that CPD lacks a system to evaluate risk, but rather that the OIG disagrees with CPD's assessment of the risks related to developer fees and double-billing of fees. In this report, however, the OIG does not substantiate its assertion that developer fees are high risk. The discussion draft does not list amounts; the findings of the initial audit total \$69,215 in costs, which the OIG claims may have been double-billed. The discussion draft cites only San Bernardino and the city of Modesto, a program so poorly managed that the FBI became involved. These two examples are not representative of the NSP program as a whole.</p> <p>Moreover, although the discussion draft mentions the much broader Jacksonville and Detroit field office surveys, it discounts them. Both of these offices had large NSP workloads, and did in fact review developer fees, but found no major problems with these fees. This larger sample, which does not support the OIG's assertion, is dismissed because it is part of the cost reasonableness question/review. As CPD has previously noted, the question of developer fees is one element of the cost reasonableness, determined through the underwriting process. Both in scope and in definition, the two field office studies support CPD's contention that the developer fee issue has posed relatively low risks to the program. Therefore, CPD has specifically trained grantees and HUD staff</p> <p>1</p>
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Comment 1

Comment 2

Comment 3

on underwriting and has provided guidance aimed at ensuring that all costs are reasonable, including developer fees.

Comment 4

Additionally, OIG provides no justification for its focus on for-profit developers. CPD views the risks to be similar for non-profits developers. This distinction is made at the very outset of the discussion with no supporting documentation, or even discussion. OIG offers no rationale for its assertion.

Comment 5

Finally, CPD notes that the premise of Block Grant programs is to allow flexibility to the grantee while defining the regulatory framework in broad terms. Research has shown that overly restrictive rules and narrow procedures lead to diminished innovation. The NSP legislative language/program notices attempted to strike a balance between regulation and flexibility, to enable experimentation and local adaptations while conforming with the overarching requirements of the program. For NSP, grantees needed flexibility because the program was new, market conditions varied widely, and the legislative commitment and expenditure deadlines were aggressive.

Comment 6

Recommendations

Nevertheless, because CPD is dedicated to ensuring that costs are reasonable and necessary, as required by the Office of Management and Budget and by generally accepted accounting principles, CPD will revise its monitoring exhibits (in Handbook 6509.2 REV-5) to include questions on developer costs and fees as part of the larger issues of underwriting and cost reasonableness. CPD is also updating its guidance on subrecipients and developers, and will note the importance of reviewing fees along with other costs. This conforms with Recommendation 1A.

Comment 7

Conversely, CPD does not believe that maintaining a list of developers, as described in Recommendation 1B, is appropriate. The Disaster Recovery Grant Reporting system already captures the Responsible Organization for every activity. Requiring a separate list would be redundant and ineffective for a category of organization that has not been proven to pose greater risks than others. Moreover, NSP and the underlying CDBG program maintain contractual relationships with grantees, not with subrecipients or developers. To request added information below the grantee level would be inappropriate, and would not prevent or identify problems.

OIG Evaluation of Auditee Comments

- Comment 1** As part of its oversight, CPD is responsible to ensure that costs are allowable as required by OMB. Aside from ensuring that costs are necessary and reasonable, CPD is also responsible for ensuring that costs conform to the prohibitions set forth in CPD's Policy Alerts dated August 27, 2010, and updated on November 16, 2011. The aforementioned CPD Policy Alert specifically prohibits developers from double-dipping, or collecting both a developer fee and a project management fee for services provided to the grantee. Project management costs incurred by a developer are paid through developer fees. We agree that CPD has a risk analysis system that included the NSP, which CPD's Monitoring Handbook 6509.2 and Notices were used to implement the risk assessments. However, this system did not provide field offices the necessary guidance to address the review of developer fees or reference to issued Policy Alerts that would have assisted reviewers in identifying prohibited NSP costs, such as project management fees. We cited CPD Notice CPD-09-04 in the report as this was the first notice CPD issued related to CPD's risk analysis policies and procedures for monitoring grantees' NSP programs that corresponded with our audit period. Furthermore, the fundamentals of the risk analysis' sub-factor to assess programmatic risk cited in CPD Notice CPD-09-04 (for FYs 2010 and 2011) and CPD-12-02 (for FYs 2012 and 2013) were the same and CPD Notice CPD-13-09 extended the provisions of CPD Notice CPD-12-02 for conducting risk analysis in FY 2014. Despite the cited CPD notice not being the most recent notice, the risk analysis' sub-factor to assess programmatic risk based on the grantee's use of subrecipients or developers to carry out its NSP activities did not take into consideration the potential high risks associated with the use of developers.
- Comment 2** We disagree with CPD's risk analysis' sub-factor that assessed programmatic risk based on the grantees' use of subrecipients to carry out its' NSP activities, as it did not take into consideration the higher risks of using developers that may incur questionable costs or not meet program objectives. In addition, we disagree with CPD's assertion that it assessed developer fees and the issue of double-billings related to these fees. As noted in the report, CPD's Monitoring Handbook 6509.2 did not provide field offices the necessary guidance to address the review of developer fees or reference issued Policy Alerts that would have assisted reviewers in identifying prohibited costs, such as project management fees outside of agreed-upon developer fees. Furthermore, CPD headquarters officials stated that limited resources did not permit "deep investigations" into such expenses during monitoring reviews. As a result, CPD did not conduct in-depth reviews that included assurance that NSP grantees paid developer fees in accordance with OMB and HUD requirements including CPD Notices and Policy Alerts. We supported this issue by identifying CPD's lack of detailed written procedures in its monitoring guidance and lack of consideration of such risks in its risk analysis guidance. Two OIG reviews identified instances in which grantees had compensated developers for ineligible project management costs that should have been paid through agreed-upon developer fees. We did not list the double-billed

amounts related to the County of San Bernardino's NSP since we will be conducting a separate review to address the questionable project management costs. We mentioned this plan of action in a footnote on page 6 of this report. While the two examples were not representative of NSP as a whole, these instances do show that CPD's NSP program monitoring procedures and controls were not adequate in ensuring that grantees paid developer fees in accordance with OMB and HUD requirements including CPD Notices and issued Policy Alerts. We believe that the implementation of the recommendations would assist CPD in improving its monitoring of NSP grantees.

Comment 3 CPD headquarters officials, on behalf of sampled Region 4 (Jacksonville, FL) and Region 5 (Detroit, MI) CPD field offices, stated that limited resources did not permit the field offices to conduct "deep investigations" into such NSP expenses during their monitoring reviews. As a result, CPD did not conduct in-depth reviews that assured grantees paid developer fees in accordance with OMB and HUD requirements including CPD Notices and Policy Alerts. Instead, the focus of these field offices' reviews were to ensure that developer fees related to the grantees' programs were reasonable and not used to unduly enrich for-profit developers. CPD is responsible for ensuring that costs are allowable as required by OMB and HUD.

Comment 4 We disagree with CPD's statement that we did not provide justification for focusing on for-profit developers. We informed CPD of our justification during meetings conducted throughout the review. In addition, we included the justification for our review in the "What We Audited and Why" section of this report. Our review focused on for-profit developers since we identified these entities as concerns related to the grantees' ability to meet program objectives. However, we believe that grantees may experience the same risks associated with doing business with either private non-profit developers or for-profit developers participating in NSP. CPD should have adequate guidance in place for its reviewers to use in monitoring both types of entities to ensure compliance with rules, requirements, notices, and policy alerts. We revised the report to note that grantees may have the same risks associated with doing business with either for-profit developers or private non-profit developers.

Comment 5 We agree that CPD's broad requirements allow NSP grantees flexibility in meeting program objectives. However, CPD is responsible for ensuring that program costs were allowable and meet applicable rules and requirements. With HUD as the awarding agency and CPD the department responsible for monitoring these funds, CPD must ensure that grantees use these funds in accordance with OMB and HUD requirements, notices, and policy alerts.

Comment 6 CPD should revise its program monitoring procedures and controls to ensure that it addresses the review of developer fees and considers the potential higher level of risk of the grantees that use developers to accomplish its program objectives. CPD should also revise its program monitoring procedures and controls to

incorporate issued policy alerts that will assist reviewers in identifying potential unallowable costs.

Comment 7 At a minimum, CPD field offices should maintain a list of NSP grantees that includes grantees' contracted developers. This effort is not redundant to the information in HUD's Disaster Recovery Grant Reporting (DRGR) system. Specifically, the information in DRGR did not provide users clear and concise information about the identities of the entities used to complete the NSP projects on behalf of the grantees. Instead, this system provides the name of the responsible organization that will oversee the program activity and a narrative that may inform the user of developers selected to perform the activities. However, these narratives may not provide clear information about the developers. Developing the recommended lists would assist CPD in identifying NSP grantees that may be a higher risk because of using developers to carry out NSP activities. Specifically, the list would assist CPD in identifying those developers with a history of questionable costs or practices that may place the grantees' NSP projects at risk of not meeting objectives, rules, and requirements.

Appendix B

CRITERIA

Community Planning and Development Notice CPD-09-04

The purpose of this Notice is to provide a consistent methodology for conducting risk analyses for CPD formula and competitive grantees and establish monitoring priorities within available resources. This risk analysis process has been incorporated into CPD's Grants Management Process (GMP) system, a computer-based information system used to provide a documented record of conclusions and results.

This Notice is intended to augment departmental policy contained in Handbook 1840.1, REV-3, Departmental Management Control Program Handbook, which requires the development of risk-based rating systems for all programs, and is also incorporated into Handbook 6509.2, REV-5, Community Planning and Development Monitoring Handbook. The major steps for implementing risk-based monitoring include

- Developing risk-based rating systems for program grantees,
- Rating and selecting grantees for monitoring,
- Identifying program risks and setting monitoring objectives, and
- Documenting the process and recording the rationale for choosing grantees.

Each field office will perform the risk analysis using the methodology described in this Notice. The Notice reflects a biannual assessment period and provides policy and guidance for fiscal years 2010 and 2011. For fiscal year 2011, field offices will conduct an updated review of the risk analysis results for fiscal year 2010. This updated review will be incorporated into GMP under the "Risk Analysis" module for the respective grantee and grant program(s). Both CPD managers and field staff are assigned distinct responsibilities to complete the risk analysis as outlined further in this Notice.

HUD Handbook 1840.1, REV-3, Departmental Management Control Program, Chapter 1 Section 1-2. The Department [HUD] will establish and maintain a cost-effective system of management controls to provide reasonable assurance that programs and activities are effectively and efficiently managed and to protect against fraud, waste, abuse, and mismanagement.

Section 1-3. Management controls are policies and procedures adopted by managers to ensure that program objectives are efficiently and effectively accomplished within planned timeframes, within budgetary limitations and with the intended quality and quantity of output.

HUD Handbook 6509.2, Community Planning and Development Monitoring Handbook, Chapter 8

This chapter includes guidance for monitoring the NSPs that were created under separate pieces of legislation. Exhibits are included in the chapter to assist in the reviews of the programs.

NSP Policy Alert: Guidance on Developers, Subrecipients, and Contractors – August 27, 2010

“...if a developer’s budget called for directly paying a project manager and also a developer fee that would be double-dipping and would not be allowed. Direct costs or indirect costs of a developer related to project management should be paid only through the fee.”

NSP Policy Alert: Guidance on Developers, Subrecipients, and Contractors – Updated November 16, 2011

“...if a developer’s budget called for directly paying a project manager and also a developer fee that would be double-dipping and would not be allowed. Direct costs or indirect costs of a developer related to project management should be paid only through the fee.”