



State of Illinois

Community Development Block Grant Disaster Recovery Program



To: Ray E. Willis, Director of Community Planning and Development, 5AD

//signed//

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

Subject: The State of Illinois' Administrator Lacked Adequate Controls Over the State's Community Development Block Grant Disaster Recovery Program-Funded Projects

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 Illinois' Community Development Block Grant Disaster Recovery 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 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.



Audit Report Number: 2015-CH-1009

Date: September 30, 2015

The State of Illinois' Administrator Lacked Adequate Controls Over the State's Community Development Block Grant Disaster Recovery Program-Funded Projects

Highlights

What We Audited and Why

We audited the State of Illinois' Community Development Block Grant Disaster Recovery program. The audit was part of the activities in our fiscal year 2015 annual audit plan. We selected the State's program based on a congressional request from the Honorable Mark Kirk to review the State's awards of program funds under the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009 for three projects.¹ Our objective was to determine whether the State's Department of Commerce and Economic Opportunity ensured that program funds used for the three projects met Federal requirements.

What We Found

The Department did not ensure that program funds used for the three projects met Federal requirements. It could not provide sufficient documentation to support that two of the three projects met a national objective and the use of program funds for one of the projects. Further, program funds loaned for one of the projects were not repaid as required by the Department's grant agreement with the subrecipient and the Department could not ensure that two of the subrecipients appropriately procured services for three contracts associated with two of the projects. As a result, HUD and the Department lacked assurance that more than \$1.7 million in program funds was used and more than \$4.3 million in program funds will be used in accordance with Federal requirements. In addition, the Department did not have \$250,000 in program funds available for eligible program-funded projects.

What We Recommend

We recommend that the Director of HUD's Chicago Office of Community Planning and Development require the State to (1) support or reimburse its program from non-Federal funds for the three projects that lacked evidence of compliance with Federal requirements, (2) support that one project met a national objective or deobligate the program funds, (3) reimburse its program from non-Federal funds for the program funds not repaid, and (4) implement adequate controls to address the findings cited in this audit report.

¹ The awards were to (1) Chicago Neighborhood Initiatives, Inc., (2) the South Suburban Mayors and Managers Association, and (3) the City of Belleville.

Table of Contents

Background and Objective.....	3
Results of Audit	5
Finding: The Department Did Not Administer Three Program-Funded Projects in Accordance With Federal Requirements	5
Scope and Methodology	9
Internal Controls.....	10
Appendixes.....	11
A. Schedule of Questioned Costs and Funds To Be Put to Better Use.....	11
B. Auditee Comments and OIG’s Evaluation	12
C. Applicable Requirements	36

Background and Objective

Community Development Block Grant Disaster Recovery funds were authorized under the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009 for necessary expenses related to disaster relief; long-term recovery; and restoration of infrastructure, housing, and economic revitalization in areas affected by hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974. The funds were to be used for activities authorized under Title I of the Housing and Community Development Act of 1974 as amended. The U.S. Department of Housing and Urban Development (HUD) allocated nearly \$194 million in Community Development Block Grant Disaster Recovery funds to the State of Illinois.

The State's Department of Commerce and Economic Opportunity administers the State's program. The Department was created in 2003 by the Illinois General Assembly under the laws of the State. Its mission is to raise Illinois' profile as a premier global destination and to provide a foundation for the economic prosperity of all Illinoisans through the coordination of business recruitment and retention, providing essential capital to small businesses, investment in infrastructure and job training for a 21st century infrastructure, and the administration of State and Federal grants. The Department's program records are located at 500 East Monroe Street, Springfield, IL. On June 30, 2010, the Department entered into a contract with CDM Smith, Inc.,² to assist it in administering the program. CDM Smith, Inc.'s program records are located at 427 East Monroe Street, Springfield, IL.

The Honorable Mark Kirk requested that we review the State's awards of program funds under the Act to (1) Chicago Neighborhood Initiatives, Inc. to build a new community center in Chicago, (2) the South Suburban Mayors and Managers Association for the demolition of the Dixie Square Mall, and (3) the City of Belleville to create jobs at the Wagner Motor Car Company. The following table shows the amount of program funds awarded, obligated, and disbursed to the subrecipients for the three projects.

Subrecipient	Awarded	Obligated	Disbursed
Chicago Neighborhood Initiatives, Inc.	\$4,998,600	\$4,998,600	\$652,242
Association	4,000,000	3,075,472	3,075,472
City of Belleville	1,000,000	1,000,000	1,000,000
Totals	<u>\$9,998,600</u>	<u>\$9,074,072</u>	<u>\$4,727,714</u>

² Previously known as Camp, Dresser, and McKee, Inc.

Our objective was to determine whether the Department ensured that program funds used for the three projects met Federal requirements. Specifically, we wanted to determine whether the (1) projects met a national objective, (2) projects clearly showed a direct or indirect relation to the disaster, (3) program funds were used for eligible expenses, and (4) subrecipients appropriately procured services.

Results of Audit

Finding: The Department Did Not Administer Three Program-Funded Projects in Accordance With Federal Requirements

The Department did not ensure that program funds used for three projects met Federal requirements.³ It could not provide sufficient documentation to support that two of the three projects met a national objective and the use of program funds for one of the projects. Further, program funds loaned for one of the projects were not repaid as required by the Department's grant agreement with the subrecipient and the Department could not ensure that two of the subrecipients appropriately procured services for three contracts associated with two of the projects. These weaknesses occurred because the Department lacked adequate controls for its administration of the three projects to ensure that the use of program funds met Federal requirements. As a result, HUD and the Department lacked assurance that more than \$1.7 million in program funds was used and more than \$4.3 million in program funds will be used in accordance with Federal requirements. In addition, the Department did not have \$250,000 in program funds available for eligible program-funded projects.

Lack of Sufficient Documentation To Support Projects Met a National Objective

The Department could not provide sufficient documentation to support that two of the three projects met a national objective. It reported in HUD's Disaster Recovery Grant Reporting system⁴ that the community center addressed the national objective of benefiting low- and moderate-income individuals on an areawide basis. However, contrary to HUD's regulations at 24 CFR (Code of Federal Regulations) 570.483(b)(1), the Department could not provide sufficient documentation to support that the area used to determine whether the project qualified as an activity benefiting low- and moderate-income individuals on an areawide basis was the area that would be served by the community center. Further, the Department could not provide sufficient documentation to support that at least 51 percent of the residents of the area were low- and moderate-income individuals and the area was primarily residential.

The Department reported in HUD's system that the creation of jobs at the Wagner Motor Car Company addressed the national objective of job creation or retention activities. However, it could not provide sufficient documentation to support whether the jobs that were created were full-time or part-time as required by 24 CFR 570.483(b)(4)(i). Therefore, we could not determine whether 51 percent of the jobs that were created provided employment to low- and moderate-income individuals.

³ See appendix C of this audit report.

⁴ HUD's system is the drawdown and reporting system for the program.

The Department's deputy director of community development stated that he believed the Department provided sufficient documentation to support that the community center project and the creation of jobs at the Wagner Motor Car Company met a national objective.

Loan of Program Funds for Wagner Inappropriately Partially Forgiven

The Department allowed the City of Belleville to forgive \$250,000 (50 percent) of a \$500,000 loan, although Wagner Motor Car Company did not repay the loan in accordance with the repayment schedule in the Department's grant agreement with the City.⁵ Wagner made 20 repayments on the loan totaling \$250,000 in principal and more than \$37,000 in interest.⁶ However, the 20 payments were 8 to 19 days after the date required by the repayment schedule.

Further, contrary to appendix A, section C.1, of 2 CFR Part 225, the Department could not provide sufficient documentation to support Wagner's use of more than \$438,000 of the \$1 million in program funds. Wagner deposited \$900,000 into its checking account and \$100,000 into its money market account. It used nearly \$562,000 from the checking account to pay for inventory. The Department stated that Wagner used an additional nearly \$201,000 from the checking account to pay off a short-term loan. However, the Department could not provide sufficient documentation to support that the loan was paid off or what Wagner used the loan for. Further, the Department stated that Wagner maintained the remaining more than \$237,000 (\$1 million - nearly \$562,000 - nearly \$201,000) in the restricted money market account to fulfill General Motors' requirement for maintaining a minimum of \$250,000 in unencumbered cash. However, the Department could not provide sufficient documentation to support that Wagner maintained the \$100,000 in the money market account and that the remaining more than \$137,000 (\$900,000 - nearly \$562,000 - nearly \$201,000) from the checking account was transferred into the money market account.

The deputy director stated that he believed the Department provided sufficient documentation to support that it followed Federal and State requirements in the administration of the Wagner Motor Car Company project. Since none of Wagner's repayments on the loan had reached the third level of noncompliance (30 days late), the loan was considered in good standing. Appendix A, section C.1, of 2 CFR Part 225 does not define minimum documentation or the meaning of adequate. The Department believed that it provided adequate documentation to support Wagner's use of the program funds.

Department Could Not Ensure Subrecipients Appropriately Procured Services

The Department could not provide sufficient documentation to support that Chicago Neighborhood Initiatives, Inc., performed a cost analysis for its contract with an engineering firm as required by 24 CFR 84.45. Chicago Neighborhood Initiatives, Inc. obtained from an engineering firm a concept engineer's opinion of probable construction cost for site improvements for the community center, dated November 2012. The opinion stated that the

⁵ The grant agreement stated that \$500,000 was a grant and \$500,000 was a 50 percent forgivable loan as long as Wagner met specified repayment requirements.

⁶ The City remitted the more than \$287,000 to the Department.

prices were based on average prices from contractors' bid prices that the engineering firm had reviewed for similar projects within the past year or available material and labor cost data and that some unit prices were adjusted for special conditions. The Department did not provide documentation to support the opinion. In December 2013, Chicago Neighborhood Initiatives, Inc., requested qualifications for engineering services associated with site and infrastructure work in preparation for the community center, and two engineering firms submitted qualifications.⁷ Chicago Neighborhood Initiatives, Inc., selected the firm that it believed was the best qualified, which was the same firm that provided the opinion, in February 2014. In May 2014, it entered into a contract with the firm totaling \$720,500.

However, CDM Smith, Inc., completed a cost reasonableness review for the design and construction engineering services portion of the contract to support that \$470,800 for the services was reasonable. The deputy director stated that it was the opinion of Department's contractor that the scope and entire price of Chicago Neighborhood Initiatives, Inc.'s contract with the firm was reasonable. However, the Department did not provide documentation to support the opinion concerning the remaining \$249,700 of the contract for environmental services, soil boring activities, and work to be completed by a subcontractor related to materials collection and testing during the construction oversight.

Contrary to HUD's regulations at 24 CFR 84.43 and 84.45 and the Association's procurement policies and procedures, the Department did not ensure that the Association obtained more than one bid for two requests for proposals for professional and consulting services and performed a cost analysis for the services. The same firm provided the bids for both requests. The Association entered into two contracts with the firm⁸ and paid the firm \$59,600 in program funds under the contracts.

The deputy director stated that the subrecipients procured the services using 24 CFR 85.36 and he believed that the subrecipients complied with those procurement regulations. However, since the subrecipients were nonprofit corporations, 24 CFR 84.40 through 84.48 were the applicable procurement regulations. The deputy director stated that he believed that the engineer's opinion for the community center met the requirements of an independent estimate for the engineering services. He also believed that it was acceptable for the Association to enter into contracts with the firm for professional and consulting services after receiving only one bid since the Association requested proposals from several firms.

⁷ The firm that provided the opinion was one of the two firms that submitted qualifications.

⁸ The Association's contracts with the firm were for \$56,000 and nearly \$6,000.

Conclusion

The weaknesses described above occurred because the Department lacked adequate controls for its administration of the three projects to ensure that the use of program funds met Federal requirements. As a result, HUD and the Department lacked assurance that more than \$1.7 million in program funds was used and more than \$4.3 million in program funds will be used in accordance with Federal requirements. Further, the Department did not have \$250,000 in program funds available for eligible program-funded projects.

Recommendations

We recommend that the Director of HUD's Chicago Office of Community Planning and Development require the State to

- 1A. Support or reimburse its program from non-Federal funds \$1,211,842 (more than \$652,000 disbursed to Chicago Neighborhood Initiatives, Inc. + \$1 million disbursed to the City of Belleville + nearly \$60,000 for the Association's two contracts - \$500,000)⁹ for the program funds used for the three projects without sufficient documentation to support that the use of the funds met Federal requirements.
- 1B. Support that Chicago Neighborhood Initiatives, Inc.'s community center project met a national objective or deobligate the \$4,346,358 in program funds.
- 1C. Reimburse its program from non-Federal funds \$250,000 for the program funds that the City of Belleville inappropriately forgave the Wagner Motor Car Company from repaying.
- 1D. Implement adequate controls to ensure that the Department administers the program in accordance with Federal requirements.

⁹ We did not include the (1) \$250,000 in principal that Wagner Motor Car Company repaid since the City of Belleville remitted the amount to the Department and (2) \$250,000 in program funds that the City inappropriately forgave Wagner since we included the amount in recommendation 1C.

Scope and Methodology

We performed our audit work from November 2014 through July 2015 at the Department's offices located at 500 East Monroe Street, Springfield, IL, and HUD's Chicago regional office located at 77 West Jackson Boulevard, Chicago, IL. The audit covered the period September 2010 through September 2014 and was expanded as necessary.

To accomplish our objective, we reviewed

- Applicable laws; Federal regulations at 2 CFR Parts 225 and 230; HUD's regulations at 24 CFR Parts 84 and 570; the Federal Register, dated February 13, 2009, August 14, 2009, and October 22, 2010; HUD's "CDBG [Community Development Block Grant] Disaster Recovery Framework" training handout; HUD's grant agreement with the State for program funds; and HUD's files for the State's program.
- The State's action plan for program funding, single audit report for 2011, comprehensive annual financial reports for 2012 through 2014, and program data from HUD's system.
- The Department's grant agreements with subrecipients, policies and procedures, and organizational charts.
- Subrecipients' policies and procedures and accounting records.

In addition, we interviewed the subrecipients', CDM Smith, Inc.'s, and the Department's employees and HUD's staff.

Finding

We reviewed the three program-funded projects that the Honorable Mark Kirk asked us to review.

We relied in part on the data from HUD's system. Although we did not perform a detailed assessment of the reliability of the data, we performed minimal levels of testing and found the data to be adequately reliable for our purposes.

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(s). 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:

- 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 Deficiency

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

- The Department lacked adequate controls for its administration of three projects to ensure that the use of program funds met Federal requirements (see finding).

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		<u>\$1,211,842</u>	
1B			<u>\$4,346,358</u>
1C	<u>\$250,000</u>		
Totals	<u>\$250,000</u>	<u>\$1,211,842</u>	<u>\$4,346,358</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. In this instance, implementation of our recommendation will ensure that program funds are used in accordance with HUD's regulations.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG
Evaluation

Auditee Comments



**Illinois
Department of Commerce
& Economic Opportunity**
Bruce Rauner, Governor

STATE OF ILLINOIS

Response to
HUD Office of Investigator General's
Discussion Draft Audit Report

August 12, 2015

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PDF Page 1

Comment 1

TABLE OF CONTENTS		<u>PDF Page</u>
EXECUTIVE SUMMARY		3
RESPONSES		
National Objective		
Item 1) Pullman Community Center (Chicago Neighborhood Initiative)		6
Attachment 1 – Original service area map with LMI calculation		9
Attachment 2 – Updated service area map identifying census tracts		12
Attachment 3 – Census Tracts & City of Chicago Zoning Map		14
Attachment 4 – Census Data for Service Area		16
Item 2) Dixie Square Mall (South Suburban Mayors and Managers Association)		21
Attachment 1 – Attorney General Agreed Interim Order		23
Attachment 2 – Phase 1 Environmental Site Assessment		75
Attachment 3 – Existing Conditions Summary Report		268
Attachment 4 – DRGR printout showing National Objective		290
Item 3) Wagner Motor Car Company (City of Belleville)		292
Attachment 1 – Federal Register 5441-N-01 published Friday October 22, 2010		295
Attachment 2 – City of Belleville Final Grantee Report signed November 8, 2013		299
Attachment 3 – Analysis of Original Final Grantee Report		304
Attachment 4 – Analysis of Adjusted Final Grantee Report		306
Relation to Disaster		
Item 4) Dixie Square Mall (South Suburban Mayors and Managers Association)		308
Attachment 1 – Email exchanges with HUD documenting their Technical Assistance		311
Attachment 2 – Community Stabilization Program Application Guidebook		317
Attachment 3 – HUD Community Planning & Development, Disaster Recovery training		512
Attachment 4 – Flood of September 13-16, 2008, in Northeastern Illinois, USGS Report		543
Attachment 5 – Unemployment Data for Harvey IL		598
Attachment 6 – Financial Data for Harvey IL		600
Attachment 7 – Redevelopment Economic Impact Analysis		602
Attachment 8 – Harvey City Council resolution working draft of redevelopment plan		612
Attachment 9 – News Article discussing redevelopment plan		666
Procurement		
Item 5) Pullman Community Center (Chicago Neighborhood Initiative)		669
Attachment 1 – CNI Community Center Grant Agreement		672
Attachment 2 – CNI Procurement Policy Guidelines		717
Attachment 3 – Engineer’s Independent Estimate of Project Cost		729
Attachment 4 – CNI’s costs analysis for engineering contract		733
Item 6) Dixie Square Mall (South Suburban Mayors and Managers Association)		738
Attachment 1 – SSMMMA Dixie Square Mall Grant Agreement		741
Attachment 2 – SSMMMA outreach associated with MW&A contracts 1 & 2		790
Attachment 3 – HUD manual - Playing by the Rules: A Handbook for CDBG Subrecipients		805
Attachment 4 – Cost Analysis of the MW&A proposals for contracts 1 & 2		819
Use of Funds		
Item 7) Wagner Motor Car Company (City of Belleville)		822
Attachment 1 – Repayment history for Wagner’s loan		825
Attachment 2 – Department policy for Levels of Noncompliance		827
Attachment 3 – Documents for Wagner’s Personal Loan		829
Attachment 4 – Wagner Motor Car Company – Use of Funds package		833

Auditee Comments



Illinois
Department of Commerce
& Economic Opportunity
Bruce Rauner, Governor

EXECUTIVE SUMMARY

This document provides the response of the State of Illinois, through the Department of Commerce and Economic Opportunity (the "Department"), to the findings contained in the Discussion Draft Report on the Office of Inspector General's ("OIG") audit of the State of Illinois' Community Development Block Grant Disaster Recovery Program, received on July 31, 2015 (the "Draft Report").

The three projects that were audited were initiated by the previous administration between October 2010 and October 2013. The Draft Report included one finding on these three projects, made up of the following seven items:

Lack of Sufficient Documentation To Support Projects Met a National Objective

- Item 1) Pullman Community Center (Chicago Neighborhood Initiative)*
- Item 2) Dixie Square Mall (South Suburban Mayors and Managers Association)*
- Item 3) Wagner Motor Car Company (City of Belleville)*

Lack of Sufficient Documentation To Support Relation to Disaster

- Item 4) Dixie Square Mall (South Suburban Mayors and Managers Association)*

Department Could Not Ensure Subrecipients Appropriately Procured Services

- Item 5) Pullman Community Center (Chicago Neighborhood Initiative (CNI))*
- Item 6) Dixie Square Mall (South Suburban Mayors and Managers Association (SSMMA))*

Loan of Program Funds for Wagner Inappropriately Partially Forgiven

- Item 7) Wagner Motor Car Company (City of Belleville)*

Upon receipt of the Draft Report, the Department undertook the appropriate due diligence to review and respond to each item set forth in the Draft report. The enclosed documents and attachments detail the Department's technical findings with respect to its compliance with the relevant federal requirements.

This response, including all attachments and exhibits hereto, encompasses the entire response of the State of Illinois to the Draft Report and supersedes all previous understandings and discussions, whether oral or written, between the Department and its employees and contractors, on the one hand, and OIG, on the other hand, with respect to the Draft Report. To the extent the final audit report contain any reference to the Department's response, the

**Ref to OIG
Evaluation**

Auditee Comments

Comments 2, 3,
and 4
Comment 5



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report should reference this response and not any prior communications or discussions between OIG, the Department, and the Department's employees and contractors. In compliance with the Department's standard operating procedures, the Department requests that the names of contractors engaged by the State of Illinois be removed or redacted in the final audit report.

If you have any questions related to our response or if we could be of any further assistance, please do not hesitate to contact the Department's Chief Operating Officer, Mike Hoffman.

Michael M. Hoffman
Chief Operating Officer
Illinois Department of Commerce & Economic Opportunity
312-814-2811

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Evaluation

Auditee Comments


Comments 2
and 6

Comments 6
and 7

Comments 6
and 8

Comments 6
and 9

Comment 6



Illinois
Department of Commerce
& Economic Opportunity
Bruce Rauner, Governor

Date: August 12, 2015
To: Brent Bowen and Florian Kalman, HUD OIG
From: David Wortman, Illinois Department of Commerce and Economic Opportunity
Subject: Chicago Neighborhood Initiatives, Inc. Community Center – National Objective

The intention of this memo is to provide documentation to show the CNI Community Center project meets the national objective of “activities benefitting low and moderate income persons, area benefit.” (24 CFR 570.483(b)(1))

In accordance with the regulation referenced above, the activity must benefit an area where at least 51 percent of the residents are low and moderate income persons and must be primarily residential in character.

The application stated “The up to 10 mile radius to be served by the facility...” and this information was entered into DRGR. However, the service area was never anticipated to be 10 miles and was a mistake made during the preparation of the application text. The original application included a service area map highlighting the area served as a roughly 4-mile by 4-mile square. The service area map showed the included census tracts and the calculated LMI percentage of 61.52%. The calculation was based upon all census tracts and all block groups within the census tracts as shown on the map. Census tracts with no population were not highlighted on the map because their inclusion would not change the calculation – these areas are the orange, un-highlighted areas on the south and southeast side of the map (including tracts 8341 and 8342). This map and LMI calculation was based upon 2000 census data – the data available at the time of the application. See Attachment 1 for the map and a letter from CNI clarifying that the area shown in the map was intended to be the service area. The Department’s contractor conducted a site visit in the area during the application process and determined that the area was primarily residential in character. The service area map and the site visit provided the basis for selection and qualification for the national objective of “activities benefitting low and moderate income persons, area benefit.”

An updated service area map was provided as part of the Department’s March 30, 2015 response to OIG. This map is provided as Attachment 2. The service area was adjusted to reflect the likely users of the facility based upon additional review of the area and surrounding community services. Essentially, the users are most likely to be those confined within the boundaries of Interstate 57 to the west, just north of Interstate 57 to 95th street and the Little Calumet River to the south. Residents outside of this area (and in particular, youth that do not drive) may be less likely to travel on foot or bike across the large interstates. All census tracts are connected to the community center via large thoroughfares making transportation via roadways, buses and sidewalk easier as well. Additionally, the developers believe the community center will be used by families that are shopping at the nearby Walmart; for example, a mom might drop off her sons to play basketball while she shops and the service area is somewhat similar to those anticipated to shop at Walmart. Furthermore, other community centers are located to the NE (South Central Community Center), NW (Englewood Community Service Center), west (Oak Lawn Community Center) and south (Harvey Community Center). Residents of those areas are less likely to travel to the Pullman Community Center.

Refer to Attachment 3 for a map that shows the boundary of the service area provided on March 30, 2015 (in red). Upon transposing the census tract data onto a zoning map, it became evident that the boundaries were skewed, especially on the north, as the boundary lines are not easily seen using the government census data resources. The addition of the census tracts in yellow results in a contiguous, essentially rectangular service area with boundaries as discussed in the previous paragraph. This map in Attachment 3 also includes City of Chicago

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PDF Page 7

**Ref to OIG
Evaluation**

Auditee Comments

Comment 6

Zoning data. Pink signifies residential. Most of the service area is pink and thus primarily residential in character. Additionally, during the site visit to CNI by DCEO, the Department's contractor and Mr. Florian Kalman, a drive around was conducted to show the primarily residential character of the neighborhood. The area shown in map in Attachment 3 is the project's service area. The census data included in Attachment 4 shows this area has an LMI of 61.4% and the zoning map shows the area is primarily residential. The calculation is based upon the data for all block groups for all census tracts shown within the red and yellow boundaries on the map in Attachment 3. The LMI data in Attachment 4 is from 2000 census data.

Comment 6

Additional evidence of the residential nature of the service area is found in the population density. The area shown on the Chicago zoning map in Attachment 3 is approximately 25.5 square miles, including Lake Calumet. The total population living within that area is 148,971, as shown in LMI/census data in Attachment 4. This yields a population density of 5,800 people per square mile.

Comment 6

It should be noted that the service area shown in the original application map had an LMI of 61.5% and the updated service area has an LMI of 61.4%.

Note that census data and the activity description for this activity was also revised in DRGR on July 28, 2015.

Comment 1

To support this claim the following documents are provided:

- Attachment 1 – Original service area map with LMI calculation, as included in the application - PDF page 9
- Attachment 2 – Updated service area map identifying census tracts - PDF page 12
- Attachment 3 – Census Tracts & City of Chicago Zoning Map - PDF page 14
- Attachment 4 – Census Data for Service Area - PDF page 16


Ref to OIG
Evaluation

Auditee Comments

Comment 10

Comment 10

Comment 1

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& Economic Opportunity
Bruce Rauner, Governor

Date: August 12, 2015
To: Brent Bowen and Florian Kalman, HUD OIG
From: David Wortman, Illinois Department of Commerce and Economic Opportunity
Subject: Dixie Square Mall (SSMMA) – National Objective

The Dixie Square Mall project qualifies for CDBG Disaster Recovery funding under the "Activities to address slums and blights on a spot basis" national objective, the criteria for which are outlined in 24 CFR 570.483 (c) (2).

The regulation specifies that "activities can be undertaken on a spot basis that will eliminate specific conditions of blight, physical decay, or environmental contamination..." The allowable activities are acquisition, clearance, relocation, historic preservation, remediation of environmentally contaminated properties or rehabilitation of buildings or improvements. For the Dixie Square Mall project, the allowable activity undertaken was clearance. The regulation limits the rehabilitation, acquisition and relocation activities that can be conducted but those limitations do not apply since the only activity undertaken was clearance.

The Attorney General of the State of Illinois entered into an agreed interim order with the owner of the Dixie Square Mall property on July 23, 2010. A copy of this document, including original attachments is included as Attachment 1. This Interim Order provides substantial documentation as to the condition of the Dixie Square Mall and the danger it posed to humans and the environment. It specifically states that the "asbestos fibers present at the mall pose a hazard to human health and the environment, by causing or tending to cause adverse health effects in individuals accessing the Site, the residents of homes surrounding the Site, and by causing or tending to cause adverse health effects in others exposed to said asbestos fibers." Additionally, the Interim Order states that the "property is structurally unsound and in danger of imminent collapse..." Photographs documenting the structural condition of the building are included in Appendix A of the Interim Order. Additional documents provide further photographic evidence of the condition of the property. A Phase 1 Environmental Site Assessment (ESA) is included as Attachment 2 and an Existing Conditions Summary Report is included as Attachment 3. The Phase 1 ESA documents the proximity of buildings for local residents (Photo 12), elderly (Photo 13) and children (Photo 14) to the asbestos-laden property. The Existing Conditions Summary Report catalogs the extent of the asbestos debris.

Attachment 4 contains a printout of the current DRGR status showing the project's national objective is input as Slum and Blight on a spot basis.

Clearance and removal of the asbestos containing materials and the unsound structure was the only way to eliminate the "specific conditions of blight, physical decay, or environmental contamination."

Attachments:
Attachment 1 - Attorney General Agreed Interim Order - PDF page 23
Attachment 2 - Phase 1 Environmental Site Assessment - PDF page 75
Attachment 3 - Existing Conditions Summary Report - PDF page 268
Attachment 4 - DRGR printout showing National Objective - PDF Page 290

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PDF Page 22

Ref to OIG
Evaluation

Auditee Comments

Comments 2,
11, and 12

Comment 11
Comment 13



Illinois
Department of Commerce
& Economic Opportunity
Bruce Rauner, Governor

Date: August 12, 2015
To: Brent Bowen and Florian Kalman, HUD OIG
From: David Wortman, Illinois Department of Commerce and Economic Opportunity
Subject: City of Belleville Wagner Motor Cars – National Objective

The intention of this memo is to provide documentation to show the City of Belleville Wagner Motor Cars project meets the national objective of “activities benefitting low and moderate income persons, job creation or retention” requirements as stipulated by 24 CFR 570.483 (b)(4)(i).

The OIG report states there are three issues with the Wagner Motor Cars job creation documentation:

- 1) the Department could not provide sufficient documentation to support the income for all of the individuals who were hired,
- 2) the Department could not provide sufficient documentation to show whether the jobs that were created were full-time or part-time, and
- 3) a determination whether 51 percent of the jobs that were created provided employment to low-and moderate-income individuals could not be made.

The cited regulations (24 CFR 570.483 (b)(4)(i)), stipulate at least 51 percent of the jobs, computed on a full time equivalent basis, involve the employment of low and moderate income persons. The regulation goes on to describe documentation requirements in 24 CFR 570.483 (b)(4)(iv).

The City of Belleville provided quarterly reports that included beneficiary forms filled out by hired employees (as well as employees interviewed but not hired) and job creation reports completed by the business. These forms were completed by the City and the business based upon the documentation requirements included in the regulations at 24 CFR 570.483 (b)(4)(iv). These reports were provided to HUD OIG and were included in the project files. HUD OIG has pointed out that many of these forms were not completed fully (i.e., household size or household income were left off) or in some cases were not signed. Employees or applicants cannot be required to complete these forms and it is a voluntary compliance activity.

However, as published in the Federal Register 5441-N-01 on Friday October 22, 2010, HUD granted the state of Illinois a waiver to the documentation requirements in 24 CFR 570.483 (b)(4)(iv). Specifically, the federal register allowed the State to establish low- and moderate-income jobs benefit by documenting for each person employed the name of the business, type of job, and the annual wages or salary of the job. HUD will consider the person income-qualified if the annual wages or salary of the job is at or under the HUD-established income limit for a one-person family. The waiver eliminated the need for the assisted businesses to request employees complete sensitive documents that are fully voluntary and that cannot be mandated. A copy of the federal register is included as Attachment 1.

In accordance with the wavier requirements, the City of Belleville provided a final grantee report, signed on November 8, 2013. This report is included in Attachment 2. The report lists the name of the employee, their position, date of hire, their annualized salary and whether they are employed part-time or full-time. Although the grantee was previously completing the other documentation, the Department chose to apply the waiver to this project upon final review of the project activities. Therefore, this report formulates the basis of the job creation calculations for the grant. The income limit for a one-person family in St. Clair County in effect at the end of 2012 (the final quarter Wagner Motor Cars was in business) was \$39,450. Per the report, of the 16 employees (14.5 full

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PDF Page 293

**Ref to OIG
Evaluation**

Auditee Comments

Comment 12

Comments 12
and 14

Comments 11
and 12

Comment 1

time equivalents or FTEs) hired, 11 employees (9.5 FTEs) had an annual salary less than the 2012 one-person family income limit. As calculated, 66% of the created jobs employed low- to moderate- income persons. Attachment 3 provides a spreadsheet that shows this analysis.

The Department conducted an additional review of the documentation provided by the City in preparation of this response. The Ike Economic Development application guidelines define a full-time employee as working 1,950 hours per year (37.5 hours each week). Per an \$8.25 per hour minimum wage multiplied by 1,950 hours, the minimum wage for a full-time employee would be \$16,088. Five employees reported by the City as full-time appear to only be part-time as their salary is less than the \$16,088 threshold. These employees should be counted as 0.5 FTE instead of 1 FTE. Additionally, two part-time employees appear to work less than 20 hours a week based upon the annualized salary. Assuming minimum wage, the FTE for job counting purposes was adjusted to 0.1 and 0.3 rather than 0.5 for these two. Correcting the calculations for these inconsistencies adjusts the job creation calculations as shown in Attachment 4. Of the 16 employees (11.9 FTEs) hired, 11 employees (6.9 FTEs) had an annual salary less than the 2012 one-person family income limit. The adjusted calculation results in 58% of the created jobs employed low- to moderate- income persons. These calculations provide the most conservative job creation figures.

As a result of the waiver granted by HUD, the final grantee report data as supplemented with the analysis in Attachment 4 provides the information required to address Items 1-3 of the HUD OIG's report.


To support this claim the following documents are provided:

- Attachment 1 – Federal Register 5441-N-01 published Friday October 22, 2010 - PDF Page 295
- Attachment 2 – City of Belleville Final Grantee Report signed November 8, 2013 - PDF Page 299
- Attachment 3 – Analysis of Original Final Grantee Report - PDF Page 304
- Attachment 4 – Analysis of Adjusted Final Grantee Report - PDF Page 306

Ref to OIG
Evaluation

Auditee Comments

Comment 15

 **Illinois
Department of Commerce
& Economic Opportunity**
Bruce Rauner, Governor

Date: August 12, 2015
To: Brent Bowen and Florian Kalman, HUD OIG
From: David Wortman, Illinois Department of Commerce and Economic Opportunity
Subject: Dixie Square Mall (SSMMA) – Relation to Disaster

The intention of this memo is to provide documentation to show the Dixie Square Mall (SSMMA) project is indirectly connected to the 2008 disaster as allowed by regulation.

Public Law 110-329 and Federal Register 5337-N-01 both authorized the use of “CDBG funds for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by hurricanes, floods, and other natural disasters occurring during 2008...” Requirements for establishing an indirect relation to the disaster and requirements for undertaking economic revitalization activities are not specifically documented in the regulations. Therefore, informational and technical assistance from HUD was sought during development of the Department’s Community Stabilization Program application for the 2008 flood and again after additional disasters hit the state. Refer to Attachment 1 for two email chains between DCEO or our contractor staff and HUD. The examples reviewed and discussed with HUD in the second email provided the basis for the examples provided to grantees in the application. Refer to Attachment 2 for the Community Stabilization Program application; Page A-3 provides a listing of the examples for how a project may address the indirect effects of the 2008 flooding as reviewed by HUD.

Attachment 3 is a HUD training presentation which provides further guidance on economic revitalization and indirect relation to disasters. Slide 12 defines that each activity “must address a disaster-related impact (direct or indirect) in a Presidentially-declared county...” Economic revitalization consists of activities that serve to address job losses, impacts to tax revenues, and impacts to business (slide 16). Slide 17 discusses how to demonstrate a tie to the disaster. Specifically, the entity “must document how it is addressing a disaster-related impact and how it serves to restore housing, infrastructure, or the economy.” Furthermore HUD states there is no set formula or process and that the grantee (the State of IL in this case) has discretion to determine what documentation is sufficient.

During the 2008 storm event that hit Cook County, 8.31 inches of total precipitation was recorded in Harvey as measured by a rain gage and reported by USGS. This occurred September 13-16, 2008. The south suburbs in Cook County were hit hard and represented one of the two large areas that received 8 inches or more of precipitation. Refer to Table 1 and Figure 3 in Attachment 4 for this data.

During September 2008, the unemployment rate in Harvey was 10.7 percent. In November and December, it climbed to 10.8 and 12.1 percent respectively. The rate continued to climb as shown in the Bureau of Labor Statistics data in Attachment 5. As shown in the 16 years of data before the flood (1992-2007), the unemployment rate is highest in the summer season (June and July most typically) but is lower by each December. In 2008, after the flood, this is the first year that the employment rate at the end of the year climbed above the summer rate. In addition to the job loss, sales tax revenue decreased dramatically. Financial reports (Attachment 6) indicate sales tax decreased 18.6% from FYE 2008 (4/30/08) to FYE 2009 (4/30/09) and was an indication of a serious deterioration of the City’s commercial/business sector.

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PDF Page 309

**Ref to OIG
Evaluation**

Auditee Comments

Comment 15

Harvey and SSMMA proposed in the application that demolition of the blighted mall property would assist in removing the environmental and safety hazard posed by the property (as dictated and resolved in the Attorney General's order) and would provide economic revitalization opportunities for the property. Economic revitalization would combat the rising unemployment rate and the worsening financial condition of the city after the flood. Two redevelopment planning documents were included with the CSP application for funding.

MG Development South, LLC, the proposed site redeveloper, retained a firm to complete a redevelopment Economic Impact Analysis for the Dixie Square Mall property. This analysis was completed in February 2009 and was included with the application (Attachment 7). The analysis found the redevelopment would have a net positive impact on the regional economy of the City of Harvey—\$115M-\$116M addition tax revenues over a 23 year period; \$20.2M in sales tax revenue over a 23 year period and creation of 403 new jobs.

Comment 15

The findings of the impact analysis led the City of Harvey and MG Development South, LLC to initiate a redevelopment agreement. A resolution to enter into a redevelopment agreement was passed on December 30, 2009, was provided with the application and is included as Attachment 8. Note that the working draft of the redevelopment agreement spells out the mall property and adjacent properties propensity to flood and that the redevelopment must alleviate that condition. Both of these documents provided substantial evidence in the City's efforts to plan for economic revitalization after clearance of the Dixie Square Mall and represented a major consideration during the application review process.

A news article in February 2012 (Attachment 9) highlights the City's continued relationship with MG Development South, LLC regarding redevelopment of the site. Redevelopment of this area hinged on demolition of the mall because of the blight, safety and health considerations caused by the deteriorating mall when it was standing.

Comment 1

To support this claim the following documents are provided:

- Attachment 1 – Email exchanges with HUD documenting their Technical Assistance – PDF page 311
- Attachment 2 – Community Stabilization Program Application Guidebook – PDF page 317
- Attachment 3 – HUD Community Planning & Development, CDBG Disaster Recovery training – PDF page 512
- Attachment 4 – Flood of September 13-16, 2008, in Northeastern Illinois, USGS Report – PDF page 543
- Attachment 5 – Unemployment Data for Harvey IL – PDF page 598
- Attachment 6 – Financial Data for Harvey IL – PDF page 600
- Attachment 7 – Redevelopment Economic Impact Analysis – PDF page 602
- Attachment 8 – Harvey City Council resolution working draft of redevelopment plan – PDF page 612
- Attachment 9 – News Article discussing redevelopment plan – PDF page 666

Ref to OIG
Evaluation

Auditee Comments

Comments 4
and 16


Comment 17

Comments 4
and 17

Comments 16,
17, and 18

Comment 18

Comments 16,
17, and 18



Illinois
Department of Commerce
& Economic Opportunity
Bruce Rauner, Governor

Date: August 12, 2015
To: Brent Bowen and Florian Kalman, HUD OIG
From: David Wortman, Illinois Department of Commerce and Economic Opportunity
Subject: Chicago Neighborhood Initiatives Inc. (CNI) – Procurement

The intention of this memo is to provide documentation to show the Chicago Neighborhood Initiatives Inc. (CNI) procurement of engineering services complied with all procurement requirements including conducting a cost reasonableness review.

Our understanding of the OIG audit findings for this item is as follows:

- 1) The engineer’s opinion of probable costs is not sufficiently documented, and
- 2) The requirement to complete a cost reasonableness review of the \$720,500 engineering contract was not complete. OIG accepted the support for \$470,800 but states that the remaining \$249,700 of the contract was not reviewed.

Response to “the engineer’s opinion of probable costs is not sufficiently documented”

In the Discussion Draft Audit Report OIG states, “The Department could not provide sufficient documentation to support that Chicago Neighborhood Initiatives, Inc. performed a costs analysis for its contract with an engineering firm as required by the regulations at 24 CFR 84.45.” The cited regulations do not apply in this case.

CNI conducted the procurement using 24 CFR 85.36 as allowed in Part 4.4, Section L of the grant agreement between DCEO and CNI. The grant agreement is contained in Attachment 1. Additionally CNI’s Procurement Policy Guidelines states “[t]hese guidelines meet the standards of 24 CFR 85.36.” Refer to Attachment 2. CNI conducted the procurement of engineering services in accordance with 24 CFR 85.36.

CNI had an independent cost estimate prepared for the project in accordance with 24 CFR 85.36(f) as part of the project concept development. This engineer’s estimate included typical percentages for engineering type activities. This estimate included design & engineering (\$347,125), testing, inspections & permits (\$138,850) and environmental consultations (\$347,125). These items total \$833,100 and provided the initial estimate for the design and oversight work necessary to complete the project. This estimate is included as Attachment 3. The estimate was prepared by the engineering firm CNI chose to hire for the conceptual development work prior to seeking the disaster recovery grant.

In the OIG’s review of the engineer’s estimate of construction cost, the Finding outline states “[t]he Department did not provide documentation to support the opinion conditions.” It is not standard engineering practice to include backup data with an engineers’ estimate. Professional engineering firms create construction estimates based upon purchased databases (such as R.S. Means) and internal databases developed by cataloging the results of bids received on projects they designed on behalf of clients. Engineering estimates may cite the source of data but do not include the backup information because it is normally copyrighted or proprietary. For instance, R.S. Means is copyrighted and cannot be distributed and a company’s internal information is protected from their competitors.

We believe the engineering estimate included in the grant application, and in Attachment 3, meets the requirements of the regulation for establishing an independent estimate prior to procuring the engineer.

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PDF Page 670

**Ref to OIG
Evaluation**

Auditee Comments

Comments 16,
17, and 18

Response to “the requirement to complete a cost reasonableness review of the \$720,500 engineering contract was not complete.”

The engineering contract in question totaled \$720,500. This can be compared with the independent estimate of \$833,100 discussed above. CNI and the Department’s contractor both completed a cost analysis of the contract, as required by the regulation.

In the July 10, 2015 Finding Outline, OIG stated the Department’s contractor, “completed a cost reasonableness review for the design and construction engineering services portion of the contract to support that \$470,800 for the services was reasonable.” The remaining \$249,700 consists of lump sum and unit prices for items that are site specific due to the site being a brownfield. For example, the level of soil testing is dependent on the amount of contamination found during initial sampling.

Comment 19

CNI procurement policy guidelines describe when the use of lump sum and unit prices are advisable per federal recommendations. These items are in accordance with that guidance. It was, and is, the opinion of the Department’s contractor that the scope and price of the contract is reasonable per our engineering experience with work on brownfield sites in the Chicago area.

Comment 20

After discussing the finding outline with OIG on July 15, 2015, CNI provided a copy of the cost analysis that they completed for the engineering contract. This cost analysis was performed in accordance with their procurement policy guidelines. CNI compared the contract to two recently completed projects of similar nature. Their analysis concludes the proposal was in line with other similar projects. CNI’s cost analysis document is included as Attachment 4.

Comment 1

To support this claim the following documents are provided:

- Attachment 1 – CNI Community Center Grant Agreement - PDF page 672
- Attachment 2 – CNI Procurement Policy Guidelines - PDF page 717
- Attachment 3 – Engineer’s Independent Estimate of Project Cost - PDF page 729
- Attachment 4 – CNI’s cost analysis for engineering contract - PDF page 733

Ref to OIG
Evaluation


Auditee Comments

Comments 4
and 21

Comment 22

Comments 4,
21, 22, and 23

Comment 24



Illinois
Department of Commerce
& Economic Opportunity
Bruce Rauner, Governor

Date: August 12, 2015
To: Brent Bowen and Florian Kalman, HUD OIG
From: David Wortman, Illinois Department of Commerce and Economic Opportunity
Subject: Dixie Square Mall (SSMMA) – Procurement

The intention of this memo is to provide documentation to show the Dixie Square Mall - South Suburban Mayors and Managers Association (SSMMA) procurement for contracts 1 and 2 between SSMMA and MW&A complied with state and federal procurement requirements.

The OIG discussion draft audit report states there are two issues with the SSMMA procurement:

- 1) The SSMMA did not follow the regulations in 24 CFR 84.40-48 when procuring engineering services. Specifically, OIG states that SSMMA did not obtain more than one bid for two requests for proposals, and
- 2) The Department did not perform a cost analysis for the two contracts.

Item 1: The cited regulations do not apply in this case. The SSMMA complied with 24 CFR 85.36 in accordance with their grant agreement. A snapshot of the relevant paragraph is pasted below. The entire grant agreement is included as Attachment 1.

8. **Procurement, Interest of Public Officials and Employees.** The Grantee shall conduct all procurement transactions in a manner providing for full and open competition and comply with all applicable procurement regulations (24 CFR 85.36 or 24 CFR 84.40-48) and/or Illinois' Procurement Code (30 ILCS 500), whichever are more stringent. The Grantee shall also follow the federal conflict of interest provisions (24 CFR 570.489(h)) and/or Illinois' Procurement and Ethic Disclosure laws (30 ILCS 500/50), whichever are more stringent. The Grantee must maintain all records and source documentation related to its purchase of services, supplies, materials, property, equipment or other acquisitions. Procurement records will include rationale for the method of procurement selection of contract type, contractor selection or rejection, and basis of contract price. The Grantee shall specifically identify all awards of sole source contracts and the rationale for making the award on a sole source basis in reports to the Department. All sole-source procurements will be report to the U.S. Congress as per PL 109-148. The Grantee shall provide the Department with executed copies of all contracts along with documentation concerning the selection process. The Grantee agrees to abide by the provisions of 24 CFR 84.42 and 570.611, which include, but are not limited to, the following:

Though allowed by the grant agreement, the two contracts in question were not sole sourced. Proposals were sought from many firms creating a competitive procurement process although only one firm ultimately presented a proposal. The SSMMA had the right to use regulation 24 CFR 85.36 (d)(4)(D) in lieu of 24 CFR 84 and they met the requirements of 24 CFR 85.36. Attachment 2 provides emails showing the SSMMA's outreach efforts.

In guidance to non-profit entities, HUD has stipulated that the standards set forth in 24 CFR Part 85 for procurement may be viewed as a "safe harbor" for satisfying the Federal requirements. This is documented on the top of page 3-4 in the HUD manual entitled *Playing by the Rules: A Handbook for CDBG Subrecipients on Administrative Systems*. That handbook is provided in Attachment 3.

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PDF Page 739

**Ref to OIG
Evaluation**

Auditee Comments

Comment 25

Item 2: The two contracts were examined for cost competitiveness by the Department’s contractor in 2010 and 2011. Attachment 4 includes the cost analysis for each contract.

To support this claim the following documents are provided:

Comment 1

- Attachment 1 – SSMMA Dixie Square Mall Grant Agreement - PDF page 741
- Attachment 2 – SSMMA outreach associated with MW&A contracts 1 & 2 - PDF page 790
- Attachment 3 – HUD manual - *Playing by the Rules: A Handbook for CDBG Subrecipients* - PDF page 805
- Attachment 4 – Cost Analysis of the MW&A proposals for contracts 1 & 2 - PDF page 819


Ref to OIG
Evaluation

Auditee Comments

Comments 3,
26, and 27

Comments 3,
26, and 28

Comments 27
and 29



Illinois
Department of Commerce
& Economic Opportunity
Bruce Rauner, Governor

Date: August 12, 2015
To: Brent Bowen and Florian Kalman, HUD OIG
From: David Wortman, Illinois Department of Commerce and Economic Opportunity
Subject: Wagner Motor Car Company (Belleville) – Use of funds

The intention of this memo is to provide documentation to show the Department followed both federal and state regulations and requirements in the administration of the Wagner Motor Car Company (Belleville) project.

The OIG discussion draft audit report asserts there are two issues with the Wagner Use of Funds:

- 1) the Department incorrectly forgave a portion of a \$500,000 loan because Wagner had not been making payments on the loan according to the repayment schedule, and
- 2) The Department could not provide sufficient documentation to support Wagner’s use of more than \$438,000 as required by 2 CFR 225, Appendix A, Section C.1.

Item 1: The OIG included in the Findings Outline a repayment history of the \$500,000 loan that Wagner received from the Department. This list, included as Attachment 1, shows the 20 repayments totaling \$287,080.56 from December 2010 through June 2012. In no instance was a payment made more than 19 days late.

According to the Department’s Noncompliance Policy, as posted online and shown as Attachment 2, there are three levels of noncompliance with progressively increasing levels of corrective action. At no time did the Wagner loan reach the third level of noncompliance, represented by thirty days of delinquency, which would have triggered a legal referral. Thus the Department’s General Counsel never initiated grant recovery efforts in accordance with Illinois Grant Funds Recovery Act (30 ILCS 705). Following the Department’s Noncompliance Policy, only four payments reached the second level of noncompliance and all were restored to compliance. Because no payments reached the level of legal referral, the loan was considered in good standing.

Item 2: The discussion draft audit report states the Department has not provided sufficient documentation for Wagner’s use of more than \$438,000 of grant and loan money. The draft report stated that contrary to 2 CFR 225, Appendix A, Section C.1, sufficient documentation was not maintained for the following two issues:

- 1) The Department could not provide sufficient documentation to support that a short term loan was paid off or what Wagner used the loan for, and
- 2) The Department could not provide sufficient documentation to support that Wagner maintained approximately \$237,000 in the money market account to fulfill General Motors’ requirement.

The modified grant agreement allows for the funds to be used as follows: “This financing incentive/economic stimulus package shall be used as financing to achieve the necessary working capital balance to support the reinstatement of the Company’s auto dealership under the General Motors Corporation. In furtherance of this goal, funds may specifically provide for the reimbursement of costs incurred prior to the beginning date as specified in the Notice of Grant award upon showing of sufficient cause and as approved by the Department. Notwithstanding any prior agreement or understanding, prior incurred costs may include repayment of debt existing prior to the date of the Notice of Grant Award.”

Wagner Motor used the funding as working capital in three ways, all of which were allowed by the modified grant agreement:

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PDF Page 823

Ref to OIG Evaluation

Auditee Comments

Comments 27 and 29

- a) Paid back a short term loan the business secured for the purpose of funding operations until the funding from the state was received;
- b) Paid back debt on inventory that had been purchased; and
- c) Deposited funds in the money market to maintain a sufficient balance to satisfy GMAC requirements.

Comments 27 and 29

In the cited regulation Item J requires that the use of funds "Be adequately documented." It does not define minimum documents or what adequate means. The Department contends adequate documentation has been provided to show the use of funds by Wagner Motors. The documents are provided as Attachment 4.

Comments 27 and 29

- a) A copy of the short term loan agreement has been provided and is again provided as Attachment 3. The loan denotes its purpose of "operating capital for Wagner Motor Car Company." If Wagner Motors did not pay this off a the December 26, 2010 loan maturity date, the business owner and the business would be in default and have the full amount immediately due or if agreed by the lender, the interest rate would change from 5% to 10%. Wagner Motors paid off this loan via check #65642 in the amount of \$200,986.30, which was cashed on November 30, 2010. This was documented via a bank statement for the checking account against which this check was written. A copy of the check or the cancelled check was not available at the time of the audit because the dealership changed hands on January 1, 2013 and the state has no authority to request this information from the bank.

Comments 27, 29, and 30

- b) The Department provided OIG a copy of the money market account for the period through December 21, 2010. This statement shows \$100,000 funds had been deposited. It also has a separate reconciling entry denoted on it – from the company – that indicates check #61778 in the amount of \$137,000 was also deposited. The reconciling journal for the checking account also shows this debit. These two deposits brought the account balance up to \$255,533.99. The General Motors Wind Down Agreement was amended to allow Wagner Motors to continue operations as a GM dealer only if they maintained \$250,000 in this money market account. Considering the business operated as a GM dealer an additional two years until it the time is was sold on December 31, 2012, it is logical to conclude the business complied with the GM requirements of maintaining the minimum \$250,000 balance for at least a good portion of the time. Similar to a) above, the Department has no authority for which the bank would comply with providing checks or bank statements for Wagner Motor.

Comments 27, 29, and 31

- c) The modified grant agreement did not limit the use of the working capital funds. Wagner Motor could have used the funds for any necessary operating expenses. Even if they chose not to retain the funds in the money market account, and risk GM finding out via their auditing procedures, they had the ability to use those funds for other working capital items such as additional inventory.

Comments 27, 29, and 31

To support this claim the following documents are provided:

Attachment 1 – Repayment history for Wagner’s loan	- PDF Page 825
Attachment 2 – Department policy for Levels of Noncompliance	- PDF Page 827
Attachment 3 – Documents for Wagner’s Personal Loan	- PDF Page 829
Attachment 4 – Wagner Motor Car Company – Use of Funds package	- PDF Page 833

Comment 1

OIG Evaluation of Auditee Comments

Comment 1 We did not include in appendix B page 5 of the response since it was intentionally left blank and the cover pages to the responses for each item and the attachments since the cover pages and the attachments were not necessary to understand the comments of the Department's deputy director of community development. We provided the Director of HUD's Chicago Office of Community Planning and Development a complete copy of the written comments plus page 5, the cover pages, and the attachments.

Comment 2 We revised the report to state the following:

- The Department's deputy director of community development stated that he believed the Department provided sufficient documentation to support that the community center project and the creation of jobs at the Wagner Motor Car Company met a national objective.

Comment 3 We revised the report to state the following:

- The deputy director stated that he believed the Department provided sufficient documentation to support that it followed Federal and State requirements in the administration of the Wagner Motor Car Company project. Since none of Wagner's repayments on the loan had reached the third level of noncompliance (30 days late), the loan was considered in good standing. Appendix A, section C.1, of 2 CFR Part 225 does not define minimum documentation or the meaning of adequate. The Department believed that it provided adequate documentation to support Wagner's use of the program funds.

Comment 4 We revised the report to state the following:

- The deputy director stated that the subrecipients procured the services using 24 CFR 85.36 and he believed that the subrecipients complied with those procurement regulations. However, since the subrecipients were nonprofit corporations, 24 CFR 84.40 through 84.48 were the applicable procurement regulations. The deputy director stated that he believed that the engineer's opinion for the community center met the requirements of an independent estimate for the engineering services. He also believed that it was acceptable for the Association to enter into contracts with the firm for professional and consulting services after receiving only one bid since the Association requested proposals from several firms.

Comment 5 The Department entered into a contract with CDM Smith, Inc., to assist it in administering the program. Therefore, we did not remove or redact CDM Smith, Inc., from the report.

- Comment 6** Contrary to HUD’s regulations at 24 CFR 570.483(b)(1), the Department could not provide sufficient documentation to support that the area used to determine whether the project qualified as an activity benefiting low- to moderate-income individuals on an areawide basis was the area that would be served by the community center. Therefore, the Department could not provide sufficient documentation to support that at least 51 percent of the residents of the selected area were low- to moderate-income individuals and the area was primarily residential.
- Comment 7** Section 4 of part I of the application described the community center project as site and infrastructure improvements to complete the development of a 138,000-square-foot indoor sports center. The 10-mile radius to be served by the community center was predominantly African American, and more than 25 percent of the population was Latino. The community center will serve the surrounding low-income communities through its offerings of indoor baseball, soccer, and lacrosse fields, a unique combination not currently offered in Chicago. Section 3.3 stated that the community center’s interior will feature three 120 by 200 foot full-size turf fields to accommodate baseball, soccer, and lacrosse. The community center will also accommodate meetings, community events, and exhibitions. Further, section 3.5 stated that the areas to be served included the far south side of Chicago, the Pullman and Roseland communities, and the greater Calumet region. The map did not include much of the far south side of Chicago and the greater Calumet region. In addition, the Department’s application checklist for the community center stated that the documentation used to support that the community center addressed the national objective of benefiting low- and moderate-income individuals on an area wide basis was from Chicago Neighborhood Initiative, Inc.’s Pullman Park project, which involved the construction of a large retail store. Therefore, it appears that the area that would be served by the community center would be greater than the roughly 4-mile by 4-mile square included in the service area map for the Pullman Park project.
- Comment 8** Many of the large thoroughfares that connect the community center to the census tracts that the Department included in its updated service area map and that the deputy director stated would make transportation to the community center easier using roads, buses, and sidewalks also connect the community center to census tracts that the Department did not include in its updated map. Therefore, the interstate highways and the river should not deter individuals living in such census tracts from using the community center.
- Comment 9** The deputy director did not provide support for the services that the four community centers provided. Therefore, we contacted three of the four community centers. South Central Community Center was the only one that had an indoor sports facility. It had one indoor basketball court. We were unable to locate Oak Lawn Community Center. Therefore, the deputy director’s statement that residents of the areas where the community centers are located would be less likely to travel to the community center in Pullman is not supported.

Comment 10 We revised the report to state the following:

- The Department could not provide sufficient documentation to support that two of the three projects met a national objective.

We also removed the following from the report:

- The Department reported in HUD's system that the demolition of the Dixie Square Mall addressed the national objective of aiding in the prevention or elimination of slums and blight on an area wide basis. However, the Department could not provide sufficient documentation to support that the area used to support the objective met the conditions contained in the regulations at 24 CFR 570.483(c)(1)(ii)(A) or (B).

Comment 11 We removed from the report that the Department could not provide sufficient documentation to support the income for all of the individuals who were hired as required by 24 CFR 570.483(b)(4)(i).

Comment 12 The Department could not provide sufficient documentation to support whether the jobs that Wagner Motor Car Company created were full time or part time as required by 24 CFR 570.483(b)(4)(i). Therefore, we could not determine whether 51 percent of the jobs that were created provided employment to low- and moderate-income individuals. Further, we could not determine whether Wagner hired 13 full-time-equivalent permanent employees, of which 7 were to be low- to moderate-income individuals, as required by the Department's modification to the grant agreement with the City of Belleville.

Comment 13 On March 30, 2015, the Department stated that for its grant to the City of Belleville, it did not apply the waiver in 74 FR (Federal Register) 65369, dated October 22, 2010, which allowed the State to establish a low- and moderate-income jobs benefit by documenting for each person employed the name of the business, the type of job, and the annual wages or salary of the job and stated that HUD would consider the person income qualified if the annual wages or salary of the job was at or under the HUD established income limit for a one person household.

Comment 14 The deputy director stated that 5 of the 13 employees the City of Belleville reported in its final grantee report as having full-time jobs appeared to have only part-time jobs since the employees' annualized wages were less than minimum wage and the 5 jobs should not be counted as full-time-equivalent jobs. The Department's own limited analysis showed that the City appeared to have inappropriately reported 31.2 percent of the 16 jobs as full-time jobs. Therefore, we could not rely on the City's final grantee report to support that the remaining eight (13 – 5) employees had full-time jobs.

Comment 15 We removed the following from the report:

- Contrary to the Act, the Department could not provide sufficient documentation to support that program funds used for the Dixie Square Mall project were for necessary expenses related to the flooding that occurred in Illinois during 2008. The Department stated that the disaster caused a rise in unemployment and that the demolition of the Mall would enable potential development and ultimately job creation. The Department also stated that future development would stabilize the City of Harvey's tax base. However, the Department was unable to provide sufficient documentation to support that the demolition of the Mall would enable future development leading to job creation. It provided a February 2009 economic impact analysis of a planned redevelopment project for the Mall. However, it did not provide the redevelopment plan, and the economic impact analysis stated that the company was not retained to provide an opinion regarding the planned redevelopment project's financial feasibility. The Department also provided an October 2012 redevelopment plan for the Dixie Highway corridor redevelopment project area. However, the project area did not include the site of the Mall. Further, although demolition of the Mall was completed in December 2012, redevelopment had not occurred on the site as of July 2015.

We also amended recommendation 1A to reflect these revisions.

Comment 16 The Department could not provide sufficient documentation to support that Chicago Neighborhood Initiatives, Inc., performed a cost analysis for its contract with an engineering firm as required by 24 CFR 84.45.

Comment 17 Part IV of the Department's grant agreement with Chicago Neighborhood Initiatives, Inc., dated November 10, 2013, states that Chicago Neighborhood Initiatives, Inc., must conduct all procurement transactions in a manner providing for full and open competition and in compliance with the more stringent and applicable of the procurement regulations at 24 CFR 85.36 or 24 CFR 84.40 through 84.48 or the State's procurement code at 30 Illinois Compiled Statutes 500. Since Chicago Neighborhood Initiatives, Inc., was a nonprofit corporation, 24 CFR 84.40 through 84.48 were the applicable procurement regulations. Section 84.45 states that some form of cost or price analysis must be made and documented in the procurement files in connection with every procurement action. Further, regulations at 24 CFR 85.36(f)(1) state that grantees and subgrantees must perform a cost or price analysis in connection with every procurement action, including contract modifications.

Comment 18 Chicago Neighborhood Initiatives, Inc., obtained from an engineering firm a concept engineer's opinion of probable construction cost for site improvements for the community center, dated November 2012. The opinion stated that the prices were based on average prices from contractors' bid prices that the engineering firm had reviewed for similar projects within the past year or available material and labor cost data and that some unit prices were adjusted for special conditions. The Department did not provide documentation to support the

opinion. In December 2013, Chicago Neighborhood Initiatives, Inc., requested qualifications for engineering services associated with site and infrastructure work in preparation for the community center, and two engineering firms submitted qualifications. The firm that provided the opinion was one of the two firms that submitted qualifications. Chicago Neighborhood Initiatives, Inc., selected the firm that it believed was the best qualified, which was the same firm that provided the opinion, in February 2014. In May 2014, it entered into a contract with the firm totaling \$720,500. It was not appropriate to use an opinion, especially without documentation to support the opinion, from the selected firm to support the reasonableness of the contract.

Comment 19 CDM Smith, Inc. completed a cost reasonableness review for the design and construction engineering services portion of the contract to support that \$470,800 for the services was reasonable.

We revised the report to state the following:

- The Department's deputy director of community development stated that it was the opinion of Department's contractor that the scope and entire price of Chicago Neighborhood Initiatives, Inc.'s contract with the firm was reasonable. However, the Department did not provide documentation to support the opinion concerning the remaining \$249,700 of the contract for environmental services, soil boring activities, and work to be completed by a subcontractor related to materials collection and testing during the construction oversight.

Comment 20 The Department did not provide documentation to support Chicago Neighborhood Initiatives, Inc.'s cost analysis of engineering services associated with site and infrastructure work in preparation for the community center.

Comment 21 Contrary to HUD's regulations at 24 CFR 84.43 and 84.45 and the Association's procurement policies and procedures, the Department did not ensure that the Association obtained more than one bid for two requests for proposals for professional and consulting services and performed a cost analysis for the services.

Comment 22 Part IV of the Department's grant agreement with the Association, dated November 19, 2010, states that the Association must conduct all procurement transactions in a manner providing for full and open competition and in compliance with the more stringent and applicable of the procurement regulations at 24 CFR 85.36 or 24 CFR 84.40 through 84.48 or the State's procurement code at 30 Illinois Compiled Statutes 500. Since the Association was a nonprofit corporation, 24 CFR 84.40 through 84.48 were the applicable procurement regulations. Section 84.43 states that all procurement transactions must be conducted in a manner that provides, to the maximum extent possible, free and open competition. Section 84.44 states that all recipients must establish written procurement procedures. Section 84.45 states that some form of cost or price

analysis must be made and documented in the procurement files in connection with every procurement action. Further, regulations at 24 CFR 85.36(b)(1) state that grantees and subgrantees must use their own procurement procedures, which reflect applicable State and local laws and regulations, provided that procurements conform to applicable Federal law and the standards identified in 24 CFR 85.36. Section 85.36(c)(1) states that all procurement transactions will be conducted in a manner providing full and open competition consistent with 24 CFR 85.36. Section 85.36(f)(1) also states that grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications.

- Comment 23** The Association's procurement policies and procedures state that all purchases that use Federal awards of more than \$5,000 but less than \$100,000 must be made by obtaining written quotations from at least two responsible vendors.
- Comment 24** Section 3.1 of HUD's Office of Community Planning and Development's *Playing by the Rules*, a handbook on administrative systems for Community Development Block Grant subrecipients, states that the Federal requirements for procurement are located in 24 CFR 85.36 for government subrecipients and in 24 CFR 84.40 through 84.48 for nonprofit subrecipients.
- Comment 25** The Department did not provide documentation to support its contractor's analysis.
- Comment 26** The Department allowed the City of Belleville to forgive \$250,000 of a \$500,000 loan, although Wagner Motor Car Company did not repay the loan in accordance with the repayment schedule in the Department's grant agreement with the City.
- Comment 27** Contrary to appendix A, section C.1, of 2 CFR 225, the Department could not provide sufficient documentation to support Wagner Motor Car Company's use of more than \$438,000 of the \$1 million in program funds.
- Comment 28** Part II of the Department's grant agreement with the City of Belleville, dated November 10, 2010, states that Wagner Motor Car Company was required to pay the interest and principal indebtedness on the loan as follows: (1) only the interest due, calculated on the full amount of the outstanding principal, beginning on December 1, 2010, and on the first day of each following month until and including May 1, 2011; (2) more than \$9,000 in principal plus applicable interest, beginning on June 1, 2011, and on the first day of each following month until and including October 1, 2015; and (3) the unpaid principal on November 1, 2015. If Wagner was, at all times during the loan, in good standing with all required payments under the loan, the City was authorized to forgive a maximum of \$250,000 of the loan principal based on (1) Wagner's satisfactory performance in remitting repayments of principal and payments of interest as agreed and (2) making specific prepayments defined in the repayment schedule as balloon payments on or before June 1, 2012, April 1, 2013, February 1, 2014, or December 1, 2014, respectively.

Wagner made 20 repayments on the loan totaling \$250,000 in principal and more than \$37,000 in interest. However, the 20 payments were 8 to 19 days after the date required by the repayment schedule. Therefore, the City was not authorized to forgive \$250,000 of the loan to Wagner.

Comment 29 The Department stated that Wagner Motor Car Company used nearly \$201,000 from its checking account to pay off a short-term loan. However, the Department could not provide sufficient documentation to support that the loan was paid off or what Wagner used the loan for. Further, the Department stated that Wagner maintained the remaining more than \$237,000 in a restricted money market account to fulfill General Motors' requirement for maintaining a minimum of \$250,000 in unencumbered cash. However, the Department could not provide sufficient documentation to support that Wagner maintained \$100,000 in the money market account and that more than \$137,000 from the checking account was transferred into the money market account.

Comment 30 The bank statement did not support the payee of Wagner Motor Car Company's check number 65642 for nearly \$201,000.

Comment 31 The Department provided Wagner Motor Car Company's checking account bank statement for the period October 30 through November 30, 2010, which showed that Wagner deposited \$900,000 in program funds into the checking account on November 22, 2010. The Department also provided a hand written bank reconciliation for the checking account for November 2010, which included outstanding check number 61778 for \$142,000. The bank reconciliation did not include the payee of the check. The Department provided Wagner's money market account bank statement for the period November 18 through December 21, 2010, which showed that Wagner deposited \$100,000 in program funds into the money market account on November 22, 2010. The statement included what appeared to be a tape calculation, showing that \$142,000 was added to the money market account, for a total of nearly \$255,000. Check 61778 was written next to the addition. The Department did not provide additional bank statements for the money market account. The two bank statements and bank reconciliation were not sufficient to support that Wagner maintained the \$100,000 in the money market account and that more than \$137,000 from the checking account was transferred into the money market account.

Appendix C

Applicable Requirements

Finding

The Consolidated Security, Disaster Assistance, and Continuing Appropriation Act of 2009 states that program funds must be used for necessary expenses related to disaster relief; long-term recovery; and restoration of infrastructure, housing, and economic revitalization in areas affected by hurricanes, floods, and other natural disasters occurring during 2008.

HUD's grant agreement with the State for the program, dated February 4, 2010, states that the State must comply with all waivers and alternative requirements in the Federal Register, dated February 13, 2009.

74 FR (Federal Register) 7245, dated February 13, 2009, states that regulatory provisions governing the Community Development Block Grant program for States at 24 CFR Part 570 apply to the use of program funds. Page 7252 states that 24 CFR 570.502(b), except that HUD recommends but does not require the application of the requirements of 24 CFR Part 84, applies to any activity that a State carries out directly by funding a subrecipient.

Regulations at 24 CFR 84.43 state that all procurement transactions must be conducted in a manner that provides, to the maximum extent possible, free and open competition. Section 84.44 states that all recipients must establish written procurement procedures. Section 84.45 states that some form of cost or price analysis must be made and documented in the procurement files in connection with every procurement action.

Regulations at 24 CFR 570.483 state that a Community Development Block Grant-assisted activity must comply with one or more of the national objectives. Section 570.483(b)(1) states that for an activity to be considered to address the objective of benefiting low- and moderate-income individuals on an areawide basis, the benefits must be available to all the residents in a particular area and at least 51 percent of the residents must be low- and moderate-income individuals. Such an area does not need to have the same boundaries as census tracts or other officially recognized boundaries but must be the entire area served by the activity. An activity that serves an area that is not primarily residential in character cannot qualify as an activity benefiting low- and moderate-income individuals on an areawide basis. Section 570.483(b)(4)(i) states that a job creation activity is an activity designed to create permanent jobs in which at least 51 percent of the jobs, computed on a full-time equivalent basis, involve the employment of low- and moderate-income individuals. Section 570.483(c)(1) states that for an activity to be considered to address the objective of aiding in the prevention or elimination of slums and blight on an areawide basis; (1) the area, defined by the unit of general local government, meets a definition of a slum, blighted, deteriorated, or deteriorating area under State or local law and (2) the area must meet the conditions cited in 24 CFR 570.483(c)(1)(ii)(A) or (B). Section 570.483(c)(1)(ii)(A) states that at least 25 percent of the properties throughout the area must experience at least one of the following conditions: (1) physical deterioration of buildings or improvements, (2) abandonment of properties, (3) chronic high-occupancy turnover rates or

chronic high vacancy rates in commercial or industrial buildings, (4) significant declines in property values or abnormally low property values relative to other areas in the community, or (5) known or suspected environmental contamination. Section 570.483(c)(1)(ii)(B) states that the public improvements throughout the area must be in a general state of deterioration.

Regulations at 24 CFR 570.489(n) state that a State must ensure that costs it and its recipients incur conform with Office of Management and Budget Circulars A-87 and A-122 as applicable.

Regulations at 24 CFR 570.502(b) state that subrecipients, except subrecipients that are government entities, must comply with Office of Management and Budget Circular A-122.

Appendix A, section C.1, of 2 CFR Part 225 requires all costs to be necessary, reasonable, and adequately documented.¹⁰

Appendix A, section A.2, of 2 CFR Part 230¹¹ requires that all costs be reasonable and adequately documented. Section A.3 states that a cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

Part IV of the Department's grant agreement with Chicago Neighborhood Initiatives, Inc., dated November 10, 2013, states that program funds must be spent for project costs that comply with Office of Management and Budget Circular A-122. Chicago Neighborhood Initiatives, Inc., must conduct all procurement transactions in a manner providing for full and open competition and in compliance with the more stringent and applicable of the procurement regulations at 24 CFR 84.40 through 84.48 or the State's procurement code at 30 Illinois Compiled Statutes 500.

Part IV of the Department's grant agreement with the Association, dated November 19, 2010, states that program funds must be spent for project costs that comply with Office of Management and Budget Circular A-122. The Association must conduct all procurement transactions in a manner providing for full and open competition and in compliance with the more stringent and applicable of the procurement regulations at 24 CFR 84.40 through 84.48 or the State's procurement code at 30 Illinois Compiled Statutes 500.

The Department's grant agreement with the City of Belleville, dated November 10, 2010, states that the Department agrees to provide a grant to the City in an amount not to exceed \$1 million in program funds. Part II of the grant agreement states that the City will receive \$1 million in program funds for the benefit of the Wagner Motor Car Company, consisting of a \$500,000 grant and a \$500,000 loan with an annual interest rate of 5 percent. Wagner was required to pay the interest and principal indebtedness on the loan as follows: (1) only the interest due, calculated on the full amount of the outstanding principal, beginning on December 1, 2010, and on the first day of each following month until and including May 1, 2011; (2) more than \$9,000 in principal plus applicable interest, beginning on June 1, 2011, and on the first day of each following month

¹⁰ Office of Management and Budget Circular A-87 was relocated to 2 CFR Part 225.

¹¹ Office of Management and Budget Circular A-122 was relocated to 2 CFR Part 230.

until and including October 1, 2015; and (3) the unpaid principal on November 1, 2015. If Wagner was, at all times during the loan, in good standing with all required payments under the loan, the City was authorized to forgive a maximum of \$250,000 of the loan principal based on (1) Wagner's satisfactory performance in remitting repayments of principal and payments of interest as agreed and (2) making specific prepayments defined in the repayment schedule as balloon payments on or before June 1, 2012, April 1, 2013, February 1, 2014, or December 1, 2014, respectively. Wagner was required to hire a minimum of 29 additional full-time-equivalent permanent employees before August 31, 2012, and retain the employees until the Department approved the grantee evaluation report. Of the 29 employees, 15 were to be low- to moderate-income individuals. On June 28, 2013, the Department approved a modification to the grant agreement so that Wagner was required to hire only 13 additional full-time-equivalent permanent employees before December 31, 2014. Further, 7 of the 13 employees were to be low- to moderate-income individuals. Part IV states that program funds must be spent for project costs that comply with Office of Management and Budget Circular A-87.

The Association's procurement policies and procedures state that all purchases that use Federal awards of more than \$5,000 but less than \$100,000 must be made by obtaining written quotations from at least two responsible vendors.