



The City of Niagara Falls, NY

Community Development Block Grant Program

Office of Audit, Region 2
New York-New Jersey

Audit Report Number: 2016-NY-1002
January 7, 2016



To: William T. O'Connell, Director
Community Planning and Development Division, Buffalo, NY, 2CD

Kimberly Greene

From: Kimberly Greene
Regional Inspector General for Audit, 2AGA

Subject: The City of Niagara Falls Had Weaknesses in Controls Over CDBG-Funded,
Subgrantee-Administered Rehabilitation Activities

Enclosed is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG), final audit report on our review of the City of Niagara Falls, NY's Community Development Block Grant (CDBG) 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 212-264-4174.



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The City of Niagara Falls Had Weaknesses in Controls Over CDBG Funded, Subgrantee-Administered Rehabilitation Activities

Highlights

What We Audited and Why

We reviewed the City of Niagara Falls' Community Development Block Grant (CDBG) program. We selected this auditee based on our risk assessment of CDBG grantees administered through the Buffalo, NY, field office, which considered the City's funding, HUD's risk assessment of the City, and prior Office of Inspector General (OIG) audits. The City received more than \$2.2 million in each of its program years 2013 and 2014; was ranked medium risk in HUD's risk assessment for 2014 and 2015, with a score of 38 and 45, respectively; and had not recently been audited by OIG.

What We Found

City officials committed and spent CDBG funds for eligible activities but did not establish sufficient controls to ensure that subgrantee expenditures were always adequately supported; program income was administered in compliance with HUD regulations; and subgrants were properly awarded, executed, and monitored. As a result, City officials disbursed \$220,538 for unsupported costs, used \$113,733 in CDBG funds when program income was available, executed subgrants without receiving required documentation and after the start of the subgrant term, and did not ensure that services costing \$2,516 were received during the subgrant period.

What We Recommend

We recommend that the Director of HUD's Buffalo Office of Community Planning and Development instruct City officials to (1) provide adequate documentation to support the eligibility of unsupported disbursements and obligations of \$70,538 and \$150,000, respectively; (2) implement monitoring procedures for CDBG-funded subgrantees to ensure compliance with program requirements; (3) ensure that \$2,516 in unexpended funds is reprogrammed for other eligible CDBG activities; (4) ensure that program income of \$113,733 is spent on eligible CDBG activities before additional CDBG entitlement funds are drawn down; (5) strengthen procedures to ensure that program income received by grantees is properly reported to HUD and spent before funds are drawn down from the U.S. Treasury; and (6) strengthen subgrant procedures to ensure that all required documents are received, explanations are obtained when prior performance does not meet goals, and subgrants are executed in a timely manner.

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Background and Objectives

The Community Development Block Grant (CDBG) program was established by Title I of the Housing and Community Development Act of 1974, Public Law 93-383, as amended, 42 U.S.C. (United States Code) 5301. The program provides grants to State and local governments to aid in the development of viable urban communities. Governments can use grant funds to support a variety of activities directed at improving the physical condition of neighborhoods, such as housing rehabilitation, public facilities, fostering economic development by providing technical and financial assistance to local businesses, creating employment, or improving services for low- or moderate-income households. To be eligible for funding, every activity must meet one of three national objectives: (1) benefit low- and moderate-income persons, (2) aid in preventing or eliminating slums or blight, or (3) address a need with a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community.

The City of Niagara Falls, NY, is a CDBG entitlement grantee that operates under a mayor-council form of government. The City's CDBG program is administered by the City's Department of Community Development, which contracts directly for services with and through nonprofit organizations acting as grantees. The Department of Community Development is responsible for monitoring the grantees' CDBG activities. During three consecutive program years,¹ HUD awarded the City CDBG funding of more than \$2.1 million in 2012, \$2.2 million in 2013, and \$2.2 million in 2014.

During the period 2011 through 2014, City officials provided rehabilitation projects with approximately \$3.2 million, or 37 percent, of the more than \$8.8 million in CDBG funds awarded. More than \$1.5 million, or 56 percent, of approximately \$2.8 million in rehabilitation program funds drawn down was used for program delivery activities. The remaining 44 percent was drawn for activities such as single-family and multifamily housing rehabilitation, fair housing activities, and closing cost assistance activities.

During the period July 1, 2014, through June 30, 2015, the City executed five subgrantee agreements to carry out CDBG-funded activities. Specifically, two of the subgrantees were to administer housing rehabilitation programs in targeted areas of the City; one was to administer program delivery activities; one operated a housing deconstruction program, a housing rehabilitation program, and a building trades training program; and one was to develop 41 units of low-income housing.

The objectives of the audit were to determine whether the City officials established and implemented adequate controls to ensure that (1) CDBG funds were spent for eligible activities in compliance with HUD regulations and (2) disbursements were for eligible, reasonable, and adequately supported costs.

¹ The City's CDBG program year is January 1 through December 31.

Results of Audit

Finding: There Were Weaknesses in the City's Controls Over CDBG-Funded, Subgrantee-Administered Rehabilitation Activities

While City officials committed and spent CDBG funds for eligible rehabilitation activities, they did not establish sufficient controls to ensure that subgrantees always spent funds for eligible and supported costs, program income was administered in compliance with HUD regulations, and subgrants were properly executed. We attributed this deficiency to the City's lack of monitoring procedures for the subgrantee-administered rehabilitation program. As a result, City officials disbursed and obligated \$70,538 and \$150,000, respectively, for unsupported costs, used \$113,733 in CDBG funds when program income was available, executed subgrants without receiving required documentation and after the start of the subgrant term, and did not ensure that services costing \$2,516 were received during the subgrant period.

Unsupported Expenditures Were Disbursed to a Subgrantee

City officials lacked adequate monitoring procedures for subgrantees administering their rehabilitation program. While City officials had formal procedures for monitoring rehabilitation program activities by the Community Development Office through contracts, there were no formal monitoring procedures applicable to rehabilitation program activities administered by subgrantees. Regulations at 24 CFR (Code of Federal Regulations) 85.40(a) provide that grantees are responsible for managing and monitoring the day-to-day operations of grant- and subgrant-supported activities and require that they monitor these activities to ensure compliance with applicable Federal requirements and that performance goals are achieved. Although City officials provided adequate expense documentation for three sampled rehabilitation program subgrantees, they were unable to support that the subgrantees had been monitored. In addition, there was no support for the disbursement of \$9,464 to a fourth subgrantee for the director's salary and administrative costs. For instance, the salary cost was not validated by timesheets, cost allocations, or other such documents to determine hours charged. Additionally, there were no receipts associated with administrative costs, and City officials were unable to explain the allocation of these costs.

The subgrant budget of \$150,000 was apportioned as \$50,000 for instructor salaries, \$85,000 for materials, and \$15,000 for administrative costs. However, without requesting an amended budget, the subgrantee spent \$111,074 on salaries (\$61,074 over the allotment) and \$26,946 on materials. In addition, \$2,516 was set aside for services that were not provided or billed before the subgrant period ended on June 30, 2015; therefore, the funding was not used. As a result, we regarded the \$9,464 in unsupported disbursements and instructor salaries that exceeded the budget allotment by \$61,074 as unsupported costs. Further, the \$2,516 in services not provided and billed by the end of the subgrant period needs to be reprogrammed and used for other eligible CDBG activities so these funds can be put to better use. We attributed these conditions to a lack of adequate monitoring procedures.

City Officials Did Not Adequately Administer Program Income

City officials did not properly use program income. Specifically, they reported a program income balance of \$113,733; however, through the end of our onsite work in September 2015, they had made no draws on program income despite drawing from entitlement funds. Regulations at 24 CFR 570.504(a) require that the receipt and expenditure of program income be recorded as part of the financial transactions of the grant program, and 24 CFR 570.504(b)(2)(i) and (ii) require that program income be substantially disbursed before additional cash withdrawals are made from the U.S. Treasury. We attributed this noncompliance to the lack of procedures pertaining to the receipt and expenditure of program income received from CDBG rehabilitation program subgrantees. As a result, \$113,733 was unavailable for eligible CDBG activities.

There Were Weaknesses in Subgrantee Agreement Approval and Execution

The City's subgrantee approval procedures required that applicants describe the need, objectives, and goals of a proposed project and submit an independent certified audit report. However, one subgrantee, approved for \$150,000 in two separate timeframes from July 1, 2014, through June 30, 2015, and July 1, 2015, through June 30, 2016, did not submit an annual independent certified audit of the organization for either period. In addition, the subgrantee did not meet the graduation rate and job placement goals provided in its subgrantee application for CDBG funding. The subgrantee specified an 85 percent graduation rate goal and a 75 percent employment rate goal for the period July 1, 2014, through June 30, 2015; however, it achieved 58 percent and 54 percent rates, respectively. While these were goals, subgrantee files lacked documentation showing that City officials corresponded with or visited the subgrantee to determine why goals were not met and how performance could be improved.

Although City officials did not disburse funds until after subgrants were administered, agreements with four rehabilitation program subgrantees were executed after the subgrant term started (as noted in the table below). City officials attributed this deficiency to delays in the approval process for the municipal grant and subgrant. Without an executed subgrantee agreement, (1) the ability of City officials to enforce subgrant provisions is diminished, and (2) the potential for litigation is possible if any services were provided before the subgrant agreement was executed.

Subgrant amount	Subgrant term	Date of subgrant execution
\$150,000	7/1/14 -6/30/15	8/26/2014
\$190,000	7/1/14-6/30/15	9/11/2014
\$140,000	7/1/14-6/30/15	9/22/2014
\$ 50,000	7/1/14-6/30/15	10/14/2014
\$ 15,000	7/1/14-6/30/15	10/14/2014

City officials did not monitor four subgrantees² to which they disbursed CDBG funds. We attributed this deficiency to the City's lack of monitoring procedures for the CDBG rehabilitation program administered by subgrantees.

Conclusion

City officials did not establish and implement adequate controls to ensure that CDBG funds were spent for eligible activities in compliance with HUD regulations and disbursements were for eligible, reasonable, and adequately supported costs. As a result, City officials (1) could not support actual and planned spending of \$220,538 (\$150,000 + \$61,074 + \$9,464), (2) disbursed \$113,733 in CDBG funds when program income was available, (3) approved subgrants without adequate justification, (4) did not fully spend \$2,516 in subgrant funds during the subgrant period, and (5) executed subgrants after the term of the subgrant started.

Recommendations

We recommend that the Director of the HUD's Buffalo Office of Community Planning and Development instruct City officials to

- 1A. Provide documentation to adequately support that \$70,538 disbursed and \$150,000 obligated were for eligible costs. Any costs determined to be ineligible should be reimbursed from non-Federal funds.
- 1B. Strengthen monitoring procedures for CDBG-funded subgrantees to ensure compliance with program requirements.
- 1C. Reprogram unexpended funds of \$2,516 on a subgrantee agreement that expired June 30, 2015, for use by other eligible CDBG activities so that these funds can be put to better use.
- 1D. Spend program income of \$113,733 on eligible CDBG activities before drawing down additional CDBG entitlement funds, thus ensuring that these funds are put to better use.
- 1E. Implement procedures to ensure that program income received by subgrantees is properly reported in HUD's Integrated Disbursement and Information System³ and spent before funds are drawn down from the U.S. Treasury.
- 1F. Strengthen subgrant procedures to ensure that all required documents are received, explanations are obtained when prior performance does not meet goals, and subgrants are executed in a timely manner.

² Five subgrants were executed with four subgrantees. The \$50,000 and the \$15,000 subgrants were executed with the same subgrantee.

³ The Integrated Disbursement and Information System is the drawdown and reporting system for all of HUD's community planning and development formula grant programs.

Scope and Methodology

We performed the audit fieldwork from February through September 2015 at the City's Department of Community Development offices in the Carnegie Building, 1022 Main Street, Niagara Falls, NY. The audit scope covered the period January 1, 2013, through December 31, 2014, and was extended for payments made to a subgrantee in 2015 based on concerns identified in our survey review with the City's subgrantee administered rehabilitation program. We relied in part on computer-processed data primarily for obtaining background information on the City's expenditure of Federal funds. We performed a minimal level of testing and found the data to be adequate for our purposes. To accomplish our objective, we

- Reviewed relevant HUD regulations, guidebooks, and files to gain an understanding of the CDBG program.
- Interviewed HUD officials to identify any HUD concerns with the City's operations.
- Reviewed the City's policies, procedures, and practices to gain an understanding of both the City's general controls and those relating to the administration of CDBG program funds.
- Interviewed key personnel in the City's Department of Community Development, who were responsible for accounting for and overseeing CDBG funds, to gain an understanding of the control environment.
- Reviewed the city council board meeting minutes and resolutions for our audit period to gain an understanding of the City's operations, plans, and project progress.
- Reviewed the City's fiscal years 2011-2013 independent audits and consolidated annual performance and evaluation reports and fiscal year action plans from 2013 to 2015 to determine whether there were any noted program weaknesses and to document how the City allocated and spent CDBG funds.
- As part of our survey review, we selected an initial sample of expenditures, which included seven Line of Credit Control System⁴ fund draws. Specifically we chose the three largest clearance and demolition draws from program year 2012 funds, the three largest rehabilitation draws from program year 2013 funds, and the largest program administration draw from program year 2012.

⁴ The Line of Credit Control System (LOCCS) is the U.S. Department of Housing and Urban Development's (HUD) primary grant disbursement system, handling disbursements for the majority of HUD programs.

- Reviewed the five City CDBG-funded subgrantee applications and executed agreements for rehabilitation activities that were executed in 2014 to determine whether CDBG funds were obligated for eligible activities and spent for eligible and adequately supported costs. We also reviewed the 2015 application and agreement for one of the subgrantees based on concerns identified in our review.
- Reviewed a sample of payments to the four rehabilitation program subgrantees to which the City disbursed CDBG funds. We sampled \$199,169, or more than 36 percent, of the \$545,000 disbursed to the four rehabilitation program subgrantees. This included one LOCCS draw for three of the subgrantees and all of the draws for one grantee based on concerns identified in our survey review with the City's subgrantee administered rehabilitation program.
- Reviewed the Integrated Disbursement and Information System's program income details report for the audit period, which included all receipts and draws of program income reported by City officials. We also reviewed supporting documentation for rehabilitation program expenses to identify program income earned by subgrantees.

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 objectives.

Internal Controls

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

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

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Reliability of financial data – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.
- Laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.
- Safeguarding of resources – Policies and procedures that management has implemented to reasonably ensure that resources are safeguarded against waste, loss, and misuse.

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 Deficiencies

Based on our review, we believe that the following items are significant deficiencies:

- City officials did not have adequate controls over program operations when they did not adequately monitor their subgrantee activities (see finding).

- City officials did not have adequate controls to ensure the reliability of financial information when they did not accurately report and use program funds (see finding).
- The City did not have adequate controls over compliance with laws and regulations when it drew down CDBG funds when program income was available (see finding).

Appendixes

Appendix A

Schedule of Questioned Costs and Funds To Be Put to Better Use

Recommendation number	Unsupported 1/	Funds to be put to better use 2/
1A	\$220,538	
1C		\$2,516
1D		\$113,733
Totals	\$220,538	\$116,249


- 1/ 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.
- 2/ 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 case, if the \$113,733 in program income is spent before additional entitlement funds are drawn down for eligible activities and if the \$2,516 in unexpended funds is reprogrammed to other eligible activities, the funds will be put to better use.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments



City of Niagara Falls, New York

P.O. Box 69, Niagara Falls, NY 14302-0069

December 15, 2015

Kimberly Greene
Regional Inspector General for Audit
U.S. HUD Region 2
26 Federal Plaza, Room 3430


*Re: City of Niagara Falls
Final Response to HUD OIG Draft Audit Report*

Dear Ms. Greene:

It has been a pleasure working with Mr. [REDACTED] and the entire review team throughout the City of Niagara Falls' 2015 United States Department of Housing and Urban Development (HUD) Office of Inspector General (OIG) Audit. Per our previous discussions with Mr. [REDACTED], Niagara Falls is utilizing this correspondence as an opportunity to respond to the conditions listed in the "Draft Audit Report." We look forward to working with HUD Buffalo on the next steps outlined in the December 10, 2015 exit meeting.

Condition: City officials made unsupported payments to a sub recipient that was not monitored and whose contract was inadequately administered to ensure compliance with the contract budget and project goals

City of Niagara Falls Response: We respectfully disagree with this condition. The sub-recipient only utilized Community Development Block Grant (CDBG) funds for activities that were both consistent with the stated national objectives and the city's contract with the [REDACTED]. Per our discussions during audit interviews, the City did allow the [REDACTED] to use a higher percentage of the contract amount for instruction costs versus building materials. However, the City has exercised that ability to adjust funding levels for contracted, eligible project components in the past. As stated in the December 10 meeting, the City is more than willing to revise its policy and procedures on contract amendment. Again, it is currently our contention that the revision was within current guidelines.



Comment 1

Comment 2

All payments within these approved project components have supporting documentation as part as the HUD IDIS draw. None of the expenses were for non-eligible expenses.

Comment 1

Expenditures were limited to [REDACTED] ([REDACTED]) instructor costs, building materials and project administration. Per HUD's recent request, the Niagara Falls Community Development Department has forwarded a copy of the draft 2015 CDBG agreement with the [REDACTED] to Mr. [REDACTED]. We are confident that this contract is also consistent with HUD CDBG guidelines. The HUD OIG reviewed the 2014 [REDACTED] expenditures, which is the first full year of the home renovation/job training program. We have received programmatic reporting from the [REDACTED] and have the opportunity to provide these details in the CAPER process. The City of Niagara Falls requests the opportunity to discuss this condition further with HUD Buffalo.

Comment 3

The City of Niagara Falls also requests a clarification on page four of the report. The sub recipient has not had access to \$220,538 as stated in the report. This amount includes 2015 CDBG funds that have not yet been distributed. Respectfully, we request that the correct dollar amount is included in the revised final report, as the \$220,538 amount could be misleading to public readers.

Condition: City officials failed to report program income to HUD and drew down CDBG funds when program income was available.

Comment 4

City of Niagara Falls Response: The City of Niagara Falls had had extensive conversations with the HUD-Buffalo Office regarding proper use of program income. We recognize that a better program income expenditure procedure is needed. The City fully understands that program income must be more clearly presented in our annual plan budgets. Per the Draft Finding Outline, the City of Niagara Falls is already working with HUD-Buffalo to implement a procedure to ensure that program income is properly reported in IDIS and expended prior to drawing down funds from the U.S. Treasury. The draft 2016 Community Development Action Plan, to be submitted to HUD for review in January 2016, included program income budgeted to specific projects in order to ensure timely expenditure.

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Niagara Falls

As stated above, the City of Niagara Falls looks forward to working with the OIG and HUD Buffalo on next steps. We would be happy to provide additional information as needed. Feel free to contact me at (716) 286-8801 or seth.piccirillo@niagarafallsny.gov anytime Thank you.

Sincerely, . . .



Seth Piccirillo, Director
Niagara Falls Community Development

cc: [REDACTED], HUD
[REDACTED], HUD

OIG Evaluation of Auditee Comments

- Comment 1** City officials stated that CDBG funds used by the subrecipient were for activities that were both consistent with the stated national objectives and the City's contract with the subgrantee. However, while the funds may have been used for eligible activities, \$9,464 was unsupported and \$61,074 exceeded the amounts authorized in the line item budget. Consequently, City officials will need to provide supporting documentation and approval of an amended budget during the audit resolution process to support the costs.
- Comment 2** City officials stated that they allowed the subrecipient to use a higher percentage of the contract amount for instruction costs versus building materials and that the City had adjusted funding levels for contracted, eligible project components in the past. However, the City's agreement with the subrecipient didn't include guidance for spending above the budget allotment, and the subrecipient didn't submit an amended budget for spending outside the prescribed budget allotments. Consequently, City officials will need to provide supporting documentation for an amended budget during the audit resolution process to support the costs.
- Comment 3** City officials requested clarification of the \$220,538 stated on page 4 in the report because this amount includes 2015 CDBG funds that have not yet been distributed. We revised the report to distinguish between unsupported costs that were disbursed (\$70,538) and those that were obligated (\$150,000) but not yet disbursed. Weaknesses identified in the approval of \$150,000 for the 2015 subrecipient grant application caused us to question the amount obligated for this agreement.
- Comment 4** City officials agreed that a better program income expenditure procedure is needed, that program income must be more clearly presented in annual plan budgets, and that they are already working with the HUD local office to implement a procedure to ensure that program income is properly recorded in the Integrated Disbursement and Information System and expended prior to drawing down funds from the U.S. Treasury.