



Clark County, NV

Community Development Block Grant Program

Office of Audit, Region 9
Los Angeles, CA

Audit Report Number: 2017-LA-1001
April 13, 2017



To: Laurence Wuerstle, Acting Director, Office of Community Planning and Development, San Francisco, 9AD

//SIGNED//

From: Tanya E. Schulze, Regional Inspector General for Audit, 9DGA

Subject: Clark County, NV, Did Not Always Use Community Development Block Grant Funds in Accordance With HUD Requirements

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of Clark County, NV's Community Development Block Grant 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 213-534-2471.



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Clark County, NV, Did Not Always Use Community Development Block Grant Funds in Accordance With HUD Requirements

Highlights

What We Audited and Why

We audited Clark County, NV's Community Development Block Grant (CDBG) program. We selected Clark County for review due to its large grant size and the U.S. Department of Housing and Urban Development's (HUD) risk assessment. The reporting objective of the audit was to determine whether Clark County followed procurement requirements, ensured that CDBG projects met CDBG national objectives, and spent CDBG funds on eligible expenses.

What We Found

Clark County did not have appropriate controls to ensure that it used CDBG funds in accordance with HUD requirements. Specifically, it (1) did not ensure that it followed HUD procurement requirements, (2) did not ensure that one project met a CDBG national objective, and (3) spent CDBG funds on general government expenses. This condition occurred because Clark County (1) did not have adequate controls and its controls were not always effective or implemented as written, (2) was not aware that one project did not exclusively serve severely disabled adults, and (3) was not aware of all CDBG requirements. As a result, it used CDBG funds for \$119,720 in ineligible costs and \$4.8 million in unsupported costs and budgeted an additional \$33,603 for an ineligible CDBG activity.

What We Recommend

We recommend that the Acting Director of HUD's San Francisco Office of Community Planning and Development require Clark County to (1) repay the program \$119,720 for ineligible costs, (2) support the eligibility of \$4.8 million, (3) reallocate \$33,603 to an eligible CDBG activity, (4) provide proof that the Americans with Disabilities Act (ADA) pool project meets ADA requirements through a third party or make the pool ADA compliant, (5) update its policies and procedures for monitoring procurement and contracting, and (6) provide training to its staff on program requirements.

Table of Contents

Background and Objective.....	3
Results of Audit	4
Finding 1: Clark County Did Not Ensure That It Met HUD Procurement Requirements.....	4
Finding 2: Clark County Did Not Ensure That a Project Met a CDBG National Objective	10
Finding 3: Clark County Inappropriately Spent CDBG Funds on General Government Expenses	12
Scope and Methodology	15
Internal Controls.....	17
Appendixes.....	19
A. Schedule of Questioned Costs and Funds To Be Put to Better Use.....	19
B. Auditee Comments and OIG’s Evaluation	21
C. Criteria.....	33

Background and Objective

Clark County, NV, is a recipient of the U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) entitlement program. The program allocates annual grants to larger cities and counties to develop viable communities by providing decent housing, a suitable living environment, and opportunities to expand economic opportunities, principally for low- and moderate-income persons. To achieve these goals, program-funded projects must satisfy one of three HUD national program objectives required in 24 CFR (Code of Federal Regulations) 570.208:

- Provide a benefit to low- and moderate-income persons,
- Prevent or eliminate slums or blight, or
- Meet other urgent community development needs due to disasters or other emergencies.

Clark County allocates CDBG funds through a consortium of unincorporated areas in Clark County, the City of North Las Vegas, the City of Boulder City, and the City of Mesquite on a formula basis. It spends CDBG funds on infrastructure improvements, public facilities, housing rehabilitation, public services, and fair housing and administration.

As lead agency, Clark County is responsible for the administration, implementation, planning, and evaluation of the CDBG program. Its Community Resources Management Unit provides these services. For the period of our review, Clark County received

Fiscal year	Amount allocated
July 1, 2014 – June 30, 2015	\$8,144,696
July 1, 2015 – June 30, 2016	8,591,498
Total	16,736,194

Our reporting objective was to determine whether Clark County followed procurement requirements, ensured that CDBG projects met CDBG national objectives, and spent CDBG funds on eligible expenses.

Results of Audit

Finding 1: Clark County Did Not Ensure That It Met HUD Procurement Requirements

We identified several instances in which Clark County did not use CDBG funds in accordance with HUD procurement requirements. Specifically, it did not ensure that

- Its funds were procured with full and open competition,
- Its subrecipients met the intended outcomes of its agreements,
- Its subrecipients performed a cost analysis on change orders,
- It maintained adequate supporting documentation, and
- Its subrecipients performed labor wage interviews.

This condition occurred because Clark County did not have written policies and procedures for monitoring subrecipient procurement transactions during the time of our review and did not always implement the payment reimbursement procedures in place. As a result, it did not ensure that it used more than \$2.2 million in CDBG funds in accordance with CDBG requirements.

Clark County Did Not Ensure That Its Funds Were Procured With Full and Open Competition for One Project

HUD regulations at 2 CFR 200.319 state that all procurement transactions must be conducted in a manner providing full and open competition. To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications must be excluded from competing for such procurements (appendix C). Clark County allocated CDBG funds to a nonprofit subrecipient for a food facility consolidation and expansion project. As part of the award, the subrecipient signed an agreement stating that it would follow Federal requirements. The subrecipient had a contractor develop a cost estimate based on the preliminary architectural sheets developed by the architect when it submitted the application for CDBG funds to Clark County in 2014. The same contractor then bid on and won the contract in 2016.

According to the subrecipient, it thought that this action did not violate Federal requirements because the contractor did not develop the specifications. However, since the subrecipient allowed the contractor to have indepth knowledge concerning the preliminary architectural sheets drafted by the architect before the bidding process, it gave the contractor an unfair competitive advantage. In addition, the contractor used multiple change orders for this project, resulting in a net decrease in project cost of \$443,398.¹ The nonprofit did not perform a cost analysis on any of the change orders as required by 2 CFR 200.323(a) (appendix C). Due to the

¹ The \$617,066 in change orders reducing cost or scope less the \$173,668 in change orders increasing cost or scope equals a \$443,398 net decrease in project cost. This amount reflected change orders through August 2016 as the project was still in progress.

contractor's indepth knowledge of the project before bid submission and the substantial amount of changes to the scope of the contract, we could not determine whether more than \$1.6 million spent on the contract was reasonable. This occurred because the County does not have monitoring policies and procedures in place to ensure that it verifies its subrecipients obtain cost estimates.

Clark County Did Not Ensure that Two Subrecipient Projects Met Intended Project Outcomes

According to the interlocal agreement between Clark County and the City of North Las Vegas, the subrecipient was required to spend funds to complete the work described in the agreement and have the flexibility to shift funds from one activity to another. The City of North Las Vegas shifted CDBG funds to the Pettiti pool project. The project description stated that the subrecipient would use \$596,126 of its CDBG funding to rehabilitate and bring Pettiti pool up to Southern Nevada Health District standards. During the project, the Health District informed the subrecipient's contractor that the pump's flow rate was at risk of exceeding that of the new filter and that a final inspection would be required. The pool failed the Health District's inspection on June 4, 2015, but the Health District gave the subrecipient temporary approval to fill the pool and operate it. However, despite various correspondence with the Health District, the subrecipient disregarded the violation and failed to take corrective actions. The Health District stated that it would shut down the pool in May 2017 if the subrecipient did not take action to remedy the violation. If the subrecipient does not take corrective action to meet the Health District's standards, the \$596,126 spent on the project will not have met the intended purpose described in the agreement. This occurred because the County's subrecipient monitoring procedures do not include steps to ensure that the project met the stated outcomes.

According to the amendment to the interlocal agreement between Clark County and the City of Boulder City, the subrecipient reallocated CDBG funds for various Americans with Disabilities Act (ADA) swimming pool improvements. However, the subrecipient did not ensure that the access provided by these improvements would be available to the disabled year round. During the winter months, the City of Boulder City encloses the pool area and visitors can only access the pool through revolving doors. Based on our observation, it appeared that it would be difficult for an individual to access the pool through the revolving doors using a wheelchair. The subrecipient stated that this had not been an issue and that an individual would only need to ask a staff member to escort him or her through the doors. However, the ADA and its implementing regulations require equal and independent access for people with disabilities for all covered facilities (appendix C), which would not be available if the individual needed the aid of a staff member to access the pool area. This occurred because the County's



The revolving door to the pool did not allow independent access for people with disabilities.

subrecipient monitoring procedures do not include steps to ensure that the project met the stated outcomes.

Clark County's Subrecipients Did Not Always Perform Cost Analyses on Change Orders

HUD regulations require a cost analysis for change orders (appendix C). Clark County and its subrecipients did not maintain documentation to support that they performed cost analyses or properly approved change orders. We noted issues in four of the five projects reviewed that had change orders.

Subrecipient	Project	Change order issues identified	Amount
City of North Las Vegas	Pettiti pool	<ul style="list-style-type: none"> The City paid \$94,753 in change orders on the \$431,561 Pettiti pool contract without documenting a cost analysis or justification for the change orders. Some appeared to be items that the subrecipient could have potentially included in its original scope and bid out with full and open competition instead of through change orders. In addition, \$5,834 in change orders did not have documented approval. The City and contractor changed the scope of the Pettiti pool project without documenting the change with a change order. There was no evidence that the subrecipient determined that the change in scope should adjust the contract price. 	\$94,753
City of Boulder City	ADA pool improvements	<ul style="list-style-type: none"> The City did not maintain documentation for the approval of \$2,809 in change orders for an ADA pool improvement project. 	\$2,809
Opportunity Village	Sean's Park	<ul style="list-style-type: none"> Opportunity Village did not maintain documentation for cost analyses on change orders. Although the change orders were not paid for with CDBG funding, the subrecipient should have performed a cost analysis because the project was partly funded with CDBG funds. 	N/A

Subrecipient	Project	Change order issues identified	Amount
Catholic Charities	Food facility consolidation and expansion project	<ul style="list-style-type: none"> Catholic Charities did not maintain documentation for cost analyses on change orders. The change orders resulted in a net decrease in contract cost; however, cost analysis was still required. 	N/A ²
Total amount of change orders questioned			97,562

This occurred because Clark County did not have policies or procedures for monitoring or reviewing change orders for its subrecipients, which allowed two of its subrecipients to charge the CDBG program an additional \$97,562 without ensuring that they obtained the additions at a reasonable price.

Clark County Did Not Always Maintain Supporting Documentation To Ensure That It Met HUD Requirements

According to 24 CFR 570.506, each recipient must establish and maintain sufficient records to enable the Secretary to determine whether the recipient has met requirements (appendix C). Clark County had most of the requested documentation, or its subrecipients were generally able to provide the requested documentation. However, we identified the following issues in which Clark County and its subrecipients were not able to locate the documentation needed to determine whether Clark County met requirements:

- A subrecipient was not able to locate its cost estimate or final bids submitted by all three contractors for a \$3.3 million contract to support its basis for award cost or price. There was evidence that this information existed; however, Clark County needed to maintain this documentation.
- Based on the reimbursement request documentation provided by Clark County, we determined that its employees did not always adequately verify supporting documentation. The missing documentation included proof for the outlay of funds and incomplete or missing invoices or receipts. We were able to obtain supporting documentation for most of the costs; however, \$4,955 remained unsupported as described in the table below.

² Questioned costs already addressed in the audit report as part of finding 1, recommendation 1A

Subrecipient	Project	Expense description	Amount
Catholic Charities	Food facility consolidation and expansion project	Clark County approved a reimbursement request for a vendor when the invoice total did not match the items on the invoice.	\$4,388
Catholic Charities	Food facility consolidation and expansion project	Clark County approved a reimbursement request for travel expenses that did not appear reasonable and did not have prior written approval, including business airfare, premium rental car, and covered parking when less expensive parking was available.	567
Total			4,955

Clark County's written policies and procedures included reviewing supporting documentation, ensuring that there were invoices, and ensuring proof for the outlay of funds. However, this occurred because its employees did not always implement these policies and procedures as written.

Clark County Did Not Ensure That Labor Interviews Were Performed for Three Projects

According to Making Davis-Bacon Work: A Practical Guide for States, Indian Tribes, and Local Agencies, the contract administrator or a designee (such as an agency construction inspector) must periodically conduct interviews with the construction workers on the job site. Clark County did not ensure that its subrecipients performed Davis-Bacon wage and employment interviews for three projects. It did not have monitoring procedures specifically related to labor wage interviews. Three projects reviewed could not provide documentation showing that the required interviews occurred. As a result, Clark County could not ensure that its subrecipients paid contracted employees the proper wages as required by HUD (appendix C).

Conclusion

These conditions occurred because Clark County did not have written policies and procedures for monitoring subrecipient procurement transactions during the time of our review and did not always implement the payment reimbursement procedures in place. Clark County was aware of the deficiency in its subrecipient procurement monitoring and developed a draft Federal Regulation Manual; however, it stated that the manual was still a work in progress. The draft manual may not have aided Clark County in identifying some of the issues noted because it did not include a review of cost estimates or analysis of change orders as part of the monitoring function. As a result, Clark County did not ensure that it used more than \$2.2 million in CDBG funds in accordance with requirements.

Recommendations

We recommend that the Acting Director of HUD's San Francisco Office of Community Planning and Development require Clark County to

- 1A. Support the reasonableness of the amount paid for the food facility consolidation and expansion project or repay the program \$1,663,758 from non-Federal funds.
- 1B. Correct any citations from the Southern Nevada Health District at the Pettiti public pool before May 2017 using non-Federal funds or repay the entire project cost of \$596,126 from non-Federal funds and support the reasonableness of the change orders³ for the Pettiti pool project or repay the program from non-Federal funds.
- 1C. Support the cost reasonableness of \$2,809 in change orders for the ADA pool improvement project or repay the program from non-Federal funds.
- 1D. Provide supporting documentation for \$4,955 in unsupported costs or repay the program from non-Federal funds.
- 1E. Provide support showing that the ADA pool improvement project allows equal and independent access for people with disabilities through a third party or correct the access issue.
- 1F. Develop and implement procurement policies and procedures for monitoring subrecipients to ensure that the scope of work developed by its subrecipients is sufficiently detailed to allow contractors to submit informed bids, reducing the number of change orders after the contract, and that its subrecipients do an independent cost analysis before all procurement transactions, including change orders, to ensure that it receives a reasonable price and allows for full and open competition.
- 1G. Develop and implement policies and procedures that ensure labor wage interviews are completed and documented.
- 1H. Provide training to its staff on CDBG program rules and requirements to ensure that its staff adequately implements policies and procedures.

³ The total project cost of \$596,126 included \$94,753 in unsupported change orders.

Finding 2: Clark County Did Not Ensure That a Project Met a CDBG National Objective

Clark County did not ensure that a project met a CDBG national objective. Clark County stated that it was not aware that the project did not exclusively serve severely disabled adults. However, the description in the subrecipient's application with Clark County stated that it would serve both children and adults with intellectual and related disabilities. As a result, Clark County spent \$2 million in CDBG funds for a project that did not exclusively serve a limited clientele approved by HUD and, therefore, could not support that it met the national objective for low- and moderate- income.

Clark County Did Not Ensure That Its Opportunity Village Sean's Park Project Met a CDBG National Objective

Clark County did not ensure that a project met one of HUD's CDBG national objectives in accordance with 24 CFR 570.200(a) (appendix C). Clark County reported that a park project funded with \$2 million in CDBG funds met the limited clientele national objective for severely disabled adults in HUD's reporting system. However, the park also served children with intellectual and related disabilities. Clark County stated that it was not aware that the park also served children with intellectual and related disabilities until we identified it during our review. However, the narrative submitted by the subrecipient to Clark County during the application process for CDBG funds specifically stated that the park was designed for a limited clientele consisting of children and adults with intellectual and related disabilities.

Regulations at 24 CFR 570.208(a)(2)(i) and (ii) state that activities that exclusively serve adults meeting the Bureau of the Census' Current Population Report's definition of "severely disabled" may be presumed to benefit persons, 51 percent of whom are low- and moderate- income (appendix C). HUD's CDBG Guide to National Objectives & Eligible Activities for Entitlement Communities states that severely disabled children are not included in the definition for a presumed benefit because HUD has not been able to find evidence that the majority of severely disabled children are members of a low- to moderate-income family (appendix C). Since the park project served children and adults with intellectual and related disabilities, Clark County could not support that it met the national objective for low- and moderate- income. As a result, it could not support the use of \$2 million in CDBG funds for the park project.

Conclusion

This condition occurred because Clark County was not aware that the park did not exclusively serve severely disabled adults, although the application submitted by the subrecipient stated it would also serve children. As a result, Clark County could not support that its use of \$2 million in CDBG funds met the national objective for low- and moderate- income.

Recommendations

We recommend that the Acting Director of HUD's San Francisco Office of Community Planning and Development work with Clark County to

- 2A. Identify the national objective met for the park project or repay the program \$2,000,000 from non-Federal funds.
- 2B. Develop monitoring practices to ensure that all projects that use limited clientele criteria exclusively serve the specific population claimed.

Finding 3: Clark County Inappropriately Spent CDBG Funds on General Government Expenses

Clark County inappropriately used CDBG funds for general government expenses concerning payroll, code enforcement, and indirect automotive costs. This condition occurred because Clark County (1) misinterpreted HUD's requirements concerning administrative payroll, (2) was not aware of all of HUD's code enforcement requirements, and (3) did not identify indirect automotive costs when reviewing reimbursement requests. As a result, it used \$760,319 in CDBG funds for (1) salaries without ensuring that the employees worked primarily on CDBG activities, (2) code enforcement funds that could not be distinguished from the regular responsibilities of general local government, and (3) indirect automotive costs without ensuring that the CDBG program was charged only for the relative benefit received.

Clark County Did Not Ensure That Salaries Were Primarily CDBG Related

HUD regulations at 24 CFR 570.206(a)(1) state that Clark County may either include the entire salary, wages, and related costs allocable to the program of each person whose primary responsibilities with regard to the program involve program administration assignments or the pro rata share of the salary, wages, and related costs of each person whose job includes any program administration assignments (appendix C). Clark County did not follow these requirements and included the entire salaries of employees who (1) had no CDBG-specific responsibilities or (2) worked on CDBG as well as other program areas. Clark County did not have procedures to ensure that the employees charged to the CDBG program had primary responsibilities with regard to the program. It stated that this condition occurred due to a misunderstanding of the regulations. As a result, Clark County used \$48,323 in CDBG funds on payroll costs for employees who did not work on any program-related activities and spent \$573,064 on employees who worked on a mix of projects.

Questioned salaries			
Employee ID	Title	No CDBG-related activities	No support for primarily CDBG-related activities
***791	Administrative specialist		\$1,017
***173	Senior financial office specialist		2,570
***350	Grants coordinator		236,825
***487	Grants coordinator ⁴	\$48,323	
***270	Grants coordinator		98,496
***245	Senior financial office specialist		33,259
***908	Senior office specialist		57,936
***354	Administrative specialist		131,873

⁴ This employee's responsibilities included only a Clark County-funded grant and HUD Emergency Solutions Grant, which were not eligible CDBG administrative costs.

Questioned salaries			
Employee ID	Title	No CDBG-related activities	No support for primarily CDBG-related activities
***488	Grants coordinator		11,088
Totals		48,323	573,064

Clark County Used CDBG Funds for Code Enforcement That Did Not Meet HUD Requirements

HUD regulations at 24 CFR 570.202(c) and 24 CFR 570.207(a)(2) state that CDBG funds may be used for code enforcement for costs incurred for inspection for code violations and enforcement of codes in deteriorating or deteriorated areas when such enforcement, together with public or private improvements, rehabilitation, or services to be provided, may be expected to arrest the decline of the area, if it is not a general government expense (appendix C). Clark County allocated \$105,000 in CDBG funds for one subrecipient's code enforcement program. The subrecipient did not distinguish between its CDBG code enforcement funding and its regular responsibilities as a unit of general local government. Specifically, the subrecipient

- Did not limit its code enforcement activities to its defined CDBG code enforcement areas.
- Did not define the term "deteriorated area" when it initiated the program so there was no measurable way to determine that the areas identified were deteriorated.
- Did not have a plan or strategy to show that its use of CDBG-funded code enforcement, combined with other activities, would arrest the decline in the area. It also did not have a way to measure the impact of the code enforcement activities.
- Spent CDBG funds on noninspection code enforcement, such as homeless intervention and site cleanup.
- Did not differentiate between staff hours charged for code enforcement inspections and correction activities, which showed that it did not separate CDBG activities from general government code enforcement activities.

Clark County and the subrecipient staff were not aware of all of the requirements of the CDBG code enforcement program. Specifically, they were not aware that they needed a definition for deteriorated areas. They assumed that an area would be eligible for code enforcement funds if it was a CDBG-eligible area based on income. The subrecipient was also under the impression that since it conducted more code enforcement inspections, it met the requirements of arresting the decline in the area. It was not aware that it needed to have a specific strategy to obtain measurable results. As a result, Clark County could not ensure that it used CDBG code enforcement funds to arrest the decline in deteriorating or deteriorated areas. Instead, it used the funds to supplement the subrecipient's code enforcement activities that it could not distinguish from regular responsibilities as a unit of general local government. From the \$105,000 allocated to this project, Clark County spent \$71,397 and budgeted an additional \$33,603 in CDBG funds

for general government expenses for code enforcement activities that did not meet HUD requirements.

Clark County Used CDBG Funds for Automotive Indirect Costs

HUD regulations at 24 CFR 570.206(e) and 2 CFR 200.56 state that indirect costs may be charged to the CDBG program under a cost allocation plan and must be distributed to benefited cost objectives on bases that will produce an equitable result in consideration of relative benefits derived (appendix C). Clark County's automotive department did not document its basis for allocating its indirect costs and charged \$329 from April to October 2016 for indirect costs to CDBG. According to Clark County, the automotive department divided the cost evenly among all departments that had a vehicle assigned. This method did not consider the relative benefit received. Clark County's CDBG manager did not note that indirect costs were included in the bill so did not question the costs during the payment approval process. As a result, Clark County could not ensure that the \$329 paid for indirect automotive costs relative to the benefit received.

Conclusion

These conditions occurred because Clark County (1) misinterpreted HUD's requirements concerning administrative payroll, (2) was not aware of all of HUD's code enforcement requirements, and (3) did not identify indirect automotive costs when reviewing reimbursement requests. As a result, it used \$760,319 in CDBG funds that did not align with HUD regulations concerning general government expenses, which took away funding from eligible CDBG activities.

Recommendations

We recommend that the Acting Director of HUD's San Francisco Office of Community Planning and Development work with Clark County to

- 3A. Repay \$48,323 to the program from non-Federal funds for non-program-related payroll costs.
- 3B. Determine the allocable amount of CDBG payroll costs for the employees who worked on CDBG and non-CDBG activities and adjust the funding amount as necessary or repay the program \$573,064 from non-Federal funds.
- 3C. Repay \$71,397 to the program from non-Federal funds for the use of CDBG funds for code enforcement costs related to general government expenses.
- 3D. Revise its code enforcement program to meet CDBG requirements for the remaining \$33,603 budgeted or amend the use of the funding to another CDBG-eligible activity.
- 3E. Determine the CDBG proportional benefit of the \$329 charged for indirect automotive costs and repay the program any unsupported charges using non-Federal funds.
- 3F. Obtain training or technical assistance from HUD concerning CDBG code enforcement, allocation of payroll, and indirect administrative costs.

Scope and Methodology

Our audit period covered July 1, 2014, through June 30 2016, which we expanded when necessary. We conducted our fieldwork onsite at the Clark County office located at 1600 Pinto Lane, Las Vegas, NV, between August 1, 2016, and January 11, 2017.

To accomplish our objective, we

- Reviewed relevant background information, including organizational charts, grant agreements, interlocal agreements, HUD monitoring reports, financial statements, consolidated and annual action plans, and consolidated annual performance evaluation reports;
- Reviewed applicable laws, regulations, Office of Community Planning and Development (CPD) notices, and guidebooks for the CDBG program.
- Obtained an understanding of Clark County’s internal controls through interviews and written policies and procedures.
- Reviewed reports from HUD’s Integrated Disbursement and Information System (IDIS)⁵ to obtain CDBG disbursements for the audit period. Our assessment of the reliability of IDIS was limited to the data sampled, and the data were reconciled with data in Clark County’s records. Therefore, we determined the data sampled to be reliable for the audit conclusion. However, we did not assess the reliability of the systems that generated the data.
- Interviewed staff from HUD, Clark County, and its subrecipients.
- Selected a nonstatistical sample of six CDBG activities reported in IDIS. We cannot project the results of our testing. The audit universe consisted of 67 projects totaling more than \$20.8 million in funded activities for the period July 1, 2014, through June 30, 2016. Clark County has a consortium agreement for CDBG funds with the City of Mesquite, the City of Boulder City, and the City of North Las Vegas. We selected six projects with a total of \$5.4 million in funded activities. We selected the highest funded project from the City of Mesquite and City of Boulder City and the two highest funded projects from Clark County. For the City of North Las Vegas, we selected the highest funded project as well as its code enforcement project based on a recommendation from the local HUD office.
- Reviewed documentation from the sampled projects, including subrecipient agreements, procurement documentation, subrecipient requests for payment, payroll certifications, and payroll interviews and performed site visits.

⁵ The Integrated Disbursement and Information System (IDIS) provides HUD with current information regarding program activities across the nation, including funding data. HUD uses this information to report to Congress and to monitor grantees. IDIS is the draw down and reporting system for the Community Development Block Grant program.

- Clark County had more than \$2.2 million in administrative expenses charged to the CDBG program for its fiscal years 2015 and 2016⁶. We reviewed various administrative issues, which included
 - (1) All administrative expense data for fiscal years 2015 and 2016 to determine whether Clark County was rolling over administrative expenses from one year to the next and whether it was allowable based on HUD staff concerns.
 - (2) All administrative payroll data for fiscal years 2015 and 2016, which totaled more than \$1 million, to determine whether Clark County charged only for employees involved with CDBG-related activities.
 - (3) \$346,551 in administrative expenses charged for Clark County's subrecipient, the City of North Las Vegas, based on the HUD vouchers for grant year 2015.
 - (4) A nonstatistical sample of various administrative expenses, which included automotive and mileage. We cannot project the results of our testing. The audit universe for automotive expenses consisted of 21 transactions totaling \$3,567 and mileage expenses consisted of 16 transactions totaling \$2,799 for the period July 1, 2014, through June 30, 2016. The automotive and mileage expenses were selected based on a risk area identified by HUD. We selected the highest charge for fiscal year 2015 and the highest charge for fiscal year end 2016, which totaled \$2,848. We expanded the automotive sample to include indirect automotive fees based on results from the two items reviewed, which resulted in \$329 in indirect automotive charges from December 2015 to October 2016.
 - (5) Two training charges totaling \$239 for an employee whose title was not CDBG related.

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.

⁶The County's fiscal year 2015 is from July 1, 2014 to June 30, 2015. This would correspond with the IDIS reporting year of 2014.

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:

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- 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 Deficiencies

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

- Clark County's controls did not always ensure that program funds were used in compliance with laws and regulations concerning procurement (finding 1).
- Clark County's controls did not always ensure that program funds were used in compliance with laws and regulations concerning CDBG national objectives (finding 2).
- Clark County's controls did not always ensure that program funds were used in compliance with laws and regulations concerning inappropriate general government expenses in regards to (1) payroll without ensuring employees' responsibilities were primarily CDBG related, (2) code enforcement that could not be distinguished from its regular responsibilities as a unit of

general local government, and (3) indirect automotive costs without consideration of the relative benefits derived (finding 3).

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		\$1,663,758	
1B		596,126	
1D		2,809	
1E		4,955	
2A		2,000,000	
3A	\$48,323		
3B		573,064	
3C	71,397		
3D			\$33,603
3E		329	
Totals	119,720	4,841,041	33,603

- 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. In this instance, the ineligible costs included \$48,323 in payroll charges for employees whose primary responsibility was not CDBG related and \$71,397 for general government expenses associated with code enforcement.
- 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. In this instance, the unsupported costs included (1) \$1,663,758 for the food facility consolidation and expansion project because of an unfair competitive advantage, (2) \$596,126 for the Pettiti pool project that may be shut down due to noncompliance with the Southern Nevada Health District and because

\$94,753 of the project costs resulting from change orders was approved without documenting a cost analysis, (3) \$2,809 for the ADA pool project's missing change order approvals and cost analysis, (4) \$4,955 for various expenses approved by Clark County without adequate supporting documentation, (5) \$2,000,000 for the park project due to the concerns over the national objective, (6) \$573,064 for payroll costs without documentation supporting that the employees worked primarily on CDBG-related activities, and (7) \$329 paid for indirect automotive costs without support that it was relative to the benefit the CDBG program received.

- 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, Clark County should reallocate \$33,603 from general government code enforcement activities to an eligible CDBG activity.




Appendix B

Auditee Comments and OIG's Evaluation

Auditee Comments

Ref to OIG Evaluation

Comment 1

	Department of Social Service Michael J. Pawlak, Director
Bobby J. Gordon, Assistant Director 1600 Pinto Lane • Las Vegas NV 89106 • (702) 455-4270 • Fax (702) 455-5950	
	
March 30, 2017	
Tanya E. Schulze Regional Inspector General for Audit Office of Audit (Region 9) 300 N. Los Angeles Street, Suite 4070 Los Angeles, CA 90012	
Dear Ms. Schulze:	
I am submitting formal comments for inclusion in the U.S. Department of Housing and Urban Development Office of Inspector General's final audit report for the Clark County's Community Development Block Grant Program. The comments include general responses to the findings, as well as responses to each of the recommendations.	
Clark County appreciates the opportunity to respond to the audit and acknowledges the time and effort invested by the auditors in reviewing Clark County's CDBG program and then meeting with our staff for the exit conference last week.	
If you have any questions, please contact me at (702) 455-5025.	
Sincerely,	
	
Michael Pawlak Director, Clark County Social Service	
Enclosure	
BOARD OF COUNTY COMMISSIONERS Steve Sisolak, Chair • Lawrence L. Brown III, Vice Chair Susan Brager • Chris Giunchigliani • Marilyn Kirkpatrick • Mary Beth Scow • Lawrence Weekly Yolanda T. King, County Manager	

**Clark County Management Response
to the U.S. Department of Housing and Urban Development Office of Inspector General
Audit of Clark County's Community Development Block Grant Program
March 30, 2017**

INTRODUCTION

The 2016 audit by the U.S. Department of Housing and Urban Development (HUD) Office of Inspector General (OIG) was conducted onsite at the Clark County Social Service office located at 1600 Pinto Lane, Las Vegas, NV, between August 1, 2016 and January 11, 2017. We are grateful to the auditors for their thorough review of many records and their patience as the audit visits took place while the Community Resources Management unit was relocating from the Clark County Government Center to the Department of Social Service on Pinto Lane. The timing of this physical move with the audit schedule added some complexities to accessing hard copy files that had been sent to an outside vendor for scanning.

Upon review of the draft audit report of Clark County's Community Development Block Grant (CDBG) Program, the Community Resources Management (CRM) unit of Clark County is providing written comments. Clark County acknowledges the findings and recommendations in the auditor's report and views the audit process as an opportunity for continual improvement of systems, policies and procedures.

Clark County is confident that we can satisfy the findings and address the recommendations as detailed in the responses below. The sections that follow this introduction provide Clark County's point of view on various aspects of the findings and share details about how the County would like to proceed.

Comment 1

Comment 2

FINDING 1: Management Response to Finding and Recommendations

Finding 1: Clark County Did Not Ensure That It Met HUD Procurement Requirements

General response: Though Clark County adheres to HUD's procurement requirements, we acknowledge that this finding resulted from missing file documentation. Clark County has already begun updating written policies and procedures related to HUD procurement requirements, including bid processes, scopes of work for RFPs, change orders and other issues, in order to keep staff and subrecipients aware of practices to implement and document HUD rules and regulations. More details are in our responses to the specific recommendations.

Responses to Specific Recommendations:

1A. Support the reasonableness of the amount paid for the food facility consolidation and expansion project or repay the program \$1,663,758 from non-Federal funds.

Response: The Catholic Charities of Southern Nevada (CCSN) Food Facility Consolidation and Expansion project was completed, is operational and is meeting a national objective by providing benefit to low-income persons, including the homeless and home-bound seniors. Clark County believes that the amount paid for the CCSN Food Facility Consolidation and Expansion was reasonable.

To support this understanding, Clark County has requested that Catholic Charities obtain a written analysis from Cuningham Group Architects, Inc. (CGA) or another qualified firm to assess the reasonableness of all construction costs, including change orders.

Clark County appreciates that the Audit Report noted that the change orders for the food facility consolidation and expansion project resulted in a net decrease in the project cost.

1B. Correct any citations from the Southern Nevada Health District at the Petitti public pool before May 2017 using non-Federal funds or repay the entire project cost of \$596,126 from non-Federal funds and support the reasonableness of the change orders for the Petitti pool project or repay the program from non-Federal funds.

Response: The City of North Las Vegas has received written notification from the Southern Nevada Health District that the Petitti pool may open for swimming season in May 2017. The City has provided Clark County with a letter signed by Jeremy Harper, the Environmental Health Supervisor for the Aquatic Health Program at the Southern Nevada Health District, in which he says that the City will be permitted to throttle down the circulation pump in order to meet flow for the 2017 pool season. The City has provided the County with an email that states that, by the 2018 swim season, they will have secured a permanent solution to the rate of flow issue.

Comment 3

Comment 4

Comment 5

Regarding supporting the reasonableness of the change orders for the Petitti pool repairs, the City of North Las Vegas has provided a listing of the change orders and a signed memo from the construction manager attesting that each of the change orders was vetted for reasonableness. The City of North Las Vegas also noted that the cost of the pool repairs came in under budget by around \$100,000.

Comment 2

1C. Support the reasonableness of \$2,809 in change orders for the ADA pool improvement project or repay the program from non-Federal funds.

Response: Clark County has requested documentation from the City of Boulder City that supports the reasonableness of \$2,809 in change orders for the ADA pool improvement project. Boulder City has indicated that it should be able to secure the documentation. If they do not, they have agreed to repay the CDBG funds.

Comment 6

1D. Provide supporting documentation for \$4,955 in unsupported costs or repay the program from non-Federal funds.

Response: The amount indicated in this recommendation consists of two transactions. Clark County has secured from the subrecipient a corrected invoice from Trane, the vendor who had mistakenly left one of the items billed off the itemized list on the initial invoice. This resolves \$4,388 of the amount indicated in the recommendation.

Comment 7

The remaining \$567 was for a travel expense, which the subrecipient has explained was necessary for a subcontractor to attend the Southern Nevada Health District meeting with the Plan Reviewer to discuss all aspects of the facility design and food handling. SNHD requires both design and operational staff to attend the meeting, including the engineer, architect, food service designer, as well as the chef, manager, and other persons familiar with the operations of the facility.

Meanwhile, the subrecipient has researched and documented the cost of travel for coach airfare, an economy rental car and open air parking and has deducted that amount from the costs of business airfare, premium rental car and covered parking that were submitted as an expense by the visiting subcontractor. The subrecipient is aware that future travel costs should be pre-approved in writing between the subrecipient and the contractor, per the subrecipient's own policies. The subrecipient has agreed to repay \$120 of the travel expense that was in excess of economy rates to Clark County. Clark County will repay the amount to HUD per HUD's directions.

Comment 2

1E. Provide support showing that the ADA pool improvement project allows equal and independent access for people with disabilities through a third party or correct the issue.

Response: During the winter months, the Boulder City pool is enclosed with a cover that allows year-round use of the facility. The cover is removed during warmer months which make up the majority of the year. The City of Boulder City will have a third party evaluate the ADA accessibility of the pool enclosure's revolving door and provide a written response to Clark County. If the revolving door is not deemed ADA accessible, the City will correct the access issue.

1F. Develop and implement procurement policies and procedures for monitoring subrecipients to ensure that the scope of work developed by its subrecipients is sufficiently detailed to allow contractors to submit informed bids, reducing the number of change orders after the contract, and that its subrecipients do an independent cost analysis before all procurement transactions, including change orders, to ensure that it receives a reasonable price and allows for full and open competition.

Comment 8

Response: Clark County has maintained written policies and procedures for many aspects of administering CDBG funding, but in response to this finding, the County has further developed these documents, especially related to monitoring subrecipients for correct Change Order processes and maintaining documentation of the processes. Subrecipients will receive guidance on development of detailed scopes of work for projects going out to bid and the requirement for independent cost analyses for all procurement transactions. The updated documents are in use and available.

1G. Develop and implement policies and procedures that ensure labor wage interviews are completed and documented.

Comment 9

Response: Clark County and its subrecipients routinely conduct labor wage interviews for CDBG funded projects. Subrecipients were not always aware of when to conduct labor wage interviews or the labor wage interviews were not clearly documented. Clark County has developed detailed policies, procedures, and a checklist for oversight of subrecipients to ensure labor wage interviews are documented in the appropriate files. The Administering Payroll Compliance Activities (Davis-Bacon) policy is provided to subrecipients at the time of grant award. Staff also meets with each organization and their architects to ensure that they understand the requirements related to Davis-Bacon, MBE/WBE, and Section 3. The complete document "Clark County CRM Federal Regulation Manual" will be available on the Community Resources Management website.

1H. Provide training to its staff on CDBG program rules and requirements to ensure that its staff adequately implements policies and procedures.

Comment 10

Response: Several Clark County staff members have participated in training that will ensure proper implementation of CDBG program rules and requirements. One CDBG Grants Coordinator traveled to Denver, Colorado, the week of March 27, 2017, for CDBG Program training. Another CDBG Grants Coordinator participated in training with Management Concepts on Procurement and Contracts the week of March 27, 2017. A third Grants Coordinator participated in training on LCPTracker from May 31-June 3, 2016. And a fourth Grants Coordinator, who now also serves in a compliance role, has attended the following trainings: Cost Principles for Federal Grants-2 CFR 200 (Subpart E), June 15-16, 2016; Financial Administration of Federal Grants for Recipients, July 25-26, 2016; Managing Federal Grants and Cooperative Agreements for Recipients, January 25-27, 2017. The County will continue to provide opportunities for staff development to provide staff members with the skills and knowledge to implement policies and procedures.

Comment 11

FINDING 2: Management Response to Finding and Recommendations

Finding 2: Clark County Did Not Ensure That a Project Met a CDBG National Objective

General Response: Clark County does not agree with the finding that the project, Sean's Park, does not meet a CDBG national objective.

Responses to Specific Recommendations:

2A. Identify the national objective met for the park project or repay the program \$2,000,000 from non-Federal funds.

Response: Sean's Park is meeting its national objective by providing important training and education to disabled adults, aged 18 and above. The written grant agreement between Clark County and the subrecipient outlines that the park would serve disabled adults. The subrecipient described the use of the park by severely disabled children as an incidental activity.

2B. Develop monitoring practices to ensure that all projects that use limited clientele criteria exclusively serve the specific population claimed.

Response: Clark County currently receives beneficiary reports from projects constructed under the limited clientele criteria. Clark County is updating its monitoring tool to add site visits for such projects to confirm facilities or services are provided for the limited clientele if such criteria were part of the grant agreement.

Comment 11

Comment 2

Comment 12

FINDING 3: Management Response to Finding and Recommendations

Finding 3: Clark County Inappropriately Spent CDBG Funds on General Government Expenses

General Response: Clark County based its interpretation of requirements concerning administrative payroll on the HUD publication "Basically CDBG," which outlines Financial Management in Chapter 11.

From Basically CDBG:

With respect to determining the amount of staff costs to charge to program administration, grantees have two options:

Include the entire salary, wages and related costs of each person whose **primary** responsibility involves program administration assignments (e.g., executive director position); or

Determine the pro rata share of each person's salary, wages and related costs whose job includes **any** program administration assignments.

The County interpreted the above section as meaning that, if an employee worked on CDBG primarily and on other programs related to community development at a lower percentage, then their full salary could be charged to CDBG.

Meanwhile, 24 CFR 507.206 states the following:

(a) *General management, oversight and coordination.* Reasonable costs of overall program management, coordination, monitoring and evaluation. Such costs include, but are not necessarily limited to, necessary expenditures for the following:

(1) **Salaries, wages, and related costs of the recipient's staff**, the staff of local public agencies, or other staff engaged in program administration. In charging costs to this category **the recipient may either include the entire salary, wages and related costs allocable to the program of each person whose primary responsibilities with regard to the program involve program administration assignments, or the pro rata share of the salary, wages, and related costs of each person whose job includes any program administration assignments. The recipient may use only one of these methods during the program year.**

Comment 13

For the fiscal period that was audited, Clark County had used one method—that of including the entire salary, wages and related costs allocable to the program of each person with primary responsibilities with the regard to the program. Clark County did not interpret the duties of the staff members paid as regular responsibilities of the unit of general local government. Monthly, the County reviewed employee records and timesheets to assess whether assignments were deemed in line with where salaries were being paid. The time records aligned with the County's interpretation of "primary" responsibilities with regard to administration of CDBG.

Comment 2

Going forward, Clark County will use its online timekeeping service to track time spent by each staff member on various activities. The County will review these time records on a regular basis and charge payroll costs back to grant funding based upon time reflected on the timesheets. Additional details are in the responses to specific recommendations below.

Comment 2

Responses to Specific Recommendations:

3A. Repay \$48,323 to the program from non-Federal funds for non-program-related payroll costs.

Response: Clark County's CRM unit has studied timesheets and staff activities for the audit period and will repay the \$48,323 in CDBG funds that were expended on the administration of the Emergency Solutions Grant Program. Clark County will await HUD's guidance on how to repay these funds.

3B. Determine the allocable amount of CDBG payroll costs for the employees who worked on CDBG and non-CDBG activities and adjust the funding amount as necessary or repay \$573,064 from non-Federal funds.

Response: Based on the input from the auditors, Clark County is altering its grant payroll tracking and reimbursement processes to meet the new understanding of the requirements. Clark County's CRM unit has studied timesheets and staff activities for the audit period and has found that the majority of payroll costs charged to CDBG are supported by timesheet documentation. When the analysis is completed, Clark County will provide a report to HUD. If Clark County's analysis shows that CDBG administration funds are due to HUD, we will await HUD's guidance on how to repay these funds.

Comment 2

3C. Repay \$71,397 to the program from non-Federal funds for the use of CDBG funds for code enforcement costs related to general government expenses.

Response: Clark County and the subrecipient, the City of North Las Vegas, assumed that an area would be eligible for code enforcement dollars if it was in a CDBG-eligible area based on income and that the code enforcement in these areas met the requirements of arresting decline. The City of North Las Vegas will repay the code enforcement costs from non-Federal funds and is working with internal departments to complete a budget reallocation of this amount for the FY 16-17 budget. The City will reallocate the \$71,397 to a CDBG-eligible activity. Copies of the approved budget reallocation documents and/or financial documents will be provided to Clark County as documentation that the funds were transferred from non-Federal to CDBG program budgets. At this time, the City has suspended its CDBG code enforcement program and does not plan to use any CDBG funds for code enforcement in the near future. Meanwhile, the City of North Las Vegas will seek technical assistance and training for code enforcement activities should they decide to pursue them again.

Comment 14

Comment 15

3D. Revise its code enforcement program to meet CDBG requirements for the remaining \$33,603 budgeted or amend the use of the funding to another CDBG-eligible activity.

Response: The City of North Las Vegas has suspended its CDBG code enforcement program and will reallocate \$33,603 to be used for a CDBG-eligible activity. Copies of the approved budget reallocation documents and/or financial documents will be provided to Clark County as documentation that the funds were reallocated to a CDBG eligible project. The City is currently working to determine what these funds will cover.

Comment 16

Comment 2

3E. Determine the CDBG proportional benefit of the \$329 charged for indirect automotive costs and repay any unsupported charges using non-Federal funds.

Response: Clark County will repay the \$329 charged for indirect automotive costs using non-Federal funds. Going forward, the County will pay all automotive costs from general funds in order to avoid having any indirect costs inadvertently charged to HUD funding.

3F. Obtain training and technical assistance from HUD concerning CDBG code enforcement, allocation of payroll, and indirect administrative costs.

Response: The City of North Las Vegas has suspended the code enforcement program using CDBG funds. At this time, neither Clark County nor any other subrecipient plans to do CDBG funded code enforcement, but should any of them decide to do so, they will seek training and technical assistance for both code enforcement staff and grant staff to ensure requirements pursuant to 24 CFR 570 and CPD Notice 14-016 are met. The County will also seek training and technical assistance opportunities for the items listed in this recommendation. Clark County recently sent several staff members to training on Super Circular 2 CFR Part 200 and will seek other administrative/payroll implementation training through HUD.

Comment 17

Comment 2

OIG Evaluation of Auditee Comments

- Comment 1 We appreciate the time and effort Clark County provided us to complete the review while it was in a period of transition. We commend the County for taking initiative to address the findings quickly and for taking this as an opportunity for continual improvement.
- Comment 2 We look forward to working with HUD and the County to close out this recommendation.
- Comment 3 While the project did meet the national objective and stayed within budget, it is important that the County ensure costs were reasonable and obtained with full and open competition. The County will need to obtain a detailed cost analysis from a qualified firm to support that the costs were reasonable.
- Comment 4 We commend the City of North Las Vegas for taking the steps necessary to address the Health District's concerns to remain open after May 2017. In order to satisfy this recommendation, the County will need to provide documentation permitting opening of the pool for the 2017 season and documentation of a permanent solution to the pump issue by the 2018 swim season.
- Comment 5 The documentation provided at the exit conference includes justification for the change orders; however, the City of North Las Vegas should have included some of the items in the initial scope of work instead of adding these items through change orders. In addition, the documentation did not include evidence of an actual cost analysis of the work included in the change orders, instead, it only stated that a City official approved and signed the change orders after the City reviewed it for reasonableness and scope. Although the City did stay within budget, it is important that the City review all procurement transactions for cost reasonableness. The City will need to provide evidence that the costs were reasonable before we can close out the recommendation.
- Comment 6 We have not received the documentation needed to resolve this issue concerning the Trane invoice. Once the County provides this documentation, it will be reviewed to determine if the amounts charged were adequately supported and allowable.
- Comment 7 We agree the subrecipient should have obtained prior written approval for travel according to its own policies. We look forward to working with HUD and the County to close out the recommendation.
- Comment 8 We agree that Clark County has some written policies and procedures concerning CDBG; however, the County needs to ensure monitoring of its subrecipients includes the scope of work and cost analysis for all procurements. Further, the County needs to conduct its monitoring before the bid process and not just for

change orders and maintaining documentation. We look forward to working with HUD and the County on closing out this recommendation.

- Comment 9 The County should develop monitoring procedures that ensure its subrecipients implement the County's policies and procedures for performing labor wage interviews. The County generally provided initial guidance to the subrecipients during our review; however, the guidance provided has not been enough to ensure labor wage interviews occurred.
- Comment 10 We look forward to working with HUD and the County to close out this recommendation including evidence of training provided to all employees, including managers responsible for CDBG compliance applicable to the issues we identified.
- Comment 11 We disagree with the County's statement that we reported that the project did not meet a national objective. We did not specifically state that the project did not meet a national objective; however, the County did not ensure that it met the stated national objective and needs to obtain additional support for the stated objective or support a different national objective. Clark County claimed the low-moderate income national objective under a limited clientele; however, when using a limited clientele the project must exclusively serve that clientele. Clark County and Opportunity Village agreed that the project did not exclusively serve severely disabled adults because it also served disabled children. HUD has been unable to find evidence that the majority of severely disabled children are members of a low-moderate income family. Therefore, the County needs to ensure the project met a CDBG national objective by obtaining adequate support.
- Comment 12 As stated during the audit, we understand that the County had a misinterpretation of the policy. We did not review time sheet documentation required to determine if the County met its own interpretation. We did note one employee whose responsibilities included only the County's Emergency Solutions Grant and Other Agency Grants programs so it is unclear how the County identified that employee as having primary responsibilities with CDBG or for any program administration assignments.
- Comment 13 We agree the County included the entire salary and wages; however, we disagree that the County ensured the primary responsibilities were related to CDBG. As stated in comment 12 we noted one employee whose responsibilities included only the County's Emergency Solutions Grant and Other Agency Grants programs so it is unclear how the County would have identified that employee as having primary responsibilities with CDBG. Because the County did not ensure employees were primarily CDBG, we determined that its CDBG funds were paying for general local government expenses. We did not verify if the County's records aligned with the County's interpretation of primary responsibilities because the County stated that it misinterpreted the policy and would need to review timesheets further.

- Comment 14 We understand that the County and the subrecipient assumed that the code enforcement project would be eligible because it was in CDBG eligible areas based on income and that code enforcement in itself would help arrest the decline in the area; however, this is not correct based on CDBG requirements for code enforcement. The area must be deteriorated or deteriorating as defined by the subrecipient and must have evidence to show how its efforts are helping arrest the decline based on the definition of deterioration used.
- Comment 15 We commend the County and its subrecipient for suspending the program until it ensures the program complies with CDBG requirements and for its commitment to repay the \$71,397 of ineligible code enforcement costs from non-federal funds. We look forward to working with HUD and the County to close out this recommendation.
- Comment 16 We commend the County and its subrecipient for suspending the program until it ensures the program complies with CDBG requirements and for its commitment to reallocate \$33,603 to be used for a CDBG-eligible activity. We look forward to working with HUD and the County to close out this recommendation.
- Comment 17 We commend the County and its subrecipient for suspending the program until it ensures the program complies with CDBG requirements.

Appendix C

Criteria

2 CFR 200.56

Indirect (facilities & administrative (F&A)) costs.

Indirect (F&A) costs means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect (F&A) costs. Indirect (F&A) cost pools must be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

2 CFR 200.318

General Procurement Standards.

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

2 CFR 200.319

Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.

2 CFR 200.323

Contract Cost and Price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

24 CFR 85.20 (2013 edition)

Standards for financial management systems.

(b) The financial management systems of other grantees and subgrantees must meet the following standards:

(6) Source documentation. Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.

24 CFR 85.36 (2013 edition)

Procurement.

(b) Procurement Standards.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(f) Contract cost and price.

(1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to

the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

24 CFR 570.200(a)

General Policies

(a) Determination of eligibility. An activity may be assisted in whole or in part with CDBG funds only if all of the following requirements are met:

(2) Compliance with national objectives. Grant recipients under the Entitlement and HUD-administered Small Cities programs and recipients of insular area funds under section 106 of the Act must certify that their projected use of funds has been developed so as to give maximum feasible priority to activities which will carry out one of the national objectives of benefit to low- and moderate-income families or aid in the prevention or elimination of slums or blight. The projected use of funds may also include activities that the recipient certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. Consistent with the foregoing, each recipient under the Entitlement or HUD-administered Small Cities programs, and each recipient of insular area funds under section 106 of the Act must ensure and maintain evidence that each of its activities assisted with CDBG funds meets one of the three national objectives as contained in its certification. Criteria for determining whether an activity addresses one or more of these objectives are found in §570.208.

24 CFR 570.202

Eligible rehabilitation and preservation activities.

(c) *Code enforcement.* Costs incurred for inspection for code violations and enforcement of codes (e.g., salaries and related expenses of code enforcement inspectors and legal proceedings, but not including the cost of correcting the violations) in deteriorating or deteriorated areas when such enforcement together with public or private improvements, rehabilitation, or services to be provided may be expected to arrest the decline of the area.

24 CFR 570.206

Program administrative costs.

CDBG permits payment of reasonable program administrative costs and carrying charges related to the planning and execution of community development activities assisted in whole or in part with funds provided under this part and, where applicable, housing activities (described in paragraph (g) of this section) covered in the recipient's housing assistance plan. This does not include staff and overhead costs directly related to carrying out activities eligible under §570.201 through §570.204, since those costs are eligible as part of such activities.

(a) *General management, oversight and coordination.* Reasonable costs of overall program management, coordination, monitoring, and evaluation. Such costs include, but are not necessarily limited to, necessary expenditures for the following:

(1) Salaries, wages, and related costs of the recipient's staff, the staff of local public agencies, or other staff engaged in program administration. In charging costs to this category the recipient may either include the entire salary, wages, and related costs allocable to the program of each person whose primary responsibilities with regard to the program involve program administration assignments, or the pro rata share of the salary, wages, and related costs of each person whose job includes any program administration assignments. The recipient may use only one of these methods during the program year.

(e) Indirect costs. Indirect costs may be charged to the CDBG program under a cost allocation plan prepared in accordance with 2 CFR part 200, subpart E.

(i) Whether or not such activities are otherwise assisted by funds provided under this part, reasonable costs equivalent to those described in paragraphs (a), (b), (e), and (f) of this section for overall program management of:

(2) The HOME program [HOME Investment Partnerships Program] under title II of the Cranston-Gonzalez National Affordable Housing Act.

24 CFR 570.207

Ineligible Activities

(a) The following activities may not be assisted with CDBG funds:

(2) *General government expenses.* Expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.

24 CFR 507.208

Criteria for national objectives.

The following criteria shall be used to determine whether a CDBG-assisted activity complies with one or more of the national objectives as required under §570.200(a)(2):

(a) *Activities benefiting low- and moderate-income persons.* Activities meeting the criteria in paragraph (a)(1), (2), (3), or (4) of this section as applicable, will be considered to benefit low and moderate income persons unless there is substantial evidence to the contrary. In assessing any such evidence, the full range of direct effects of the assisted activity will be considered. (The recipient shall appropriately ensure that activities that meet these criteria do not benefit moderate income persons to the exclusion of low income persons.)

(2) *Limited clientele activities.* (i) An activity which benefits a limited clientele, at least 51 percent of whom are low- or moderate-income persons. (The following kinds of activities may not qualify under paragraph (a)(2) of this section: activities, the benefits of which are available to all the residents of an area; activities involving the acquisition, construction or rehabilitation of property for housing; or activities where the benefit to low- and moderate-income persons to be considered is the creation or retention of jobs, except as provided in paragraph (a)(2)(iv) of this section.) To qualify under paragraph (a)(2) of this section, the activity must meet one of the following tests:

(A) Benefit a clientele who are generally presumed to be principally low and moderate income persons. Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low- and moderate-income: abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers;

24 CFR 570.506

Records to be maintained

Each recipient shall establish and maintain sufficient records to enable the Secretary to determine whether the recipient has met the requirements of this part. At a minimum, the following records are needed:

(h) Financial records, in accordance with the applicable requirements listed in §570.502, including source documentation for entities not subject to 2 CFR part 200. Grantees shall maintain evidence to support how the CDBG funds provided to such entities are expended. Such documentation must include, to the extent applicable, invoices, schedules containing comparisons of budgeted amounts and actual expenditures, construction progress schedules signed by appropriate parties (e.g., general contractor and/or a project architect), and/or other documentation appropriate to the nature of the activity. Grantee records pertaining to obligations, expenditures, and drawdowns must be able to relate financial transactions to either a specific origin year grant or to program income received during a specific program year.

Making Davis-Bacon Work: A Practical Guide for States, Indian Tribes, and Local Agencies

Labor Standards Enforcement

2. Conduct on-site interviews with laborers and mechanics. The contract administrator or a designee (such as an agency construction inspector) must periodically conduct interviews with the construction workers on the job site. The purpose of the interviews is to capture observations of the work being performed and to get the workers' views on the number of hours they work, the type of work they perform and the wages they receive.

HUD's CDBG Guide to National Objectives & Eligible Activities for Entitlement Communities

L/M Income Limited Clientele

A L/M [low-moderate] income limited clientele activity is an activity which provides benefits to a specific group of persons rather than everyone in an area generally. It may benefit particular persons without regard to the area in which they reside, or it may be an activity which provides benefit on an area basis but only to a specific group of persons who reside in the area. In either case, at least 51% of the beneficiaries of the activity must be L/M income persons.

To qualify under this subcategory, a limited clientele activity must meet one of the following tests:

Exclusively benefit a clientele who are generally presumed by HUD to be principally L/M income persons. The following groups are currently presumed by HUD to be made up principally of L/M income persons: adults meeting Bureau of Census' definition of severely disabled persons

It should be noted that the so-called "presumed" categories were modified in the regulations in 1995. A new group has been added: "persons living with AIDS." The former category of "handicapped persons" has been replaced with "severely disabled adults." This latter change was made for two reasons. First, the word "persons" was replaced with "adults" to make it clear that an activity designed to treat handicapped children would not qualify for the presumption, because HUD has been unable to find evidence that the majority of handicapped (or even severely disabled) children are members of a L/M income family. Moreover, the term "handicapped" has been replaced with "severely disabled" (which now will use the census definition of that term). This change was made because the term "handicapped" has been used in so many different ways for different Federal programs and has taken on a much broader meaning than had been envisioned when it was originally introduced as a "presumed" L/M income group for CDBG purposes. A review of census data supports the presumption that adults (but not children, as mentioned above) having severe disability are predominantly L/M income persons.

Department of Justice Americans with Disabilities Questions and Answers: Accessibility Requirements for Existing Swimming Pool at Hotels and Other Public Accommodations

15. Can I store my lift and bring it out only when it is requested by a person with a disability?

No. A pool lift must remain in place and be operational during all times that the pool is open to guests. The ADA and its implementing regulations require equal and independent access for people with disabilities for all covered facilities (not just pools). Allowing covered entities to store lifts and only take them out on request places

unnecessary additional burdens on people with disabilities. People with disabilities have long faced the challenges of dealing with portable accessibility features – e.g., staff are unavailable or too busy to help locate and set up the equipment, the equipment is missing, the equipment isn't maintained, or staff do not know how to safely set up the equipment. In addition, the ADA Standards specify that a lift must be located at the proper water depth and with the necessary space around it to maneuver a wheelchair. Moving a portable lift around raises the likelihood that the lift will be improperly located, making it difficult or dangerous to use.

Notice: CPD-16-04
Effective Date

There was confusion about applicability of part 200 to grant agreements for FY [fiscal year] 2014 and earlier fiscal years, in particular, where grant recipients made funding decisions before December 26, 2014, but did not sign contracts or agreements obligating funds until after that date. In addition, the CDBG, ESG [Emergency Solutions Grant], and HOME regulations contained many cross-references to sections of parts 84 and 85. Although parts 84 and 85 were revised in December 2014 to reflect the applicability of 2 CFR part 200, many grant recipients were, nonetheless, unclear on how part 200 would apply. More confusion ensued from the timing of the publication of program conforming regulations, which were not published until December 7, 2015, and did not become effective until January 6, 2016. In recognition of the confusion that may have existed, HUD will not make findings of noncompliance with the Uniform Requirements (i.e., the part 200 requirements) if a grantee used CDBG, CDBG-DR [CDBG Disaster Recovery], ESG, or HOME funds in accordance with comparable requirements under parts 84 or 85 (2013 edition) between December 26, 2014 and January 6, 2016.

Notice: CPD-14-016
Section I. What is Code Enforcement:

The CDBG program will expect that localities emphasize health and safety issues in buildings. Ancillary efforts to address violations of codes concerning vacant lots, signs, and motor vehicles are permitted in conjunction with efforts regarding buildings, but should form a minor part of the code enforcement program.

Notice: CPD-14-016
Section IV. Ineligible Code Enforcement Costs:

While the cost of correcting the violations is not an eligible code enforcement cost under §570.202(c), the regulation states that code enforcement must be performed in conjunction with improvements, rehabilitation, or services. The purpose of this requirement is to ensure that the deteriorated or deteriorating areas are being made safe and sanitary for the general public, not to generate revenue via code violation fines.

Grantees may trigger concerns about the eligibility of code enforcement if it appears that the CDBG program is being used for general government expenses... As fiscal stress has put pressure on local budgets, HUD has seen examples of significant increases in CDBG code enforcement budgets, while overall spending on enforcement remains the same. Grantees should use CDBG for code enforcement as appropriate to advance the goals of the CDBG program in areas designated for such activity

Grantees may not use CDBG funds to pay for code enforcement inspections and enforcement in every area or neighborhood or for a grantee's entire jurisdiction (e.g., city- or county-wide) unless the entire jurisdiction is deteriorating.

Notice: CPD-14-016

Section IX. Record Keeping Requirements:

Records that grantees should maintain when carrying out CDBG assisted code enforcement activities include:

- The state and local law definitions of deteriorated/deteriorating.
- A description of the conditions of the areas in which CDBG funds are used for code enforcement, demonstrating that these areas meet the state local law definition of deteriorated/deteriorating.
- Identification of other activities to be carried out (whether CDBG-assisted or not) that will arrest the decline of the areas and their funding sources.

HUD's Memorandum for Program Eligibility Determination on Housing Code Enforcement

Section 570.202(c) of the CDBG regulations authorizes "code enforcement in deteriorating or deteriorated areas where such enforcement together with public improvements, rehabilitation, and services to be provided, may be expected to arrest the decline of the area." New York City's proposal does not define "CDBG-eligible areas." Your office's memorandum indicates that the term as used by the City is synonymous with "low- and moderate-income areas." Such a definition is not sufficient to comply with the eligibility requirements of §570.202(c) cited above. To be considered an eligible area in which CDBG-funded code enforcement activities may be undertaken, the area must be "deteriorating or deteriorated," as defined by the grantee. Please note that this definition need not necessarily be comparable to HUD's standards for designating a slum or blighted area under §570.208(b)(1)(i) and (ii) unless the activity is to be claimed under that national objective. Because the direction provided by §570.202(c) is limited, HUD is in the process of assessing how best to elaborate on the type of information a grantee should have in its files to reasonably support a conclusion that code enforcement is eligible for CDBG funding. In the interim, the City should be advised to document the following items:

- the City's definition of "deterioration" for purposes of this provision;

- the specific boundaries of the areas to be considered eligible for CDBG-funded code inspections;
- a sufficient description of the conditions in each area to support a determination that the area qualifies as deteriorating or deteriorated under the City's definition;
- a strategy for using code enforcement together with other activities to arrest the decline in each area; and
- such other information as may be necessary to determine the impact that the code enforcement and other activities are having on the decline of the area during the time the CDBG-assisted code enforcement is being carried out.