



U.S. Department of Housing and Urban Development

Office of Inspector General

451 Seventh Street, SW

Washington, DC 20410-4500

Phone: (202) 708-0390 Fax: (202) 708-1354

December 9, 2010

MEMORANDUM FOR: John P. McCarty, Assistant Inspector General for Investigation, GI

//signed//

FROM: Jennifer L. Sorenson, Director, Inspections and Evaluations Division, Office of Investigation, GIH

SUBJECT: Utilization of American Recovery and Reinvestment Act of 2009 (ARRA) Funds By the Housing Authority of the City of Fort Myers, Florida, IED-11-003M

INTRODUCTION

The Office of Inspector General, Inspections and Evaluations Division (IED), conducts independent, objective examinations of U.S. Department of Housing and Urban Development (HUD) activities, programs, operations, and organizational issues.

An article published in the Fort Myers Florida Weekly, dated June 2, 2010, raised concerns about the Housing Authority of the City of Fort Myers' (HACFM) use of ARRA funds to construct a new administration building. Consequently, we performed an inspection to address the following questions from OIG senior management:

- I. Could HACFM use ARRA funds to construct a new administration building?
- II. Did HACFM use ARRA funds to purchase furniture and equipment for the new administration building? If yes, was this an eligible activity?

We determined that HACFM could utilize ARRA funds and its fiscal year public housing capital funds for the construction of a new administration building. Additionally, we noted that the HACFM did not use ARRA funds to purchase furniture and equipment for the new administration building. These purchases were made from other eligible funding sources.

BACKGROUND

American Recovery and Reinvestment Act of 2009 (ARRA) Appropriations

ARRA includes a \$4 billion appropriation for the Public Housing Capital Fund, to be used for capital and management activities for public housing agencies (PHAs), as authorized under Section 9 of the United States Housing Act of 1937, as amended. ARRA requires that \$3 billion of these funds be distributed as formula funds, and the remaining \$1 billion be distributed through a competitive process.

- **Public Housing Capital Fund – Formula Grants:** ARRA requires that \$3 billion of these funds be distributed by the same formula used for amounts made available in fiscal year 2008, except that the Secretary of HUD has the discretion not to allocate funding to public housing agencies currently designated as troubled or to public housing agencies that elect not to accept such funding. ARRA requires that PHAs use these funds on eligible capital fund activities and give priority to capital projects that can award contracts based on bids within 120 days from the date the funds are made available to the PHAs. Under this program, PHAs will give priority consideration to the rehabilitation of vacant rental units, and prioritize projects that are already underway or included in their Five-Year Capital Fund Action Plans required by 42 U.S.C. 1437c-1(a).
- **Public Housing Capital Fund – Competitive Grants:** The purpose of this program is to provide an additional \$995 million to PHAs for capital and management activities as authorized under Section 9 of the 1937 Housing Act in accordance with four funding categories: (1) improvements addressing the needs of the elderly and/or persons with disabilities; (2) public housing transformation; (3) gap financing for projects that are stalled due to financing issues; and (4) creation of energy efficient, green communities. During September 2009, the Office of Public and Indian Housing (PIH) awarded \$995 million to PHAs in the form of 396 capital fund recovery competitive grants.

The Housing Authority of the City of Fort Myers (HACFM)

HACFM owns and manages 502 conventional public housing units located at four different sites. It also manages 200 Section 8 project-based units, 180 market rate units, and 120 elderly mixed finance units. The current occupancy rates are as follows: public housing units - 99 percent, Section 8 Project Based development - 99 percent, market rate development - 64 percent, and elderly mixed finance - 100 percent. HACFM has approximately 60 full-time employees with an annual budget of \$24.6 million.

According to the HUD Miami Office of Public Housing (OPH), HACFM is a “standard performer” under HUD’s PHAS (Public Housing Assessment System) scoring system. They stated that HACFM “has become an aggressive, entrepreneurial, creative, and results driven organization”, and its accomplishments “over the course of the past several years has been striking.” The Miami OPH conducted two reviews of HACFM’s utilization of ARRA funds. The first one was a remote review, completed on December 22, 2009, which identified only one deficiency relating to the Buy American provisions of ARRA. HACFM corrected this deficiency

by executing a contract amendment to further clarify compliance with the Buy American provisions. The second review was an on-site review, completed on January 27, 2010. The review concluded that HACFM was administering the ARRA grant in accordance with all applicable regulatory and programmatic requirements, and no corrective actions or issues were noted.

HACFM was awarded two ARRA stimulus capital fund grants consisting of a formula grant of \$2,219,810 and a competitive grant of \$3,635,000, totaling \$5,854,810. HACFM used the ARRA Capital Fund formula grant for the construction of a new administration building that was identified in its Annual Statement, and its Five-Year Capital Fund Action Plan required by 42 U.S.C. 1437c-1(a). The ARRA Capital Fund competitive grant was used for infrastructure improvements at HACFM's approved HOPE VI site, which is also the site of the new administration building.

SCOPE AND METHODOLOGY

To address the questions asked we reviewed applicable HUD regulations, criteria and other guidance. We interviewed HUD staff from the Miami OPH, and reviewed the information and documents obtained from HACFM to support its sources of funds for the construction of the new administration building and for the purchase of furniture and equipment.

We conducted the inspection in accordance with the *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency.

RESULTS

I. Could HACFM use ARRA funds to construct a new administration building?

Yes. The construction of a new administration building is an eligible use of ARRA and fiscal year capital funds per HUD regulations and guidance.¹ At our request, HACFM provided the sources of funds used for the construction of the new administration building, which is outlined below.

ARRA capital fund (formula grant)	\$2,019,810 ²
Fiscal year 2008 capital fund	\$625,000
Fiscal year 2009 capital fund	\$476,139
HOPE VI demolition only	\$36,000
Total amount budgeted for construction	<u>\$3,156,949</u>
Total final construction cost	<u>\$3,023,367</u>
Budget amount versus final cost (excess)	<u>\$133,582³</u>

¹ Notice PIH-2009-12(HA); PIH Low-Rent Technical Accounting Handbook 7510.1; Section 9 of the United States Housing Act of 1937; 24 CFR Part 990; and American Recovery and Reinvestment Act of 2009.

² This amount is exclusive of HACFM's administration fee of \$200,000.

³ According to HACFM, the FY 2009 budget line item for the administration building will be reduced and the excess will be budgeted to other PHA projects.

Except for the eligible demolition costs funded from HOPE VI, the construction costs for the new administration building came from capital funds and were charged to the budget line item, Account 1470-Non Dwelling Structure. This was reported to HUD on HACFM’s annual statements for ARRA, and fiscal years 2008 and 2009 capital funds. We interviewed the Miami OPH director, senior engineer, and HOPE VI grant manager for HACFM who all stated that the construction costs were an eligible use of ARRA and fiscal year capital funds.

We verified that HACFM was not considered a troubled PHA by HUD, and the plan to construct a new administration building was included in HACFM’s Five-Year Capital Fund Action Plan submitted to HUD. Furthermore, as stated in HUD’s additional guidance to Notice PIH 2009-12 (HA), Information and Procedures for Processing American Recovery and Reinvestment Act Capital Fund Formula Grants, ARRA funds are restricted for public housing rental and homeownership units and non-dwelling structures. The administration building is considered a non-dwelling structure according to the PHA’s Chart of Accounts⁴ provided in HUD’s accounting guidelines. The Miami OPH staff stated that headquarters staff were well aware of HACFM’s activities, plans, and use of ARRA funds, and did not take any exceptions.

II. Did HACFM use the ARRA funds to purchase furniture and equipment for the new administration building? If yes, was this an eligible activity?

No. HACFM did not use any ARRA funds to purchase furniture and equipment for the new administration building. All payments to the vendors for the purchase of furniture and equipment were processed through HACFM’s PHA operating account. The total disbursements, in the amount of \$317,595.88, from the PHA operating account were reimbursed through the following sources of funds:

Remaining asset - repositioning fee (AMP 06)	\$210,743	66%
Housing Choice Voucher	\$51,710	16%
Fiscal year 2009 capital fund	\$55,143	18%
Total cost of furniture and equipment	<u>\$317,596</u>	<u>100%</u>

- Remaining Asset - Repositioning Fee (ARF): This represents the transition funding remaining in an asset management project (AMP), where the old administration building was located. According to the Miami OPH staff, there is nothing contained in the current HUD regulations and guidance that prevents a housing authority from utilizing the remaining ARF for other eligible low rent activities.
- Housing Choice Voucher: The amount charged to the Section 8 program was based on the actual cost of the furniture and equipment items assigned to the Section 8 offices and rooms in the new administration building.
- Fiscal Year 2009 Capital Fund: This amount represents the cost of building a high density filing system which is a structural component of the new administration building. This amount was included as part of the construction cost of the new administration

⁴ PIH Low-Rent Technical Accounting Guide 7510.1, Chart of Accounts.

building and was paid by LOCCS (Line of Credit Control System) as non-dwelling structure.

Based on research of HUD regulations and guidance,⁵ and review of vendor invoices, journal vouchers, and other documents provided by HACFM, we took no exceptions to the source of funds used for the purchase of furniture and equipment.

⁵ Notice PIH-2009-20 (HA); Frequently Asked Questions (FAQ), Financial Reporting Under the New Operating Fund Rule, June 27, 2008; Calculation and Submission of 2007 Operating Subsidy, Frequently Asked Questions (No. 2), September 8, 2006; and 24 CFR 990-190.