



The City of St. Louis, MO

American Recovery and Reinvestment Act of 2009 Community Development Block Grant



U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
OFFICE OF INSPECTOR GENERAL

Issue Date: September 27, 2012

Audit Report Number: 2012-KC-1006

TO: Dee Ann Ducote, Director of the St. Louis Office of Community Planning and Development, 7ED

FROM: *//signed//*
Ronald Hosking, Regional Inspector General for Audit, Kansas City, KS, 7AGA

SUBJECT: The City of St. Louis, MO, Did Not Effectively Manage Its Recovery Act Funding

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), final results of our review of the City of St. Louis' Community Development Block Grant program funded under the American Recovery and Reinvestment Act of 2009.

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 8L, 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 913-551-5870.



September 27, 2012

The City of St. Louis, MO, Did Not Effectively Manage Its Recovery Act Funding

Highlights

Audit Report 2012-KC-1006

What We Audited and Why

We selected the City of St. Louis, MO, for an American Recovery and Reinvestment Act of 2009 Community Development Block Grant (CDBG-R) audit because it received the largest amount of CDBG-R funds for an entitlement community in the State of Missouri and ranked highest on our risk assessment. Our audit objectives were to determine whether the City complied with applicable Recovery Act requirements for CDBG-R funds and properly reported its Recovery Act activities.

What We Found

The City did not comply with applicable Recovery Act requirements for CDBG-R funds and did not properly report its Recovery Act activities. Specifically, it (1) approved contracts that did not comply with Federal procurement requirements, (2) did not adequately enforce Davis-Bacon Act or Section 3 requirements, and (3) reported incomplete and inaccurate information. As a result, the City used CDBG-R funds for unsupported expenses, failed to ensure that all contractors paid the appropriate wages and disadvantaged workers received economic opportunities, and did not have transparency in its reported use of Recovery Act funds.

What We Recommend

We recommend that the U.S. Department of Housing and Urban Development (HUD) require the City to (1) support that more than \$1.3 million in Recovery Act contracts awarded was granted at a reasonable cost and repay any amount determined to be unreasonable or ineligible, (2) review all payments to its contractors' employees to determine whether wage restitution is owed, and (3) make any needed corrections in FederalReporting.gov. In addition, we recommend that HUD assist the City in receiving formal training on the issues identified in this report.

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BACKGROUND AND OBJECTIVES

The City of St. Louis receives Community Development Block Grant (CDBG) funding from the U.S. Department of Housing and Urban Development (HUD). A City department known as the Community Development Administration is responsible for administering the Federal funds for housing, community, and economic development programs that strengthen the City and its neighborhoods.

On February 17, 2009, the President signed the American Recovery and Reinvestment Act, which included a \$1 billion appropriation in Community Development Block Grant (CDBG-R) funds to States and local governments to expedite carrying out eligible activities under the CDBG program. The Recovery Act funds were distributed to grantees that received CDBG funding in fiscal year 2008 on a formula basis. The Recovery Act required the grant recipients to obligate 100 percent of the funds by September 30, 2011 and expend 100 percent of the funds by September 30, 2012.

In August 2009, the City received more than \$5.3 million in CDBG-R funds. It had obligated 100 percent of its grant funds and expended 63 percent as of March 31, 2012. The City used these funds to carry out 19 projects. It funded activities that included improvements of sidewalks, roads, and parking lots; installation of street lighting; creation of a farmer's produce market; construction of new housing; rehabilitation of a community center; and acquisition of distressed properties.

Our objectives were to determine whether the City complied with applicable CDBG-R requirements and properly reported its Recovery Act activities.

RESULTS OF AUDIT

Finding 1: The City Approved Improperly Procured Contracts

The City approved two contracts that did not comply with Federal procurement requirements. This condition occurred because its staff misunderstood the requirements. As a result, the City obligated more than \$1.3 million in Recovery Act funds for improper contracts and could not show that the amounts were reasonable.

Contracts Improperly Procured

Design Build Contract

The City allowed a subrecipient to enter into a contract with a design builder without advertising for bids and ensuring competition as required by 24 CFR (Code of Federal Regulations) 84.43 and its subrecipient agreement. Regulations at 24 CFR 84.43 state that all procurement transactions must be conducted in a manner to provide, to the maximum extent practical, open and free competition. In addition, the subrecipient agreement between the City and the subrecipient states that requests for bids or proposals must be formally advertised for all contracts in excess of \$100,000. The subrecipient selected the design builder to renovate an old school building for use as a cultural center without advertising. The City later approved the contractor selection.

The subrecipient did not document a cost analysis when it received the sole bid as required by 24 CFR 84.45, which states that some form of cost or price analysis must be made and documented in the procurement files in connection with every procurement action.

The City allowed the design builder that developed the draft specifications and scope of work to be selected for the contract, violating the requirements of 24 CFR 84.43, which state that to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids, or requests for proposals must be excluded from competing for such procurements. In this case, the design builder developed the specifications, requirements, and statement of work for the project. This role would have precluded it from competing for the developer contract had it been properly advertised. This company was ineligible to receive this contract.

Public Works Contract

The City entered into a public works contract with a contractor to construct sidewalks, improve lighting, and provide other right-of-way improvements without advertising for bids as required by 24 CFR 85.36 and its cooperation

agreement. Both of these require that bids be advertised to ensure the maximum amount of competition and the best price. The City initially issued a request for bids and then canceled it before the bids were due. It then noncompetitively awarded the contract to a contractor with which it had a previous relationship, using an emergency work authorization. This work was in the substantial amendment submitted to HUD in 2009 and, therefore, was not an emergency work item in 2010.

Staff Misunderstood Some Requirements

For the cultural center rehabilitation contract, the City believed that the subrecipient's prior contractual relationship with the design builder negated the need for soliciting bids. The City stated that it believed that since the contractual relationship occurred before CDBG funds were given to the subrecipient, CDBG procurement rules did not apply.

The City decided it wanted to complete the sidewalk construction work before the new school year started and, therefore, canceled the solicitation for bids so the project could be completed more quickly. Just before it canceled the solicitation for bids, its staff found information causing it to believe that the CDBG-R program rules allowed it to award the contract to a company with which it had a relationship.

Funds Obligated for Improper Contracts

As a result of the City's misunderstanding of the program rules, it obligated more than \$1.3 million in CDBG-R funds for improper contracts and could not show that the amounts were reasonable.

Activity	CDBG-R amount
Design build contract	\$1,096,000
Public works contract	\$273,308
Total	\$1,369,308

Since the City did not perform all of the required contract cost analysis or allow adequate competition and allowed an ineligible company to participate in the procurement, it could not show that contracts totaling more than \$1.3 million were reasonable.

Conclusion

The City approved contracts that did not comply with Federal procurement requirements. These requirements include the performance of cost analyses and

solicitation of bids. As a result, the City could not support that all contracts were awarded at a reasonable cost. The City must ensure that all procurements meet Federal requirements.

Recommendations

We recommend that the Director of the St. Louis Office of Community Planning and Development require the City to

- 1A. Support that CDBG-R contracts awarded totaling \$1,369,308 were granted at a reasonable cost and repay the U.S. Treasury from non-Federal funds any amount determined to be unreasonable or paid to ineligible parties.
- 1B. Provide its staff with procurement training.

Finding 2: The City Did Not Enforce Davis-Bacon or Section 3 Requirements

The City did not adequately enforce Davis-Bacon Act or Section 3 requirements. It was not aware that some of the projects were federally funded and subject to these requirements. As a result, the City had no assurance that contractor employees received appropriate wages or that economically disadvantaged people and businesses received the economic opportunities afforded by the Recovery Act.

Requirements Not Enforced

The City did not adequately enforce Davis Bacon Act or Section 3 requirements. It approved 14 contracts that were subject to the Davis-Bacon prevailing wage rates with more than \$4 million in CDBG-R funding. HUD Handbook 1344.1, REV-1, requires the City to monitor enforcement of labor standards for the payment of prevailing wage rates in contracts over \$2,000 involving Federal funds. The amounts awarded for the contracts ranged from \$95,000 to more than \$1 million.

The City approved 12 contracts that were subject to Section 3 requirements of the Housing Act of 1968, as amended. Section 3 requires that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 are, to the greatest extent feasible, directed to low- and very low-income persons, particularly persons who receive HUD housing assistance. Regulations at 24 CFR Part 135 state that Section 3 applies to community development assistance that is used for housing rehabilitation, housing construction, and other public construction exceeding \$200,000.

Davis Bacon Issues

Wages and Fringe Benefits

For 6 of the 14 contracts, the City did not verify that the contractors paid Davis-Bacon wages and fringe benefits to their employees, although there were indications that the wages were not being paid. In these cases, the weekly payroll records documented wage rates that were lower than the prevailing wage rates for the worker classification. In addition, the City used an outdated wage determination for one contract. HUD Handbook 1344.1, REV-1, section 3-3, requires the City to review weekly payroll records to ensure compliance with labor standards. In addition, section 1-6 requires the City to ensure that all contracts contain the applicable U.S. Department of Labor wage determination.

Late or Missing Certified Payroll Records

The City did not receive certified payroll reports from 8 of 14 contractors in a timely manner, if at all. HUD Handbook 1344.1, REV-1, section 3-3, requires the City to promptly obtain weekly payroll records and review them upon receipt. In one case, the payroll records were submitted by the contractor 8 months late. In another case, the contractor did not submit payroll records of four of its subcontractors, and the City did not document steps taken to obtain the records.

Missing Employee Interviews

The City did not document employee interviews for eight contracts and only one interview for one contract. HUD Handbook 1344.1, REV-1, section 3-2, requires the City to conduct and document onsite interviews with up to 10 percent of the workers in all trades for projects longer than 6 months and a representative sample for projects of a shorter duration.

Missing Apprenticeship Documentation

The City did not document that all apprentices working for six contractors were registered with the applicable agencies and were paid proper wages. HUD Handbook 1344.1, REV-1, section 2-10, states that to be paid less than the prevailing wages, apprentices must be registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or certified by these agencies as eligible for probationary employment.

Lack of Enforcement

The City did not withhold payments from any of the 12 contractors that failed to provide timely certified payroll reports, provide the required apprenticeship documentation, or pay the appropriate wages. HUD Handbook 1344.1, REV-1, section 3-4, allows the City to withhold funds from contractors to ensure compliance with Davis-Bacon requirements.

Section 3 Issues

The City did not ensure that all solicitations and contracts included a Section 3 clause. Regulations at 24 CFR 135.32(b) require the City to incorporate the Section 3 clause into all solicitations and contracts. Four of twelve contracts did not incorporate the Section 3 clause.

The City did not submit its Section 3 summary reports on time. Regulations at 24 CFR 135.90 require the City to submit its Section 3 summary report by January 10 of each year, since it was not required to submit an annual performance report for CDBG-R activities. For 2010 and 2011, the City submitted its reports on March 29, 2011, and March 28, 2012, respectively.

Unaware Of All Requirements

The City's staff was not aware that some of the projects were federally funded and subject to the Davis-Bacon and Section 3 requirements. The City stated that there was a communication breakdown between the office and field personnel, causing field personnel to be unaware that the projects were federally funded. The City did not have procedures and controls to ensure that all required actions were completed before it approved contracts and payments.

City staff was not aware of all Section 3 requirements. Staff did not realize that the deadline for submitting Section 3 reports for CDBG-R activities was January 10 of every year and believed that the reports were due in March, along with the City's consolidated annual performance report. City staff did not realize that CDBG-R activities were not reported on the annual performance report and, therefore, had to be submitted by January 10.

Appropriate Wages Not Paid

The City had no assurance that contractor employees received appropriate wages or that economically disadvantaged people and businesses received the economic opportunities afforded by the Recovery Act. Payment of Davis-Bacon wages ensures that workers are adequately compensated for their labor. For example, a cement mason did not receive the appropriate wages across three separate contracts. He was underpaid \$0.35 per hour for two contracts without explanation and \$0.70 per hour for the last contract because the City used an outdated wage decision. Further, Section 3 enables economically disadvantaged people to work on federally funded contracts, and there was no assurance that opportunities were made available to these people. Only 22 percent of the new jobs created in 2011 by the City went to Section 3 residents, much less than the HUD goal of 30 percent. This percentage could have been higher if the City had incorporated the Section 3 clause into all of the covered contracts.

Conclusion

The City did not always enforce the Davis-Bacon prevailing wage rate or Section 3 requirements. It did not always ensure that workers were paid their proper wages and benefits, receive and verify all payroll records, or impose penalties when required. It did not always incorporate the Section 3 clause into its contracts or submit its Section 3 report on time. The City must ensure that it remedies this situation.

Recommendations

We recommend that the Director of the St. Louis Office of Community Planning and Development

- 2A. Require the City to review all payments to its contractors' employees to determine whether wage restitution is owed and provide the review results to HUD for review and approval. If wage restitution is required, the contractors should make the restitution.
- 2B. Require the City to develop and implement adequate written procedures and controls to ensure that its contractors' employees are paid at the appropriate Federal prevailing wage rates and it incorporates and enforces Section 3 requirements in its contracts.
- 2C. Provide the City with Davis-Bacon and related acts as well as Section 3 training.

Finding 3: The City Did Not Accurately or Completely Report Its Recovery Act Activities

The City did not accurately or completely report its Recovery Act activities. This condition occurred because the City was unaware of all of the requirements for reporting Recovery Act activities and did not always properly supervise its staff. As a result, it provided inaccurate Recovery Act information to the public and lacked transparency.

Improper Reporting

The City did not accurately or completely report its Recovery Act activities in FederalReporting.gov. According to the Recovery Act reporting requirements in Section 1512, grant recipients are required to report information quarterly, including the number of jobs created or retained, the total amount of grant funds expended and received, and specific information on projects.

Incomplete Job Information

The City did not accurately report the number of jobs created or retained in FederalReporting.gov. It omitted job creation and retention information for 11 infrastructure projects for all quarterly reports submitted before the fourth quarter of 2011. Seven of these projects were substantially complete, as their completion status ranged between 98 and 100 percent on November 22, 2011.

Inaccurate Expenditures and Receipts

The City did not accurately report the total amount of Recovery Act funds expended or received. It did not accurately report the amount of CDBG-R funds drawn down during the entire audit period as shown in the table below.

Recovery Act CDBG-R funds received			
Ending date for reporting period	Actual amount received	Reported amount received	Difference
4th quarter 2009	-	-	-
1st quarter 2010	-	-	-
2nd quarter 2010	-	24,842.00	24,842.00
3rd quarter 2010	237,085.28	230,252.00	(6,833.28)
4th quarter 2010	237,085.28	923,339.00	686,253.72
1st quarter 2011	1,116,711.88	1,142,088.00	25,376.12
2nd quarter 2011	1,388,801.00	1,795,915.00	407,114.00
3rd quarter 2011	1,807,376.17	2,283,711.00	476,334.83
4th quarter 2011	2,789,380.90	2,973,273.00	183,892.10
1st quarter 2012	3,318,898.95	3,343,675.00	24,776.05

In addition, the City did not maintain sufficient documentation to support the expenditures it reported. It was unable to provide all supporting documentation for the expenditures reported from 2009 through the fourth quarter of 2011.

Late Quarterly Reports

The City did not always submit quarterly reports to FederalReporting.gov when due. Section 1512 of the Recovery Act requires that no later than 10 days after the end of each calendar quarter, each recipient of Recovery Act funds submit its quarterly report. The City submitted the report for the fourth quarter of 2010 on February 15, 2011, when it was due on January 10, 2011, and the report for the first quarter of 2012 on April 13, 2012, when it was due on April 10, 2012.

Late Environmental Reporting

The City did not report the results of its environmental reviews for CDBG-R-funded activities in the Recovery Act Management and Performance System until September 23, 2011, when a majority of the reviews were completed by December 4, 2009. This information system was created by HUD to collect and manage data related to the Recovery Act, and one of its key functions is the collection of required National Environmental Policy Act (NEPA) reporting data. All entities that receive Recovery Act funding must report their NEPA compliance in the system as soon as possible and update any changes as they occur.

Incomplete Subaward Information

The City did not start reporting subaward information until the first quarter reporting period in 2012, and it did not include all of the activities it was responsible for. Section 1512 of the Recovery Act required the City to report a detailed list of all projects or activities for which Recovery Act funds were expended or obligated, including the name of the project; the description of the project; the completion status of the project; an estimate of the number of jobs created and retained; and the purpose, total cost, and rationale for infrastructure investments made by State and local governments. The City did not start listing detailed subaward information such as the amount allocated and disbursed to each project until the first quarter of 2012, and it did not provide subaward details for 11 infrastructure projects it managed.

City Staff Unaware of All Requirements

The City was unaware of all of the requirements for reporting Recovery Act activities and did not always properly supervise its staff. The City did not know all of the requirements for reporting CDBG-R activities, such as reporting the amount of vendor payments over \$25,000, the organizations that received subawards, and other subaward information. In addition, it did not always properly supervise its staff responsible for providing the reports to

FederalReporting.gov. It did not thoroughly verify the reports submitted and, therefore, did not realize that it submitted incomplete and inaccurate information. The responsible staff person left the City just before the audit started.

Incomplete and Inaccurate Information Reported

The public did not have access to accurate grant information related to the City's expenditures of CDBG-R funds or the projects and activities funded with CDBG-R funds. As a result, the City's use of these funds was not transparent.

Conclusion

The Recovery Act required an unprecedented level of transparency, and the City failed to provide the public with the required level of detail.

Recommendations

We recommend that the Director of the St. Louis Office of Community Planning and Development

- 3A. Assist the City in making needed corrections to its Recovery Act information in FederalReporting.gov.

SCOPE AND METHODOLOGY

To accomplish our objectives, we performed the following steps as they related to the City's CDBG-R funds:

- Reviewed relevant laws, regulations, and HUD guidance.
- Reviewed the City's CDBG-R agreements, budget, substantial amendments to its consolidated plan, and procurement policies and procedures.
- Reviewed Recovery Act reporting documents and reports submitted to FederalReporting.gov.
- Interviewed City and HUD staff.

We reviewed the City's entire CDBG-R grant totaling nearly \$5.3 million. The grant was used to fund 19 projects and the City's administrative costs. We reviewed each of the project files, including the advertisement; solicitations; bid documents; debarment, suspension, and limited denial of participation verifications; and "buy American" documentation. We also reviewed contract approval documents, cost or price analyses, and programmatic field reports.

Additionally, we reviewed employee interviews, certified payroll records, and other documents to determine whether the City enforced fair labor standards. We reviewed Section 3 reports and Section 3 language included in the contracts to determine whether the City complied with Section 3 requirements. We reviewed the environmental review records to determine whether the City conducted the reviews in a timely manner. We also reviewed the projects' vouchers, draw requests, and invoices to determine whether the funds were expended for the planned purposes.

We did not use computer-generated data to support our audit conclusions. We compared the source documentation maintained in the City's files to data reported in HUD's Line of Credit Control System, Integrated Disbursement and Information System, and FederalReporting.gov. All conclusions were based on source documentation reviewed during the audit.

We performed our audit between April and August 2012 at the City's old office location at 1015 Locust Street, Suite 1200, St. Louis, MO, and the new location at 1520 Market Street, Suite 2000, St. Louis, MO. Our audit generally covered the period October 1, 2009, through March 31, 2012.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

INTERNAL CONTROLS

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

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

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

Relevant Internal Controls

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

- Controls over managing CDBG-R contracts.
- Controls over properly reporting Recovery Act information.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiency

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

- The City did not have adequate controls to ensure that its staff complied with Recovery Act requirements (see findings 2 and 3).

Separate Communication of Minor Deficiencies

Minor internal control and compliance issues were reported to the auditee in a separate letter, dated September 27, 2012.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Unsupported 1/
1A	\$1,369,308

- 1/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

September 25, 2012

Mr. Ronald J. Hosking
Regional Inspector General for Audit
Office of Audit Region 7
U.S. Department of Housing and Urban Development
400 State Street, Suite 501
Kansas City, Kansas 66101

RE: City of St. Louis
2009 American Recovery and
Reinvestment Act
Community Development
Block Grant
(CDBG-R) Audit

Dear Mr. Hosking:

Thank you for this opportunity to provide comment on the discussion draft of the above-referenced Audit Report for the City's American Recovery and Reinvestment Act Community Development Block Grant (CDBG-R) program. We also wish to express our thanks to [REDACTED], and [REDACTED] of your staff for taking the time to review the draft report with staff at the City's Community Development Administration.

It is our understanding that the objectives of the audit were to determine whether the City complied with applicable Recovery Act requirements for CDBG-R and properly reported its Recovery Act activities.

The following are our responses to the findings and recommendations listed in the draft report.

Response to Finding 1: The City approved two contracts that did not comply with Federal procurement requirements.

With respect to Finding 1, Contract 1, the auditors concluded that a contract between [REDACTED], Inc. ([REDACTED]) and the project design/build firm did not satisfy CDBG-R funding procurement requirements. We believe that contract did satisfy those requirements for the following reasons.

Ref to OIG Evaluation

Auditee Comments

Comment 1

████ entered into a contract with a minority-owned design/build firm in June 2005 for the design and renovation of the █████ School to create the █████ Cultural, Educational and Business Center. The renovation of the project had three distinct phases.

The first phase of construction was funded by monetizing State of Missouri Brownfield tax credits. Proceeds from those credits allowed █████ to complete interior demolition and environmental hazards remediation. That phase was completed in 2009. In 2010, five years following the initiation of construction, the CDBG-R grant provided funding for the second phase of construction, which entailed stabilization of the building envelope. The City approved a sole source procurement for the project because the Recovery Act emphasized that available funds should be spent on “shovel-ready” projects where job-producing construction or other activities could immediately commence, because construction had already commenced under a pre-existing contract and the second phase of that project was ready to proceed, and because █████ provided a project manual which included Instructions to Bidders as confirmation that all construction work had been or would be competitively bid by the design/build firm with █████ input. The City will obtain copies of all competitive bids and subcontract awards. Should these documents prove insufficient as a basis to demonstrate cost reasonableness, the City, using in-house staff, will conduct a cost analysis and submit that analysis to HUD.

With respect to Finding 1, Contract 2, CDBG-R funds were used for the infrastructure on █████ Avenue at the location of a new campus for █████ College in a very underserved neighborhood. We believe that contract did satisfy those requirements, for the following reasons.

Comment 2

The █████ College building was under construction and scheduled to open in Fall, 2010, but funds were not available for the sidewalks and other public improvements that would allow students, faculty and staff to access and safely use the new building. Because the design of the public improvements work was complete and the project was therefore shovel-ready and because construction of the sidewalks would both provide immediate jobs and complement a larger project that would help the neighborhood’s low and moderate income residents access training that would assist those residents in becoming employed, CDBG-R funding was made available for the construction of those sidewalks. But completion of the sidewalks in time for the commencement of the fall semester was essential to the project’s success. In order to complete the sidewalks and other infrastructure work in time, the City assigned the work on an emergency basis to a firm that had previously been awarded an advertised and competitively bid citywide contract for the construction of public improvements throughout the year. Since that contract had recently expired when the █████ College work was ready to be added, City staff prepared a contract extension to cover the period of the emergency work. We agree that the extension was never fully executed. However, the amounts paid to the contractor for the infrastructure work were consistent with the amounts in the separately solicited successful bid which the City did not accept. The reason the City did not accept that bid is that a contract pursuant to that bid could not have been executed and the work completed in time for the

Ref to OIG Evaluation

Auditee Comments

opening of the building and the start of the fall semester. Had that work not been completed in time for the opening, the timely benefits sought to be achieved by the CDBG-R program would have been lost. The City will provide supporting documentation to HUD demonstrating (a) that procurement was conducted for the citywide public improvements contract, and (b) that costs for the [REDACTED] College CDBG-R work were consistent with the prices in that previously procured contract.

Response to Finding 2: The City did not adequately enforce Davis-Bacon Act or Section 3 requirements.

Comment 3

In order to maximize the use of CDBG-R funding for ten shovel-ready public works projects, planning and execution efforts were expedited. Davis-Bacon requirements were included in all, and Section 3 requirements were included in the majority of CDBG-R construction project documents. Shovel-ready projects and rapid expenditures to create jobs were emphasized in ARRA. In the rush to expedite contract execution and completion in time to meet CDBG-R deadlines, the City agrees that it did not emphasize the Davis-Bacon and Section 3 aspects of the CDBG-R funding agreements to a sufficiently significant extent. Through December 31, 2011, with nine months remaining in the program, the City achieved 22% participation by Section 3 certified individuals, and 25% of construction dollars were paid to Section 3 certified businesses. We believe that the level of Section 3 participation is adequate under the circumstances, and we are continuing to document Davis-Bacon compliance as further explained below.

Davis-Bacon

Comment 4

Efforts are continuing to obtain and review certified payrolls from all general contractors and subcontractors who received CDBG-R funding to ensure that prevailing wages were paid to all workers and that any wage restitution owed is paid. The City will monitor progress and submit a monthly status report to HUD until all parties are satisfied that the Davis-Bacon requirements have been met.

Comment 5

The City has written procedures for enforcing and monitoring Davis-Bacon compliance. The CDBG-R deadlines and the one-time nature of some of the contracts impacted the collection of the required reports. CDBG-R deadlines also made it difficult to conduct the typical number of site inspections and interviews with workers on the sites. Under ordinary circumstances, the City would have conducted all of the interviews and site visits specified in our procedures.

Section 3

Though City staff were very much aware of Section 3 requirements, using CDBG-R funding for shovel-ready construction projects and meeting the associated CDBG-R deadlines required that Section 3 planning efforts be expedited. As noted above, shovel-ready projects and rapid implementation were emphasized in the ARRA appropriations, and deadlines for

Ref to OIG Evaluation

Auditee Comments

Comment 6

contracting and expenditure were tight. For some of the City’s shovel-ready CDBG-R projects, construction project documents had already been completed. Some of those documents were not adequately amended to include the CDBG-R requirements. The necessary fast-tracking for such projects also resulted in the lack of Section 3 language in four contracts.

Although the City did fall short of its 30% goal by 8% for individuals and 5% for businesses, Section 3 targets are goals rather than quotas. The City did emphasize Section 3 requirements to the extent possible within the deadline constraints and achieved 22% Section 3 participation by certified individuals as of December 31, 2011. As of December 31, 2011, 25% of construction dollars were paid to Section 3 certified businesses.

The City prepares annual Section 3 reports for many federal funding sources where Section 3 requirements are applicable. The deadline for submission of Section 3 reports for all of those other funding sources is March 31, and CDA was not aware of the earlier deadline of January 10 for CDBG-R. The City will submit its 2012 CDBG-R Section 3 report no later than January 10, 2013.

Finding 3: The City did not accurately or completely report its Recovery Act activities.

Comment 7

The City concurs with this finding in part, but wishes to stress that CDBG-R reporting requirements evolved over a relatively long period of time. Although staff learned more about the reporting requirements during the course of the CDBG-R program and identified prior quarter reporting errors based on that new information, the federalreporting.gov system did not allow the City to correct any information on prior quarter reports. The City will work closely with HUD to correct the information in the reporting system so that transparency goals are met and the many jobs created for the citizens of the City of St. Louis by CDBG-R funds are officially recorded.

We note the recommendation stated several times in the discussion draft that training be provided to City staff on various aspects of federal regulatory compliance. Please know that we welcome the opportunity for such training and look forward to taking advantage of what HUD is able to offer.

The CDBG-R program provided a valuable and much-appreciated boost to economic recovery efforts in the City of St. Louis. Using these funds to create needed jobs, we were also able to address deferred infrastructure projects, provide affordable housing, make investments in long-term energy conservation and sustainability and help with neighborhood services for low and moderate income persons. We are very grateful for the assistance provided by Congress and by HUD.

Ref to OIG Evaluation

Auditee Comments

Please feel free to contact me if you have any questions. We thank you again for the opportunity to provide this response and for the courtesy demonstrated by your staff.

Sincerely,

Jill Claybour
Acting Executive Director

copy: The Honorable Francis G. Slay
Ms. Dee Ann Ducote

OIG Evaluation of Auditee Comments

- Comment 1** Federal procurement requirements as well as the City's agreement with the non-profit required it to solicit competitive bids for the builder. CDBG-R funds cannot be used for procurements that do not meet federal procurement requirements, no matter when the renovations were initiated. Even though the Recovery Act emphasized that funds should be spent on “shovel-ready” projects, it did not excuse the City from complying with federal procurement requirements. Furthermore, the non-profit agreed to advertise the solicitation and award the contract for a builder to the lowest responsive bidder, which it did not do.
- Comment 2** The City allowed the work to be done under an expired contract. It could not show that it complied with federal procurement requirements since it did not have an executed contract to cover the work done. The City did not provide us with details of the successful bid that it did not accept and even then it still did not complete the project until October 11, 2010, well after the fall semester had started.
- Comment 3** Even though the Recovery Act emphasized that funds should be spent on “shovel-ready” projects, it did not excuse the City from following Section 3 requirements. Since Recovery Act funding is specifically intended to create jobs and other economic opportunities for those most impacted by the recession, compliance with the requirements of Section 3 is critical. The Recovery Act does not increase or reduce each recipient’s Section 3 responsibilities.
- Comment 4** These actions should satisfy our audit recommendation related to prevailing wages.
- Comment 5** The City must ensure that it follows its written procedures to ensure Davis-Bacon compliance.
- Comment 6** While the Section 3 targets are goals rather than quotas, it is required that the City include the pertinent Section 3 clause in all its contracts and when it falls short of the targets, document reasons they could not be reached. If it had done so, the City may have reached the Section 3 targets.
- Comment 7** This action should satisfy our audit recommendation related to reporting errors.