



U. S. Department of Housing and Urban Development
Office of Inspector General
New York/New Jersey Office
26 Federal Plaza–Room 3430
New York, NY 10278-0068

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MEMORANDUM FOR: Anthony P. Scardino, Acting Deputy Chief Financial Officer, F

Edgar Moore

FROM: Edgar Moore, Regional Inspector General for Audit, 2AGA

SUBJECT: Front End Risk Assessments for the American Recovery and Reinvestment Act
Capital Fund Program for Formula and Competitive Grants

INTRODUCTION

We performed a review of the U.S. Department of Housing and Urban Development's (HUD) final Front End Risk Assessments (FERAs) for the Capital Fund Formula and Competitive Grant Programs funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act). Our objectives were to determine whether (1) the FERAs complied with the Office of Management and Budget Memorandum M-09-21, entitled Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009, and (2) the risk mitigation activities in the FERAs were adequate in relation to the assessed level of risk.

There are no recommendations in this report. Should you or your staff have any questions please contact Joseph Vizer, Assistant Regional Inspector General for Audit, at (973) 776-7333.

METHODOLOGY AND SCOPE

We compared the framework and structure of the FERAs for the Capital Fund Formula and Competitive Grant Programs funded under the Recovery Act with the Office of Management and Budget Memorandum M-09-21, entitled Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009. We also examined the adequacy of the Department's risk mitigation efforts in the final FERAs based on the level of assessed risk. Specifically, we reviewed the following risk assessment factors in the FERAs for the competitive and formula based Capital Fund programs: 1) Legislative, 2) Organizational Structure and Staffing, 3) Program Objectives and Performance Measures, 4) Program Structure and Program Administration, 5) Coverage by Written and Other Procedures, 6) Systems, 7) Funding/Funds Control Plans and Organizational Checks and Balances, 8) Management Attitude, 9) Reporting and Documentation, 10) Monitoring, and 11) Special Concerns or Impacts.

We performed our work from April 2009 through September 2009 at our offices in Newark, New Jersey. Our work was not conducted in accordance with generally accepted government auditing

standards. Under the Recovery Act, inspectors general are expected to be proactive and focus on prevention, thus this report is significantly reduced in scope.

BACKGROUND

The American Recovery and Reinvestment Act of 2009 [Recovery Act] provides capital funds to substantially modernize tens of thousands of public housing units and provide employment for thousands of construction workers. This legislation includes a \$4 billion appropriation of capital funds to carry out capital and management activities for public housing agencies, as authorized under section 9 of the United States Housing Act of 1937. Capital funds of \$3 billion were distributed through formula and \$1 billion will be distributed through a competitive process. A portion of the capital funds (0.5 percent) may be used for the expenses of management and oversight of the programs, grants and activities funded by such appropriation.

Other types of activities included under the capital fund programs include: vacancy reduction, addressing deferred maintenance needs, planning code compliance, management improvements, demolition and replacement, resident relocation, facilitating programs to improve the empowerment and economic self-sufficiency of PHA residents, improving the security and safety of residents and homeownership activities.

Funds shall be obligated to public housing agencies within 30 days of enactment of the Recovery Act, which was signed February 17, 2009. Public housing authorities shall give priority to capital projects that can award contracts based on bids within 120 days from the date the funds are made available to public housing authorities, and to the rehabilitation of vacant rental units. Public housing agencies shall prioritize capital projects that are already underway or included in the 5 year capital fund plans required by the Act (42 U.S.C. 1437c-1(a)). Capital funds distributed through the competitive process are for priority investments, including investments that leverage private sector funding or financing for renovation and energy conservation retrofit investments. Any restriction of funding to replacement housing uses shall be inapplicable. Funds provided shall supplement and not supplant expenditures from other Federal, State, or local sources or funds independently generated by the grantee.

The Office of Management and Budget's publication entitled, "Updated Implementing Guidance for American Recovery and Reinvestment Act of 2009," provides an accountability risk framework that shows objectives under phases of the funding life cycle. It lists the following "accountability objectives" that apply to all agencies and programs:

- Funds are to be awarded and distributed in a prompt, fair, and reasonable manner;
- The recipients and uses of all funds should be transparent to the public, and the public benefit of these funds should be reported clearly, accurately, and in a timely manner;
- Funds should be used for authorized purposes; and instances of fraud, waste, error, and abuse should be mitigated;
- Projects funded under this Act should avoid unnecessary delays and cost overruns; and
- Program goals achieved, including specific program outcomes and improved results should be on broader economic indicators.

OMB's guidance also discusses program-specific risks to be identified through the FERA process. Given the nature and purpose of the Recovery Act, the following objectives require emphasis:

- **Timeliness**—For every program step, it is critical to consider timing and whether the actions can be taken within the required timeframe.
- **Clear and measurable objectives**—All funds will be tracked to show results. It is critical to have clear and measurable outputs and outcomes and to have tracking mechanisms in place.
- **Transparency**—Information about how all funds are awarded, distributed, and used and what results are achieved must be available for the public.
- **Monitoring**—Workable plans for monitoring programs and related funds must be in place and must be carried out.
- **Reporting**—Identifying and tracking all funding under the Recovery Act is critical and must be reported on regularly.

RESULTS OF REVIEW

HUD's final Front End Risk Assessments for the Capital Fund Competitive and Formula Programs related to the Recovery Act were in general compliance with the Office of Management and Budget Memorandum M-09-21, entitled Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009.

During the review OIG provided comments expressing some concerns with the initial draft FERAs. We recommended revisions to the directions implementing the capital fund programs, such as PIH notices and policies 1) limiting (a) the use of recovery funds for management improvements and administrative costs, (b) the rehabilitation of vacant rental units that are not viable for long term rental uses, (c) the concept of fungibility, which allows a PHA to continuously move an item from a Five-Year Action plan back or forward to obligate or expend capital funds; 2) requiring additional monitoring to ensure compliance with procurement requirements; 3) controlling the verification of information and reports submitted electronically by PHAs; 4) controlling the process for finalizing regulations and training PIH and PHA staff; and 5) that limit the types of waivers offered. However, based on our comments HUD plans to (1) increase its monitoring to reduce unreasonable, unauthorized spending and control unrestrained fungibility; (2) increase monitoring, and consider having PHAs certify compliance with procurement regulations; (3) review different reporting systems to ensure the accuracy of reports and information submitted by PHAs; (4) complete capital fund regulations and train PIH and PHA staff; and (5) reject waivers that divert funds from Recovery activities. As a result, HUD's risk mitigation activities in the final FERAs adequately assessed the level of risk, and sufficiently emphasized the major program objectives of timeliness, clear and measurable objectives, transparency, monitoring, and reporting.

CONCLUSION

HUD's final Front End Risk Assessments for the Capital Fund Competitive and Formula Recovery Act Programs were in general compliance with the Office of Management and Budget Memorandum. The risk mitigation activities in the final FERAs were adequate in relation to the assessed level of risk and OIG concerns regarding specific risk factors contained in the initial FERAs have been adequately addressed.

RECOMMENDATIONS

Based on the results of this review, this memorandum report contains no recommendations.