



Issue Date	March 26, 2010
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Audit Report Number	2010-KC-1003
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TO: Ray E. Willis, Director, Region V, Office of Community Planning and Development, 5AD

//signed//

FROM: Ronald J. Hosking, Regional Inspector General for Audit, 7AGA

SUBJECT: The City of East St. Louis Did Not Properly Allocate Salary and Building Expenses or Properly Document Its Process to Secure a Consulting Services Contract

## **HIGHLIGHTS**

### **What We Audited and Why**

We audited the City of East St. Louis' (City) Community Development Block Grant (Block Grant) program because it is the 10th largest recipient in the State of Illinois and is the largest Illinois recipient of Block Grant funds outside the Chicago area.

The objectives of our review were to determine whether the City properly expended Block Grant funds for salaries and building expenses and followed proper procurement processes while awarding significant administration contracts.

### **What We Found**

The City did not properly allocate salary expenses to the Block Grant program. For the past 5 years, the City's Community Development Department (Department) had charged salary expenses to the Block Grant program based on an annual allocation instead of a documented, after-the-fact distribution of employee time.

The City did not properly allocate building expenses to the Block Grant program. It was unable to provide documentation to support that the rent paid by the Department with Block Grant funds for the past 5 years was reasonable, necessary, allowable, and allocable to the Block Grant program.

The City did not properly document the cost estimate and selection process used to procure a contract for developing its 5-year consolidated plan. Specifically, it did not document its cost analysis, method of selection, or technical evaluation of the proposals received.

### **What We Recommend**

We recommend that the U.S. Department of Housing and Urban Development (HUD) require the City to provide supporting documentation or reimburse its Block Grant program from non-Federal funds for more than \$1 million paid for salary expenses, building rent, and the administration contract. Additionally, we recommend that HUD require the City to implement acceptable policies and procedures and provide technical assistance to ensure future compliance.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

### **Auditee's Response**

We provided the discussion draft of the audit report to the City on March 5, 2010, and requested its comments by March 22, 2010. The City provided its written comments dated March 22, 2010. It generally agreed with Finding 1, Finding 3, and many of our recommendations. For Finding 2, the City agreed to make changes to its procedures for charging building expenses, but disagreed with our estimated allocation of basic utilities and building insurance.

The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix B of this report. The attachments have not been included since they are not required to understand the response. We provided a complete copy of the City's response to the Action Official addressed in this report.

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## **BACKGROUND AND OBJECTIVES**

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Title I of the Housing and Community Development Act of 1974 established the Community Development Block Grant (Block Grant) program, a flexible program that provides communities with resources to address a wide range of unique community development needs.

The City of East St. Louis (City) participates in the Block Grant program as an entitlement community. These grants are allocated to larger cities and urban 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. The U.S. Department of Housing and Urban Development (HUD) determines the amount of each entitlement grant by a statutory dual formula which measures community needs in relationship to those of other metropolitan areas. The City received more than \$3.6 million for fiscal years 2008 and 2009 combined. It uses these funds for several purposes including home repair, code enforcement, and public services.

According to 24 CFR (Code of Federal Regulations) 570.200(g), the City was permitted to use a portion of grant funds received for planning and program administrative costs. These costs included costs for staff engaged in program administration; costs for office space such as insurance, utilities, rental expenses, and maintenance; and costs for the development of a consolidated plan. Additional staff costs directly related to carrying out eligible activities were also allowable when charged directly to such activities. As outlined in 24 CFR 570.200(a)(5), the City was required to follow Office of Management and Budget (OMB) Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," for all direct and indirect costs charged to the grant.

The City's Block Grant program is currently administered by its Community Development Department (Department), which is located in the City's municipal building. Additionally, the City is subject to the Financially Distressed City Law and is accordingly under control of the State-established East St. Louis Financial Advisory Authority, which provides oversight and assistance.

The objectives of our review were to determine whether the City properly expended Block Grant funds for salaries and building expenses and followed proper procurement processes while awarding significant administration contracts.

## RESULTS OF AUDIT

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### Finding 1: The City Did Not Properly Allocate Salary Expenses

The City did not properly allocate salary expenses to the Block Grant program. This condition occurred because the City was not aware of the requirements for determining and documenting salaries charged to Federal awards. As a result, HUD had no assurance that the \$917,669 paid for salary expenses was reasonable, necessary, allowable, and allocable to the Block Grant program.

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#### **The City Did Not Maintain Detailed Time Records**

The City did not properly allocate salary expenses to the Block Grant program.

For the past 5 years, the City's Department had charged salary expenses to the Block Grant program based on an annual allocation. Its allocation charts indicated the percentage of each employee's salary that was to be charged to direct and indirect (administration) cost activities for the upcoming year.

Under OMB Circular A-87, salary expenses are generally only allowable based on a documented, after-the-fact distribution of employee time. This time distribution includes instances in which employees work on more than one Federal award, both a direct cost activity and an indirect cost activity, or a Federal award and a non-Federal award. The documentation is required to be prepared at least monthly, coincide with one or more pay periods, account for all activity for which each employee is compensated, signed by the employee, and approved by a responsible official of the governmental unit. For employees working on only one cost objective, such as those working on code enforcement activities, the City was required to perform periodic certifications that the employees worked solely on that activity for the period covered by the certification.

The City did not prepare the necessary documentation, such as personnel activity reports and periodic certifications, to support salary expenses. Consequently, it could not support its calculation of the direct and indirect salary charges to the Block Grant program.

#### **The City Was Not Aware of Requirements**

The City was not aware of the requirements for determining and documenting salaries charged to Federal awards and did not have a written policy for allocating

and supporting salaries. According to the Department's accounting manager, the City inherited the allocation chart method from the nonprofit that previously administered its Block Grant program and was not aware that this practice conflicted with Federal requirements.

### **HUD Had No Assurance That the Costs Were Reasonable**

HUD had no assurance that the \$917,669 paid for salary expenses over approximately 23 months was reasonable, necessary, allowable, and allocable to the Block Grant program.

### **Conclusion**

The City needs to provide supporting documentation to HUD or reimburse its Block Grant program from non-Federal funds for any portion of direct or indirect salary expenses it cannot support as reasonable, necessary, allowable, and allocable to the Block Grant program. In addition, the City should prepare and implement effective written policies and procedures to ensure that it properly supports and allocates future charges to all Federal awards for salary expenses in accordance with 24 CFR Part 570 and OMB Circular A-87.

### **Recommendations**

We recommend that the Director of the HUD Chicago Office of Community Planning and Development

- 1A. Require the City to provide supporting documentation showing that the funds paid for direct and indirect salary expenses were reasonable, necessary, allowable, and allocable to the Block Grant program or reimburse its Block Grant program \$917,669 from non-Federal funds.
- 1B. Ensure that the City's management and staff fully implement acceptable written policies and procedures for allocating and supporting future charges to Federal awards for salary expenses in accordance with 24 CFR Part 570 and OMB Circular A-87.
- 1C. Provide technical assistance to the City to ensure that its management and staff comply with 24 CFR Part 570 and OMB Circular A-87 requirements for salary expenses.

## Finding 2: The City Did Not Properly Allocate Building Expenses

The City did not properly allocate building expenses to the Block Grant program. This condition occurred because the City was not aware of the requirements for determining allowable rent. As a result, HUD had no assurance that the \$58,205 paid for building rent was reasonable, necessary, allowable, and allocable to the Block Grant program.

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### **The City Did Not Perform a Cost Allocation**

The City did not properly allocate building expenses to the Block Grant program.

For the past 5 years, the City had been charging its Department monthly rent. The City was unable to provide documentation to support that the rent paid by the Department with Block Grant funds was reasonable, necessary, and allocable to the Block Grant program.

According to OMB Circular A-87, rent payments between parties of the same governmental unit are considered less-than-arms-length transactions and subject to limitations. These rental costs are only allowable up to the amount that would be allowed had title in the property been vested in the governmental unit (in this case, the Department). Under this rule, rent is intended to cover a reasonable allocation of actual expenses only, since there are no mortgage costs associated with this building. An allowable allocation of actual expenses could include the Department's share of utilities, insurance, maintenance, property taxes, and other expenses related to the occupancy of the building.

The City did not perform a cost allocation to determine allowable rent for the Department. Additionally, it failed to allocate the rent charged to the Department among the various HUD programs its staff administered, including the Block Grant, HOME Investment Partnerships, and Emergency Shelter Grant programs.

### **The City Considered the Rent Charges Reasonable**

The City was not aware of the requirements for determining allowable rent and did not have a written policy for allocating and supporting building expenses. Further, it considered the rent charged to the Department reasonable because it was considerably less than the amount charged to its Tax Increment Financing Department and because the Block Grant program could bear the costs charged.

## **HUD Had No Assurance That the Costs Were Reasonable**

HUD had no assurance that the \$58,205 paid for building rent was reasonable, necessary, allowable, and allocable to the Block Grant program. While the City charged its Department more than \$2,700 per month in building rent over the 21-month period reviewed, our analysis found that a reasonable allocation of basic utilities and building insurance totaled less than \$420 per month.

## **Conclusion**

The City needs to provide supporting documentation to HUD or reimburse its Block Grant fund from non-Federal funds for any portion of rent charges that it cannot support as reasonable, necessary, allowable, and allocable. In addition, the City should prepare and implement effective written policies and procedures to ensure that it properly supports and allocates future charges to all Federal awards for rental costs in accordance with OMB Circular A-87.

## **Recommendations**

We recommend that the Director of the HUD Chicago Office of Community Planning and Development

- 2A. Require the City to provide supporting documentation showing that the funds paid for building rent were reasonable, necessary, allowable, and allocable to the Block Grant program or reimburse its Block Grant program \$58,205 from non-Federal funds.
- 2B. Ensure that the City's management and staff fully implement acceptable written policies and procedures for allocating and supporting future charges to Federal awards for rental costs in accordance with OMB Circular A-87.
- 2C. Provide technical assistance to the City to ensure that its management and staff comply with OMB Circular A-87 requirements for rental costs.



## Finding 3: The City Did Not Properly Document the Cost Estimate and Selection Process Used To Procure Consulting Services

The City did not properly document the cost estimate and selection process used to procure a contract for developing its 5-year consolidated plan. It incorrectly believed that it was acceptable to informally perform cost analyses, evaluate proposals, and negotiate with respondents. As a result, HUD had no assurance that the \$49,924 paid for the contract was reasonable and necessary.

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### **The City Did Not Properly Document Its Procurement Process**

The City did not properly document the cost estimate and selection process used to procure consulting services to develop its 5-year consolidated plan. Specifically, the City violated 24 CFR 85.36(b)(9), which required it to maintain records sufficient to detail the significant history of a procurement, and the City's own purchasing policy, which required it to maintain appropriate records covering purchase transactions.

In October 2008, the City published a notice of request for proposals seeking a qualified consulting firm to carry out an involved planning process, resulting in a 5-year consolidated plan. These plans serve as an application for HUD entitlement grant programs, including the Block Grant, HOME Investment Partnerships, and Emergency Shelter Grant programs.

#### Independent Cost Estimate

The City did not document its cost analysis. Federal regulations at 24 CFR 85.36(f)(1) state that as a starting point, grantees are required to perform an independent estimate before receiving proposals to determine the reasonableness of the proposed contract price. According to the City's purchasing manager, the City informally reviewed previous contracts and consulted with other municipalities to determine the amount budgeted. However, it was unable to provide documentation of the informal review.

#### Method of Selection

The City did not properly document its method of selection. According to 24 CFR 85.36(d)(3)(iii), the City was required to have a method for conducting technical evaluations and selecting awardees. Specifically, it was required to identify all evaluation factors and their relative importance in the publicized request for proposals. The request included a section outlining four bases of award criteria, including price structure, that were each valued as 25 of 100 points. However, a later section of the request listed four more detailed evaluation criteria that did not clearly correlate with the bases of award criteria. This inconsistency had the

potential to cause confusion regarding which evaluation factors were relevant and how each would be considered in the awarding process.

#### Technical Evaluation

The City did not document its technical evaluation of proposals received. It only provided documentation for part of the procurement process. It was unable to document that it performed a technical evaluation of the proposals received as required by 24 CFR 85.36(d)(3)(iii). According to the City's purchasing manager, the evaluation of the proposals was performed informally, and the deciding factor was negotiating price between the two firms. While price structure was listed in the request for proposals as a basis of award criterion, it was supposed to be equally weighted with the other three criteria.

Additionally, while the City provided e-mails from the two firms showing revisions made to the proposed cost and scope of work, it was unable to provide documentation showing how it requested these revisions, whether it requested the same revisions from both respondents, and whether these actions were allowable under Federal procurement requirements.

#### **The City Did Not Understand Requirements**

The City did not fully understand Federal requirements for procurement by competitive proposals. Specifically, the City's purchasing manager incorrectly believed that it was acceptable to informally perform cost analyses, evaluate proposals, and negotiate with respondents.

Further, the City's purchasing policy did not sufficiently follow the Federal procurement standards laid out in 24 CFR 85.36. For example, the City's policy did not cover the Federal requirement to perform an independent cost estimate. Additionally, while Federal requirements allow for negotiation of compensation once the most qualified competitor is selected, the City's policy allowed for negotiations between the City and each competitor.

#### **HUD Had No Assurance That the Costs Were Reasonable**

As a result of the conditions described above, HUD had no assurance that the \$49,924 paid for the contract was reasonable and necessary. Further, due to the inconsistencies in the request for proposals and the City's inability to show how it requested revisions to the price and scope of work, HUD had no assurance that the procurement was performed in a manner providing full and open competition without arbitrary actions as described in 24 CFR 85.36(c)(1)(vii).

## **Conclusion**

The City needs to provide supporting documentation to HUD or reimburse its Block Grant fund from non-Federal funds for any portion of the \$49,924 paid to the selected consulting firm that it cannot support as reasonable and necessary. In addition, the City should prepare and implement effective procurement procedures to ensure that it properly conducts and documents future procurements in accordance with 24 CFR 85.36.

## **Recommendations**

We recommend that the Director of the HUD Chicago Office of Community Planning and Development

- 3A. Require the City to provide supporting documentation showing that the funds paid for the administration contract were reasonable and necessary or reimburse its Block Grant program \$49,924 from non-Federal funds.
- 3B. Ensure that the City's management and staff fully implement acceptable written policies and procedures to ensure that the City properly conducts and documents future procurements in accordance with 24 CFR 85.36.
- 3C. Provide technical assistance to the City to ensure that its management and staff comply with 24 CFR 85.36 requirements for procurement.

## SCOPE AND METHODOLOGY

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To accomplish our objectives, we reviewed applicable laws and regulations, met with HUD and City staff, and reviewed City policies and procedures.

We also reviewed City records related to salaries, building expenses, and significant administration contracts. For salaries, we reviewed annual salary breakdown allocation charts and paystubs covering all 24 pay periods of 2008 and the first 21 pay periods of 2009. For building expenses, we reviewed all rental payments made from the Department to the City between January 2008 and September 2009, along with building insurance and utility expense documentation for the City's municipal building. For the 5-year consolidated plan contract, we requested and reviewed all documentation related to the contract including the request for proposals, initial proposals received by all respondents, follow-up e-mails received, internal memorandums, and related documentation.

We used reports obtained from HUD's Integrated Disbursement and Information System as background information for our review. Specifically, we used the reports to initially identify amounts paid under salaries activity codes between January 1, 2008, and December 9, 2009. However, we did not rely on these data for our conclusion. All conclusions were based on additional review performed during the audit.

As part of our review of building expenses, we performed an analysis to determine the amount of space occupied by the Department in the City's municipal building. We determined that the Department occupied approximately 4.7 percent of the building space. Using this factor, we calculated the pro-rata expense for building insurance and basic utilities for the operation of the Department's space in the municipal building.

Our audit period generally covered January 2008 through December 2009. We performed our audit work on site at the City's municipal building located at 301 River Park Drive, East St. Louis, IL, from September 2009 to January 2010.

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

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Internal control is an integral component of an organization's management that provides reasonable assurance that the following controls are achieved:

- Program operations,
- Relevance and reliability of information,
- Compliance with applicable laws and regulations, and
- Safeguarding of assets and resources.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. They 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.

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## Relevant Internal Controls

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

- Controls to ensure that staff understands and follows all applicable laws and regulations.

We assessed the relevant controls identified above.

A significant weakness exists if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

## Significant Weaknesses

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

- The City did not have adequate controls in place to ensure that staff understood and followed Federal requirements for determining and documenting salaries, determining allowable rent, and procurement by competitive proposals (see findings 1, 2, and 3, respectively).
- The City did not have written policies for allocating salaries and building expenses (see findings 1 and 2, respectively).
- The City's purchasing policy did not sufficiently follow the Federal procurement standards laid out in 24 CFR 85.36 (see finding 3).

## APPENDIXES

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### Appendix A

#### SCHEDULE OF QUESTIONED COSTS

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<u>Recommendation number</u>	<u>Unsupported 1/</u>
1A	\$917,669
2A	\$58,205
3A	\$49,924

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

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### Ref to OIG Evaluation

### Auditee Comments



**From the Office of Deletra M. Hudson, City Manager**

301 River Park Drive • East Saint Louis, Illinois 62201  
Office: (618) 482-6664 • Fax: (618) 482-6648 • Email: deletra.hudson@cestas

March 22, 2010

Ronald J. Hosking  
Regional Inspector General for Audit  
Region VII Office of Audit  
Gateway Tower II, 5<sup>th</sup> Floor  
400 State Avenue  
Kansas City, KS 66101-2406

**SUBJECT: The City of East St. Louis Did Not Properly Allocate Salary and Building Expenses or Properly Document Its Process to Secure a Consulting Services Contract**

Dear Mr. Hosking:

We recently received the draft audit report from your office, and we met with members of your staff to discuss the draft.

Attached please find our response to the three (3) Findings of non-compliance. Overall, we are in agreement with Findings #1 and #3; however, we are not in total agreement with Finding #2 or all of the auditor's recommendations.

As the administrator of Block Grant funds, the City is ready and willing to put forth every effort to comply with all of the applicable laws and regulations. Also as stated in our response, we have already implemented some changes in our procurement process; we are requesting technical assistance from HUD; and we will work with an outside consultant to revise our administrative policies and procedures.

If you have any questions or require more information, please contact me at 618-482-6785 or Arthur Johnson, Community Development Director, at 618-482-6639.

Sincerely,

A handwritten signature in blue ink that reads "Deletra Hudson".

Deletra Hudson  
Interim City Manager

Attachments

**Comment 1**

**Finding 1: The City Did Not Properly Allocate Salary Expenses**

**Condition:**

The City did not properly allocate salary expenses to the CDBG program.

For the past five years, the City has been charging salary expenses to the CDBG program based on an annual allocation.

Under OMB Circular A-87 salary expenses are generally only allowable based on after-the-fact distribution of employee time.

The City did not prepare the necessary documentation, such as personnel activity reports and periodic certifications, to support salary expenses. Consequently, it could not support its calculation of the direct and indirect salary charges to the Block Grant program.

**Cause:**

The City was not aware of the requirements for determining and documenting salaries charged to federal awards and did not have a written policy for allocating and supporting salaries. According to the Department's accounting manager, the City inherited the allocation chart method from the nonprofit that previously administered its Block Grant program and was not aware that this practice conflicted with federal requirements.

**Effect:**

HUD has no assurance that the \$9,7669 paid for salary expenses over approximately 23 months was reasonable, necessary, allowable, and allocable to the Block Grant program.

**Summary of Recommendations:**

The City needs to provide supporting documentation to HUD or reimburse its Block Grant program from non federal funds for any portion of direct or indirect salary expenses it cannot support as reasonable, necessary, allowable, and allocable to the Block Grant program. In addition, the City should prepare and implement effective written policies and procedures to ensure that it properly supports and allocates future charges to all federal awards for salary expenses in accordance with 24 CFR Part 570 and OMB Circular A-87.

**City's Response:**

- 1A. As previously stated, the City of East St. Louis assumed the responsibility of administering and managing its entitlement funds from a former non-profit agency in 2005. During this phase there was no clear transition of administrative responsibility, and the City has since worked diligently with HUD's Office of Community Planning in Chicago in an effort to meet capacity. The City followed the procedures and guidelines used by that agency which unfortunately did not include documenting salary allocations. However, all of the City's payroll records reflect that Block Grant funding was only used to support staff working on Block Grant programs. Therefore, only reasonable, allowable and allocable salary expenses were charged to Block Grant funding.

**Comment 2**



**Comment 3**

- 1B. The City was unaware of the need to have written policies for allocating and supporting salaries in accordance with 24 CFR Part 570 and OMB Circular A-87. In mid-February, the City was initially informed of this Finding, and as a result, began instructing staff working within the Community Development Department to compile daily salary allocation sheets. The City will continue this practice to ensure that acceptable policies and procedures remain in place.
- 1C. In addition to implementing acceptable written policies, the City is requesting technical assistance from HUD to ensure that future salary expenses are correctly charged and allocated to the various programs it administers in accordance with 24 CFR Part 570 and OMB Circular A-87.

**Finding 2: The City Did Not Properly Allocate Building Expenses**

**Condition:**

The City did not properly allocate building expenses to the Block Grant program.

For the past 5 years, the City had been charging its Department monthly rent. The City was unable to provide documentation to support that the rent paid by the Department with Block Grant funds was reasonable, necessary, and allocable to the Block Grant program.

According to OMB Circular A-87, rent payments between parties of the same governmental unit are considered less-than-arms-length transactions and subject to limitations. These rental costs are only allowable up to the amount that would be allowed had title in the property been vested in the governmental unit (in this case, the Department). Under this rule, rent is intended to cover a reasonable allocation of actual expenses only, since there are no mortgage costs associated with this building. An allowable allocation of actual expenses could include the Department's share of utilities, insurance, maintenance, property taxes, and other expenses related to the occupancy of the building.

The City did not perform a cost allocation to determine allowable rent for the Department. Additionally, it failed to allocate the rent charged to the Department among the various HUD programs its staff administered, including the Block Grant, HOME Investment Partnerships, and Emergency Shelter Grant programs.

**Cause:**

The City was not aware of the requirements for determining allowable rent and did not have a written policy for allocating and supporting building expenses. Further, it considered the rent charged to the Department reasonable because it was considerably less than the amount charged to its Tax Increment Financing Department and because the Block Grant program could bear the costs charged.

**Effect:**

HUD had no assurance that the \$58,205 paid for building rent was reasonable, necessary, allowable, and allocable to the Block Grant program. While the City charged its Department

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 4**

**Comment 5**

**Comment 6**

more than \$2,700 per month in building rent over the 21-month period reviewed, our analysis found that a reasonable allocation of basic utilities and building insurance totaled less than \$420 per month.

**Summary of Recommendations:**

The City needs to provide supporting documentation to HUD or reimburse its Block Grant fund from non-Federal funds for any portion of rent charges that it cannot support as reasonable, necessary, allowable, and allocable. In addition, the City should prepare and implement effective written policies and procedures to ensure that it properly supports and allocates future charges to all Federal awards for rental costs in accordance with OMB Circular A-87.

**City's Response:**

- 2A. The City's insurance broker, Daniel & Henry Company, calculated the rental costs based on the total square footage of the building occupied by Community Development. The total insurance premiums and the utility costs for the City were also included in the rent allocation. After reviewing the information that was used by the audit staff to calculate the rental costs as stated in this finding, the City is not in agreement with the annual estimated allocable insurance cost. This estimate also does not include other utilities and services (telephone, etc.).
- 2B. The City will work with an outside consultant to revise and update its written policies and procedures to ensure that the charges for rental costs are properly allocated in accordance with OMB Circular A-87.
- 2C. As previously stated, the City is requesting technical assistance from HUD to strengthen its capacity building and increase its compliance with OMB Circular A-87.

**Finding 3: The City Did Not Properly Document the Cost Estimate and Selection Process Used to Procure Consulting Services**

**Condition:**

The City did not properly document the cost estimate and selection process used to procure consulting services to develop its 5-year consolidated plan.

Specifically, the City violated 24 CFR 85.36(b)(9), which required it to maintain records sufficient to detail the significant history of a procurement, and the City's own purchasing policy, which required it to maintain appropriate records covering purchase transactions. In October 2008, the City published a notice of request for proposals seeking a qualified consulting firm to carry out an involved planning process, resulting in a 5-year consolidated plan. These plans serve as an application for HUD entitlement grant programs, including the Block Grant, HOME Investment Partnerships, and Emergency Shelter Grant programs.

**Cause:**

The City did not fully understand Federal requirements for procurement by competitive proposals. Specifically, the City's purchasing manager incorrectly believed that it was acceptable

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 7**

to informally perform cost analyses, evaluate proposals, and negotiate with respondents. Further, the City's purchasing policy did not sufficiently follow the Federal procurement standards laid out in 24 CFR 85.36. For example, the City's policy did not cover the Federal requirement to perform an independent cost estimate. Additionally, while Federal requirements allow for negotiation of compensation once the most qualified competitor is selected, the City's policy allowed for negotiations between the City and each competitor.

**Effect:**

HUD had no assurance that the \$49,924 paid for the contract was reasonable and necessary. Further, due to the inconsistencies in the request for proposals and the City's inability to show how it requested revisions to the price and scope of work, HUD had no assurance that the procurement was performed in a manner providing full and open competition without arbitrary actions as described in 24 CFR 85.36(c)(1)(vii).

**Summary of Recommendations:**

The City needs to provide supporting documentation to HUD or reimburse its Block Grant fund from non-Federal funds for any portion of the \$49,924 paid to the selected consulting firm that it cannot support as reasonable and necessary. In addition, the City should prepare and implement effective procurement procedures to ensure that it properly conducts and documents future procurements in accordance with 24 CFR 85.36.

**City's Response:**

- 3A. As a part of the Consolidated Plan process, the City spoke with the Diane Bonner, who served as the Director of Community Development when the last Consolidated Plan was prepared, to get an estimate of how much the 2004-2007 Consolidated Plan cost. Although we did not have documentation of this conversation at the time of the audit, the City has since contacted Diane Bonner, and she has provided documentation recapping the conversation. In addition to speaking with Diane Bonner, the City also spoke with some other city government offices and inquired about the costs associated with their Consolidated Plans.
- 3B. Section 1.18 on page 7 of the Consolidated Plan Request for Proposal (RFP) packet briefly states the four criteria and the points for each as a part of this bid process. (See Attached) Also in the RFP, Section IV entitled "Proposal Evaluation Criteria" on pages 12-13, notes prominent factors that are examined when reviewing the four criteria. (See Attached) The City has used this process for over three years, and since we had not received complaints from our vendors, contractors or consultants, we had no reason to believe it was confusing. However, in an effort to reduce the chances of any confusion or ambiguity, the City has decided to eliminate Section IV from the RFP packet. Furthermore, when the City receives technical assistance, we will definitely adhere to any recommendations for improving this process.

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 8**

3C. According to 24 CFR 85.36, the grantee must award the contract to the most responsive and responsible offeror after price and other factors are considered through scoring the proposals or "best and final" offers according to predetermined evaluation criteria. The successful proposal/offeror must clearly be the most advantageous source of the goods and services. It also states that the conducted negotiations can be written or oral.

**Comment 9**

Since the only issue that remained in this procurement process was cost, the City telephonically contacted both bidders and asked them to provide their best and final offer. In accordance with 24 CFR 85.36, the City followed procedure because it negotiated orally, which is permissible, and asked for a best and final offer, which is also permissible.

**Comment 10**

The City Manager, Community Development Project Coordinators and the Purchasing Manager each reviewed the bid documents, and all of the evaluators were in agreement that the two bidders were equally qualified, capable of performing the work, and able to meet all legal requirements. The only question that remained was the difference in price. Unfortunately, the City did not document these evaluations, but we are willing and prepared to complete evaluation forms based on those previous discussions and evaluations. Additionally, the City now assures that proper documentation (evaluation reports and award letters) will be included in all future procurements, and in an effort to avoid any confusion or appearance of impropriety in the future, the Community Development Department now utilizes the City's on-line bidding site for all sealed bids and proposals. This process allows for more efficient recording keeping and communication tracking.

## **OIG Evaluation of Auditee Comments**

- Comment 1** We applaud the City's efforts to implement changes to ensure compliance with laws and regulations.
- Comment 2** While Block Grant funding was only used for staff whose responsibilities include work on Block Grant programs, staff often worked on both direct and indirect Block Grant cost activities as well as other HUD and non-Federal programs. The City has now begun tracking actual time spent on activities each day (see Comment 3 below); however, it did not previously prepare the necessary documentation, such as personnel activity reports and periodic certifications, to support salary expenses. Consequently, it could not support its calculation of the direct and indirect salary charges to the Block Grant program.
- Comment 3** We support the City's efforts to begin implementing changes, namely to begin compiling daily allocation sheets. However, we note that the City was informed of this finding prior to mid-February, including a formal briefing in late November and informal briefings throughout the course of our audit. Additionally, the City was also informed of payroll documentation issues in August 2009 by its financial auditors who noted that employees did not perform semi-annual certifications and that the City's time tracking system does not reflect allocations of employee's time worked on the grant and other cost centers of the City.
- Comment 4** To date, the City has been unable to provide documentation that an analysis was performed by its insurance broker and show that any analysis performed followed requirements for less-than-arms-length transactions.
- Comment 5** The \$420 figure cited in the report is an illustration of a reasonable allocation of basic utilities and building insurance based on documentation provided by the City and the percentage of building space occupied by staff working on Block Grant programs. While rent charges could include additional expenses such as telephone services, we were unable to calculate additional amounts reasonably allocable to Block Grant funds using the documentation provided by the City.
- Comment 6** As stated in the report, City staff indicated that the City was not aware of the requirements for determining allowable rent and did not have a written policy for allocating and supporting building expenses. Therefore, we support the City's decision to work with both an outside consultant and HUD as it seeks to ensure compliance with OMB Circular A-87.
- Comment 7** As the City works to revise its policies and procedures, it should begin documenting all cost analyses performed, including independent estimates required prior to receiving proposals.

**Comment 8** While 24 CFR 85.36(d)(3)(v) permits negotiation of fair and reasonable compensation after the most qualified competitor is selected under procurement by competitive proposals, the City had not yet selected the contractor when it informally solicited revised offers. Even if the CFR had allowed for the City to request best and final offers from all competitors, the documentation provided by the City indicates that it allowed one of the proposers to submit multiple revisions prior to selection. Further, the revisions submitted by both competitors included changes in the scope of work in addition to the reduced proposed contract price.

**Comment 9** As explained above, 24 CFR 85.36 only permits negotiation of fair and reasonable compensation after the most qualified competitor is selected. The CFR does not explicitly cite oral negotiations as permissible; however, 24 CFR 85.36(b)(9) indicates that grantees must maintain records sufficient to detail the significant history of a procurement.

**Comment 10** We support the City's efforts to properly document all future procurements, including tracking of all relevant communication.