



Issue Date December 4, 2009

Audit Report Number 2010-LA-1003

TO: William Vasquez, Director, Los Angeles Office of Community Planning and Development, 9DD

Joan S. Hobbs

FROM: Joan S. Hobbs, Regional Inspector General for Audit, Region IX, 9DGA

SUBJECT: City of Los Angeles' Community Development Department, Los Angeles, California, Projects Did Not Comply with Community Development Block Grant Program Requirements

HIGHLIGHTS

What We Audited and Why

We audited the City of Los Angeles' Community Development Department (City) as the result of problems noted during a prior audit involving activities administered by the Community Redevelopment Agency of the City of Los Angeles (subrecipient). Our objective was to determine whether U.S. Department of Housing and Urban Development (HUD) funds awarded to Los Angeles and administered by the City were administered in accordance with HUD's requirements for the Community Development Block Grant (CDBG) program as they relate to a specific subrecipient.

What We Found

The City initially failed to demonstrate that any of the five CDBG-assisted projects reviewed, totaling more than \$4.8 million, administered by its subrecipient, complied with the national objectives. Subsequent to our audit fieldwork, the City located and provided additional records to adequately support that the national objectives were met for four of these projects. Therefore, only one of the five projects totaling \$935,000

remained inadequately supported. In addition, the City did not always effectively monitor CDBG-assisted projects administered by its subrecipient. We attribute these deficiencies to the City's and subrecipient's not implementing written policies and procedures to ensure that each project met a national objective and that the projects benefitted the intended low- and moderate-income persons.

What We Recommend

We recommend that the Director of the Los Angeles Office of Community Planning and Development require the City to (1) provide supporting documentation showing that the Capitol Records Surface Parking CDBG project met a national objective or repay its program from nonfederal funds, (2) implement adequate monitoring controls over its subrecipient and CDBG-assisted projects, and (3) suspend all CDBG funding to the subrecipient until acceptable policies and procedures are in place to ensure compliance with CDBG program requirements.

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 City a draft report on October 13, 2009, and held an exit conference with City officials on October 27, 2009. The City provided written comments on November 12, 2009. It generally disagreed that the projects did not meet the requirements, but agreed that it needed to improve its monitoring procedures.

The complete text of the auditee's response, along with our evaluation of that response, is in appendix B of this report. We did not include the attachments provided with the auditee's response because it was too voluminous; however, they can be provided upon request.

TABLE OF CONTENTS

Background and Objective	4
Results of Audit	
Finding 1: The City Failed to Demonstrate Compliance with National Objectives for Its Subrecipient-Administered CDBG Projects	6
Finding 2: The City Did Not Always Effectively Monitor Its Subrecipient’s CDBG-Assisted Projects	12
Scope and Methodology	16
Internal Controls	17
Appendices	
A. Schedule of Questioned Costs	18
B. Auditee Comments and OIG’s Evaluation	19
C. Criteria	28

BACKGROUND AND OBJECTIVE

The CDBG Program

The Community Development Block Grant (CDBG) program provides annual grants on a formula basis to entitled cities and counties to develop viable urban communities by (1) providing decent housing and a suitable living environment and (2) expanding economic opportunities, principally for low- and moderate-income persons. The program is authorized under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383, as amended, 42 *United States Code* 5301.

The U.S. Department of Housing and Urban Development (HUD) awards grants to entitlement community grantees to carry out a wide range of community development activities directed toward revitalizing neighborhoods, economic development, and providing improved community facilities and services. Entitlement communities develop their own programs and funding priorities. However, grantees must give maximum feasible priority to activities which benefit low- and moderate-income persons. A grantee may also carry out activities which aid in the prevention or elimination of slums or blight. Additionally, grantees may fund activities when the grantee certifies that the activities meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. CDBG funds may not be used for activities which do not meet these broad national objectives.

The City

The Community Development Department (City) has been improving the quality of life for Los Angeles residents for nearly 30 years by offering economic, social, and employment opportunities for individuals, families, and neighborhoods in need. The City offers services to business owners and developers either directly or through its network of service provider agencies. Through the provision of financing, technical assistance, training, business tax incentives, and workforce programs, the City strives to improve the economic climate of Los Angeles, help businesses grow, and provide living-wage jobs for Los Angeles workers and high quality goods and services to underserved communities.

The Subrecipient

The Community Redevelopment Agency of the City of Los Angeles (subrecipient) is an independent agency of the City, established to (1) attract private investment into economically depressed communities; (2) eliminate slums, abandoned or unsafe properties, and blight throughout Los Angeles; (3) revitalize older neighborhoods through historic preservation and new development; (4) build housing for all income levels; (5) encourage economic development; (6) create and retain employment opportunities; and (7) conduct related activities. The subrecipient receives funding from many sources including the City.

CDBG Funds

The City received more than \$231 million in CDBG funds between 2005 and 2007, and at least one-third of this funding was passed through to the subrecipient (see table below).

CDBG funds

Fiscal Year	Amount from HUD to the City	Amount from the City to the subrecipient	Percentage
2007	\$74,142,574	\$33,901,130	46
2006	\$74,453,491	\$26,456,273	36
2005	\$82,783,415	\$27,390,934	33
Total	\$231,379,480	\$87,758,337	38

Audit Objective

The objective of this audit was to determine whether HUD funds awarded to and administered by the City were administered in accordance with HUD's requirements for the CDBG program as they relate to a specific subrecipient.

RESULTS OF AUDIT

Finding 1: The City Failed to Demonstrate Compliance with National Objectives for Its Subrecipient-Administered CDBG Projects

The City initially failed to demonstrate that any of the five CDBG-assisted projects reviewed that were administered by its subrecipient complied with the national objectives. Subsequent to our audit fieldwork, the City located and provided additional records to adequately support that the national objectives were met for four of these projects. Therefore, only one of the five projects totaling \$935,000 remained inadequately supported. This condition occurred because neither the City nor the subrecipient developed written policies and procedures to ensure that adequate documentation was maintained to support that each project met a national objective. As a result, HUD had no assurance that the City's CDBG projects administered by its subrecipient benefitted low- and moderate-income persons as intended.

Insufficient Documentation of National Objectives Maintained

Regulations at 24 CFR (*Code of Federal Regulations*) 570.200 state that CDBG-funded activities must meet one of the following national objectives: benefit low- and moderate-income families, prevent or eliminate slums or blight, or meet urgent community development needs. Regulations at 24 CFR 570.506 state that each recipient shall establish and maintain sufficient records to demonstrate that each activity undertaken meets one of the national objectives. We reviewed five CDBG-assisted projects, totaling more than \$4.8 million, and found that initially the City did not have sufficient documentation to support that any of the projects met a national objective as claimed. The projects reviewed were as follows:

Project	National objective	Funding spent
Capitol Records Surface Parking project	Job creation and retention	\$935,000
Capitol Records Campus Development project	Slum and blight area benefit	\$1,382,330
Western Avenue Commercial Façade and Signage Improvement Program	Slum and blight area benefit	\$548,700
Venice Hope Park	Slum and blight area benefit	\$100,000
Pico Union 1	Low and moderate area benefit	\$1,881,293

Capitol Records Surface Parking Project

Job Creation

The City approved its subrecipient to oversee the Capitol Records Surface Parking project. This project planned to use \$935,000 in CDBG funds to acquire two real properties on Yucca Street known as the Gogerty Building, relocate the occupants, and construct a 25-space surface parking lot in an effort to retain and create jobs. This project was to create from 80 to 500 jobs over a five-year period. After the properties were purchased, in recognition of important historic features of the Gogerty Building, the city council office and subrecipient staff encouraged Capitol Records to rehabilitate and expand the Gogerty Building rather than demolish it to make way for surface parking. This change would also allow Capitol Records to expand its staff in Hollywood by 80 people. Later, the decision was made to rehabilitate the buildings purchased instead of build the parking lot. In the meantime, the subrecipient purchased another real property in the same block on Argyle Street only one month after purchasing the second Yucca Street property. The Argyle Street property was also purchased for parking, but CDBG funding was not used in the Argyle purchase. Nonetheless, the City anticipated the creation of at least 80 jobs to be created from the parking lot.

While jobs were ultimately created, the City did not have sufficient records and documentation to show that the jobs provided went to low- and moderate-income persons. The City stated that because Capitol Records is located in a high-poverty census tract, the project met the presumed benefit for low- and moderate-income persons as stated in federal regulations. Projects that do not specifically benefit low- and moderate-income persons can be considered a presumed benefit if a census tract qualifies for the presumptions permitted under 24 CFR 570.208(a)(4)(iv)(A)(1) and (B). Basically, the regulations state that an assisted business is presumed to have provided benefit to at least 51 percent low- and moderate-income persons if the census tract “has a poverty rate of at least 20 percent as determined by the most recently available decennial census information” (see appendix C). Beyond the poverty level of the census tract where the business is located, the City believed no additional documentation regarding a “reasonable effort” to make those jobs available to low- and moderate-income persons was required.



However, regulations at 24 CFR 570.506 state that each recipient shall establish and maintain sufficient records to determine whether the recipient has met the requirements of this part. Specifically, for jobs made available to low- and moderate-income persons, the regulations state that a copy of a written agreement containing a commitment by the business that it will make at least 51 percent of the jobs available to low- and moderate-income persons and will provide training for any of those jobs requiring special skills or education is needed. Also required is a listing by job title of the permanent jobs to be created indicating (1) which jobs will be available to low- and moderate-income persons, (2) which jobs require special skills or education, and (3) which jobs are part time, if any, and a description of actions to be taken by the recipient and business to ensure that low- and moderate-income persons receive first consideration for those jobs. In addition, a listing is required by job title of the permanent jobs filled and which of those jobs were available to low- and moderate-income persons and a description of how first consideration was given to such persons for those jobs. The description shall include (1) what hiring process was used, (2) which low- and moderate-income persons were interviewed for a particular job, and (3) which low- and moderate-income persons were hired. The City did not provide sufficient documentation to support that any of the above actions took place.

Additionally, federal regulations at 24 CFR 570.506(7) state, “for purposes of documenting, pursuant to paragraph (b)(5)(i)(B), (b)(5)(II)(C) or (b)(6)(v) of this section, that the person for whom a job was either filled by or made available to a low- or moderate-income person based upon the census tract where the person resided or in which the business is located, the recipient, in lieu of maintaining records showing the person’s family size and income, may substitute records showing either the person’s address at the time the determination of income status was made or the address of the business providing the job, as applicable, the census tract in which that address was located, the percent of persons residing in that tract who either are in poverty or who are low- and moderate-income, as applicable, the data source used for determining the percentage, and a description of the pervasive poverty and general distress in the census tract in sufficient detail to demonstrate how the census tract met the criteria in section 570.208(a)(4)(v), as applicable.” The City provided documentation showing (1) the census tract where Capitol Records was located, (2) the percentage of persons residing in the tract who either were in poverty or were of low and moderate income, and (3) the data

source. Subsequent to our audit fieldwork, the City provided additional documentation with a description of the pervasive poverty and general distress in the census tract.

Job Retention

The second part of the Capitol Records Surface Parking project was to save and/or create 500 jobs over the next five years. Regulations at 24 CFR 570.208(a)(4)(ii) state, “(ii) For an activity that retains jobs, the recipient must document that the jobs would actually be lost without the CDBG assistance...” City council actions state that since 1994, the mayor’s Office of Economic Development had worked diligently to secure a commitment from Capitol Records to remain in Hollywood. Through the cooperative efforts of the subrecipient, Capitol Records, the mayor’s office, and Hollywood property owners, a letter of commitment was prepared by the mayor’s office in December 1996, which finalized the terms and conditions under which Capitol Records would remain in Hollywood and proceed with campus expansion. City/subrecipient construction of a safe and secure parking structure in this area was one of these conditions. It appeared that Capitol Records threatened to move from its location, but the City was unable to provide documentation showing that jobs would be lost without the CDBG assistance.

Capitol Records Campus Development, Western Avenue Commercial Façade, and Venice Hope Park Projects

Slum and Blight Area Benefit

The City approved its subrecipient to oversee the Capitol Records Campus project (\$1.38 million), the Western Commercial Façade and Signage Improvement Program (\$548,700), and the Venice Hope Park (\$100,000). According to regulations at 24 CFR 570.506(b)(8), the grant recipient is required to document the boundaries of the area and give a description of the conditions which qualified the area at the time of its designation in sufficient detail to demonstrate how the area met the criteria. Initially the City did not provide any of the aforementioned items to support that any of the aforementioned projects qualified for the slum and blight national objective. Subsequent to our audit fieldwork, in response to the draft report, the City provided census information, maps, and California Redevelopment Law Section 33031(a) which described physical conditions that cause blight. This new information supported that each of the three aforementioned projects met the national objective of slum and blight. We had asked for supporting documentation on numerous occasions during our audit fieldwork, but none was provided during that time. This information should have been maintained in the project files to adequately support the project’s compliance with the requirements.

Pico Union 1

Low and Moderate Benefit

The City approved its subrecipient to oversee the Pico Union 1 project (\$1.88 million). Regulations at 24 CFR 570.506(b)(2) state that the grant recipient is required to document the boundaries of the service area and the income characteristics of families and unrelated individuals in the service area. Despite numerous requests during the audit fieldwork, the City did not provide documentation to show that the project qualified for low and moderate benefit to the area. However, subsequent to our audit fieldwork, in response to the draft report, the City provided census information which showed that 91.7 percent of the families in this area are low and moderate income families. This new information supported that the Pico Union project met the requirements.

Conclusion

The City initially failed to demonstrate compliance with the national objectives for its subrecipient-administered CDBG projects, despite numerous requests during our audit fieldwork. In response to the draft report, however, the City located and provided sufficient documentation to show that four of the five projects did meet the stated national objective. This documentation should have been retained in the project files so that it was evident that the projects met the national objectives. One of the projects (Capitol Records Surface Parking) totaling \$935,000 remained unsupported as to whether it met the national objective. This condition occurred because at the time these projects were initiated the City did not have written policies and procedures to ensure that each project met a national objective and that the corresponding documentation was adequately maintained. The City acknowledged this shortcoming in its response to the draft report, and stated that it has instituted changes to its record maintenance procedures. When we requested the City's policies and procedures specific to CDBG projects, we only received a Web link that provides help to applicants and a link to the *Code of Federal Regulations* for CDBG programs. However, these are not formal policies and procedures for the City to use in administering its CDBG program. The subrecipient also did not have policies and procedures for administering its CDBG-assisted projects. When asked about this deficiency, City officials indicated that there was nothing in place and that the development of policies and procedures was a work in progress because there was a lot going on with the City. As a result, HUD had no assurance that the City's CDBG projects administered by its subrecipient benefitted the intended low- and moderate-income persons.

Recommendations

We recommend that the Director of the Los Angeles Office of Community Planning and Development

- 1A. Require the City to provide documentation supporting that the –Capitol Records Surface Parking CDBG project met a national objective or repay its CDBG program \$935,000 from nonfederal funds.
- 1B. Require the City and subrecipient to establish and implement effective policies and procedures to ensure that they maintain adequate documentation to support compliance with CDBG national objective requirements.
- 1C. Require the City to suspend all CDBG funding to the subrecipient until acceptable policies and procedures are in place to ensure compliance with all CDBG program requirements.

Finding 2: The City Did Not Always Effectively Monitor Its Subrecipient's CDBG-Assisted Projects

The City did not always effectively monitor CDBG-assisted projects administered by its subrecipient. We attribute this condition to the City's lack of written procedures and insufficient monitoring controls over this subrecipient. As a result, as discussed in finding 1, HUD could not be assured that CDBG-assisted projects complied with the national objectives and fully met the program intent.

City's Monitoring Not Always Effective

As discussed in finding 1, the City initially did not demonstrate that any of the five CDBG-assisted projects reviewed, administered by its subrecipient, complied with the national objectives. In two of the projects, we identified situations in which the City did not effectively monitor its subrecipient to ensure that the CDBG projects were administered to their fullest extent. Improvements to the City's monitoring controls would ensure that future CDBG projects would be fully maximized.

Pico Union 1

The City gave more than \$1.8 million in CDBG funds to the subrecipient, which then loaned these funds to the Pico Union Housing Corporation (Corporation) to build a childcare center (center) for low- and moderate-income families. The land on which the center sits is owned by the subrecipient, which has a ground lease with the Corporation that was executed in March 2002. Later, the Corporation was allowed to sublease the childcare center to the Los Angeles Unified School District (District), which is the operator.

The Corporation is responsible for monitoring the childcare center. Annual reports are supposed to be provided to the subrecipient to determine whether the Corporation is in compliance with the lease requirements. If all terms and conditions are met, the Corporation only has to pay annual rent of \$1 for the center. However, if all terms and conditions are not met, the Corporation would have to pay \$5,000 per month to rent the center. According to the loan agreement between the subrecipient and the Corporation, if the borrower is in default, the borrower shall make all annual loan payments during the period of default. The audit determined that the District did not submit the annual reports to the Corporation and the Corporation did not submit the annual reports to the subrecipient. Therefore, the lack of submission of the annual reports constituted a default in the loan agreement, and none of the entities involved was in compliance with the contractual monitoring.

The annual monitoring reports for this project are important because they document whether the children attending the center are from low- and moderate-income families. If the City had monitored this project, it would have known that these monitoring reports were a contractual requirement and that they were missing. These reports are basically the only way for the City to know whether this project meets the national objectives. Because there were no monitoring reports, the City failed to identify at least \$325,000 that should have been recorded as program income. The subrecipient, under its agreement with the City, was to submit to the City a list of all grant or funding agreements entered into between it and other organizations concerning activities funded under the agreement and of any termination, default, suspension, or disallowed costs under the funding agreements. Also, the City is to monitor and evaluate all of the performance under all contracts under the agreement. In addition, the subrecipient accepts full responsibility for compliance with all HUD/CDBG rules and regulations. According to the agreement, the City shall, through its designated representative(s), continually monitor and evaluate the Contractor's [subrecipient] performance under this agreement. As the contractor, the subrecipient shall be responsible for implementing its standard oversight functions relating to policies, procedures, and guidelines. Upon request, copies of the aforementioned documents shall be provided to the City.



Western Commercial Façade

The City gave \$548,700 in CDBG funds to the subrecipient, which then used these funds for the Western Avenue Commercial Façade and Signage Program for the Wilshire Center and Korea Town Recovery Redevelopment project area. The objective of the façade program was to improve the physical appearance of the storefronts and signage to enhance the business environment and attract more businesses and patronage to the area. As a result, the project was established to aid in the prevention or elimination of slums or blight under 24 CFR 570.208(b). When we visited the storefronts in April 2009, we found graffiti in various forms, such as paint and glass etching, which ultimately defeated the purpose of the \$548,700 spent for this project for these 13 storefronts. In addition, we learned that the assistant project manager did not perform regular site visits to the storefronts. The project manager stated that she sometimes drove by the storefronts after work, but she did not document her site visits. Consequently, the 13 storefronts could possibly return to their original slum and blight condition. While the City provided us

with the maintenance agreement between the storefront owners and the subrecipient, the graffiti we found on our visit is evidence that neither the City nor the subrecipient is adequately holding the business owners accountable to the terms of the contract which was signed and that there is inadequate monitoring of the projects' compliance after the initial completion. Without adequate oversight, neither HUD nor the City was assured that the use of CDBG funding was fully maximized.

The subrecipient agreed in the scope of work section of the contract for this project to continually monitor and evaluate the activities for the Western Commercial Façade. More specifically, the subrecipient agreed to

- Continually monitor and evaluate the activities indicated for this project under the agreement;
- In the event that a subcontractor was involved, monitor and evaluate the performance of such subcontractor and ensure that its activities were in accordance with the conditions set forth in the agreement; and
- Ensure adherence to the HUD eligibility and national objective requirements, as well as other applicable federal and City requirements pertaining but not limited to environmental clearance, procurement, record keeping, and reporting as stipulated elsewhere in the agreement.

Also, the application that was signed by the owners and tenants stated the following: “The Owner and Tenant are obligated to maintain the improvements in a clean, graffiti-free condition for a period of ten years from the completion of the improvements. Any modifications to the façade and signage during the 10-year period must have prior approval from the Agency.”



The problem occurred because of the lack of monitoring controls, compounded by poor record keeping. Without adequate controls, the City may not have provided the required level of oversight to its CDBG-assisted projects to ensure that requirements were met. As a result, HUD may have provided CDBG funding to projects that did not fully maximize the programs' intent and comply with contractual agreements.

Grantee Performance Reports

We also noted that the grantee performance reports for three of the five projects reviewed were incomplete and two had no grantee performance reports. The three projects with incomplete grantee performance reports left various areas blank, such as the proposed and actual accomplishments, specific outcome indicators, and businesses assisted. Ensuring that these reports are complete is critical to the City's effective monitoring and oversight of its subrecipient's performance as well as the CDBG-assisted projects themselves.

Conclusion

The City did not always effectively monitor its subrecipient and its subrecipient's CDBG-assisted projects. We attribute this condition to the City's lack of written procedures and insufficient monitoring controls over this subrecipient. As a result, HUD could not be assured that CDBG-assisted projects complied with the national objectives and fully met the program intent.

Recommendations

We recommend that the Director of the Los Angeles Office of Community Planning and Development

- 2A. Require the City to implement adequate monitoring controls to ensure that its subrecipient effectively administers its CDBG-assisted projects and that those projects comply with the national objectives and any related contractual agreement requirements.

SCOPE AND METHODOLOGY

We performed the audit between February and September 2009 at the City and subrecipient offices, both located in Los Angeles, California. The audit generally covered the period July 2004 through June 2007. To accomplish our objectives, we reviewed the City's compliance with applicable laws and HUD regulations. Our primary methodologies included

- Reviewing the applicable HUD handbooks.
- Reviewing applicable policies and procedures established by the City and its subrecipient.
- Reviewing contracts and agreements between the City and its subrecipient.
- Reviewing contracts between the subrecipient and various entities for various CDBG-funded projects.
- Interviewing various HUD personnel within the Office of Community Planning and Development.
- Interviewed various City employees and various employees working for the subrecipient.
- Reviewed independent public accountants' reports on the subrecipient for the scope of our audit period.

We nonstatistically selected for review five projects, totaling \$4,847,323, from the subrecipient's universe of 66 active projects. We focused our review on projects valued at \$900,000 or more. We focused on this amount because the dollar value of all 66 projects funded equaled \$53,171,112 and the value of all projects \$900,000 or more equaled \$38,326,653 (72 percent of the funding universe). We initially selected the first four projects from this list and then later expanded the sample to review the fifth project because it was a new Capital Records project in which the funding was transferred from the Capitol Records Surface Parking project (in our initial sample).

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

INTERNAL CONTROLS

Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives 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.

Relevant Internal Controls

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

- Controls over program operations,
- Controls over reliability of data,
- Controls over compliance with federal laws and CDBG program regulations, and
- Controls over the safeguarding of resources against waste, loss, and misuse.

We assessed the relevant controls identified above.

A significant weakness exists if internal 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 a significant weakness:

The City did not

- Demonstrate compliance in meeting national objectives for its CDBG programs (see finding 1).
- Sufficiently monitor CDBG-assisted projects administered by its subrecipient (see finding 2).

APPENDICES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Unsupported <u>1/</u>
1A	\$935,000


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

<p>RICHARD L. BENBOW GENERAL MANAGER</p>	<p>CITY OF LOS ANGELES CALIFORNIA</p>  <p>ANTONIO R. VILLARAIGOSA MAYOR</p>	<p>COMMUNITY DEVELOPMENT DEPARTMENT 1200 W. 7TH STREET LOS ANGELES, CA 90017</p>
--	---	--

November 12, 2009

Joan S. Hobbs, Regional Inspector General for Audits
U.S. Department of Housing and Urban Development
Office of the Inspector General
Region IX
611 W. 6th Street, Suite 1160
Los Angeles, CA 90017-3101

**Subject: City of Los Angeles Response to Draft Audit Report
City of Los Angeles Community Development Department
CDBG-Funded Activities**

Dear Ms. Hobbs:

This letter is in response to your letter of October 13, 2009, regarding the subject Draft Audit Report. The draft audit report recommends the City of Los Angeles "(1) provide supporting documentation showing that the five CDBG projects met a national objective or repay its program from non-federal funds, (2) implement adequate monitoring controls over its sub-recipient and CDBG-assisted projects, and (3) suspend all CDBG funding to the sub-recipient until acceptable policies and procedures are in place to ensure compliance with CDBG program requirements."

Over the past 15 days, personnel of the City of Los Angeles Community Development Department (LA-CDD) have worked with the staff of the Community Redevelopment Agency of the City of Los Angeles (CRA-LA) to collect existing documentation to address the findings and concerns listed in your audit of five projects in which the CRA-LA was the sub-recipient of Community Development Block Grant (CDBG) funds from the LA-CDD. In addition, the LA-CDD reviewed many of its monitoring procedures for grant sub-recipients administering CDBG-assisted projects on behalf of the City. The Department acknowledges the need for continued improvement of its monitoring policies and procedures, but also will highlight some of the improvements LA-CDD has instituted in the 12 years since the first of these projects was initiated.

HUD-OIG Findings

Finding 1: *The City Failed to Demonstrate Compliance with National Objectives for Its Sub-recipient-Administered CDBG Projects.*

The audit lists five projects in which the US Department of Housing and Urban Development, Office of the Inspector General (HUD-OIG) maintains the LA-CDD failed to demonstrate or provide documentation to establish the sub-recipient's satisfaction of the projects' stated National Objective. The five projects are listed in the table on the following page, as are the

AN EQUAL EMPLOYMENT OPPORTUNITY – AFFIRMATIVE ACTION EMPLOYER

projects' respective National Objectives, and the amount of CDBG funds allocated to each project. Also, the following narrative summarizes existing information and documentation in support of the City's assertions that the National Objective was satisfied for each project listed.

Five Listed CDBG Projects

	Project	National Objective	Amount of CDBG Funds Used
A.	Capitol Records Surface Parking	Jobs Creation and Retention	\$935,000
B.	Capitol Records Campus Development	Slum and Blight Area Benefit	1,382,330
C.	Western Avenue Commercial Façade and Signage Improvement	Slum and Blight Area Benefit	548,700
D.	Venice Hope Park	Slum and Blight Area Benefit	100,000
E.	Pico Union Child Care Facility	Low and Moderate Area Benefit	1,881,293
		Total	\$4,847,323

Capitol Records Surface Parking Project

The audit maintains that the *Capitol Records Surface Parking Project* did not provide sufficient documentation to establish the project's National Objective of 'creating or retaining jobs'. The audit also states the "City provided documentation showing the (1) census tract where Capitol Records was located, (2) the percentage of persons residing in the tract who either were in poverty or were of low- and moderate-income, and (3) the data source. It did not provide a description of the pervasive poverty and general distress in the census tract in any detail."

LA-CDD Response

Federal regulations at 24 CFR 570.208(a)(4)(iv) state, "For purposes of determining whether a job is held by or made available to a low- or moderate-income person, the person may be presumed to be a low- or moderate-income person if....(B) the assisted business is located within a census tract (or block numbering area) that meets the requirements of paragraph (a)(4)(v) of this section and the job under consideration is to be located within the census tract....(v) A census tract (or block numbering area) qualifies for the presumptions permitted....[f] (A) It has a poverty rate of at least 20 percent as determined by the most recently available decennial census information:....(C) It evidences pervasive poverty and general distress by meeting at least one of the following standards:....(2) The specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent..."

The addresses of the *Capitol Records Surface Parking Project* are 6270 and 6272 Yucca Street, Los Angeles, CA 90029 and are located in Decennial Census Tract 1910.00. The census tract has a combined low- and moderate-income level of approximately 82 percent, with Block Groups 1 and 2 having low- and moderate-income levels of approximately 80 percent and 88 percent, respectively. In addition, in the 1990 US Census it states that 22.6 percent of the individuals living in this census tract are below the US poverty level.

The audit states the City "did not provide a description of the pervasive poverty and general distress in the census tract in any detail." The City maintains that once the poverty threshold has been established by fact, the City can invoke the "presumption" provisions without need of additional documented proof of pervasive poverty and general distress.

Comment 1

Subject: City of Los Angeles Response to Draft Audit Report
City of Los Angeles Community Development Department
CDBG-Funded Activities

November 12, 2009

Page 3 of 5

The City has documentation in its files indicating the *Capitol Records Surface Parking Project* met the National Objective of Jobs Creation and Retention. The records provided by the CRA-LA include a letter from Ms. Maureen B. Schultz, Senior Vice President of EMI Music North America, dated August 15, 2005, to Mr. Jasper Williams, Community Redevelopment Agency of Los Angeles, in which she writes:

"The first form is for December 1998, which reflects that we had 206 employees (not 226 as originally reported) working in Hollywood (Tower & Gogerty/Yucca Building). The second form indicates our current headcount of 322 employees (not 356 as originally reported) working on the Capitol Records Campus. This is a gain of 116 employees (not 130) to the area during that period and a gain of 161 employees (not 195) to the Campus from the July 1997 date of the EDA grant to now."

Comment 2

The documentation includes, among other information, 19 pages of employee job titles, indication whether the job was full- or part-time, relative skill level, name of employee, and employees' hiring dates. Based on the ratio of one job for every \$35,000 of grant funding, CDBG regulations required the project to create about 27 new jobs. The *Capitol Records Surface Parking Project* created more than 100 new jobs that can be presumed to have benefited low- and moderated-income persons within the designated census tracts. Please see Packet 'A' for documentation.

Comment 3

Capitol Records Campus Development, Western Avenue Commercial Façade and Signage Improvement, and Venice Hope Park Projects

Capitol Records Campus Development, Western Avenue Commercial Façade, and Venice Hope Park projects were three economic development activities undertaken for the purpose of eliminating conditions of 'slum and blight'. The audit states the City did not document the boundaries of the areas and give a description of the conditions, which qualified the area at the time of their designations in sufficient detail to demonstrate how the area met the criteria of slums or blighted.

LA-CDD Response

The sub-recipient, CRA-LA, has provided additional documentation to substantiate the conditions of slum and blight in the respective project areas and the plans for eliminating the condition. The documentation for the respective projects includes, among other materials, maps of the respective project areas, baseline market assessments, statements of environmental impacts and mitigation measures, redevelopment plans, copies of agreements between LA-CDD and the sub-recipient, CRA-LA, and reports to the Los Angeles City Council. This documentation was included in the sub-recipient's files or available at the records site. Please see included Packets 'B', 'C', and 'D' for information and documentation.

Comment 4

Pico Union Child Care Facility

The audit states that the City failed to provide documentation to show that the project qualified for low- and moderate-income benefit to the area.

LA-CDD Response

United States census data for 2000 shows that the approximately 92 percent of the area's families had combined annual incomes of less than \$49,999 and the largest segment of the population, 40.5 percent, had combined annual incomes of less than \$15,000. In addition, an analysis of the nine census tracts for the Pico Union Child Care Facility service area shows that more than 84 percent of the persons living in the designated census tracts qualified as low- or moderate-income. Please see Packet 'E' for information and documentation.

Subject: City of Los Angeles Response to Draft Audit Report
City of Los Angeles Community Development Department
CDBG-Funded Activities

November 12, 2009

Page 4 of 5

Comment 5

Common Finding by HUD-OIG

The common finding by HUD-OIG for the five above selected projects is that the required documentation was not present in the project files at the time of the audit. The documentation provided in the attached packets for each of the selected projects did exist within the sub-recipient's agency files, albeit in larger files containing both general and specific documentation for CRA-LA projects.

Changes in project file development and maintenance have been instituted and will be reviewed more timely and more rigorously assessed. For example, at the time the selected projects were initiated, LA-CDD had not instituted the Project and Expenditure Plan (PEP) form until late 2001. Since then the PEP form has undergone a number of transformations and iterations. This history was provided to Ratronda Gowdy, Senior Auditor, HUD-OIG, on November 5, 2009.

Comment 6

Finding 2: The City Did Not Always Effectively Monitor Its Sub-recipient's CDBG-Assisted Projects.

The audit states the "City did not always effectively monitor CDBG-assisted projects administered by its sub-recipient. We attribute this condition to the City's lack of written procedures and insufficient monitoring controls over the sub-recipient."

In response to this audit, the LA-CDD reviewed its monitoring procedures and controls and found that rigorous standards for CDBG-funded projects *do* exist within the LA-CDD and the CRA-LA. The primary sub-units within the LA-CDD that monitor sub-recipient's projects and expenditures are the Economic Development, the Administrative Services, and the Financial Management divisions. The review found that stringent procedures and controls exist within each LA-CDD sub-unit. However, the audit also found that although stringent procedures and controls existed *within* each division, there were relatively few procedures and controls *between* LA-CDD divisions. Therefore, the lack of coordination between and programmatic assumption as to specific areas of responsibility made by LA-CDD divisions created major flaws in the City's oversight and monitoring of sub-recipient projects. As previously stated, one of the changes initiated by LA-CDD was the PEP form, which is currently required of all CDBG-assisted projects.

Comment 7

Recommendation: Suspend all CDBG funding to sub-recipient. The audit recommends that the Director of the Office of Community Planning and Development "Require the City to suspend all CDBG funding to sub-recipient until acceptable policies and procedures are in place to ensure compliance with all CDBG program requirements."

As the audit points out, the sub-recipient received more than 33 percent of the City's allocation of CDBG funds between 2005 and 2007. By mere volume, the sub-recipient is a major partner with the City in the creation of jobs and economic benefit to the people of Los Angeles. Suspending CDBG funding to the sub-recipient would have detrimental effects on the City of Los Angeles and low- and moderate-income persons and families that far out-weigh the reporting deficiencies articulated in this report.

The City understands the reasoning of this audit and has heard its clearly articulated warnings. The City is committed to improving its CDBG-monitoring procedures and has demonstrated those efforts during recent audits. Also, the City understands the requirement and need to further improve its procedures and, therefore, commits to improving its procedures and eliminating coordination gaps between LA-CDD divisions over the next nine months.

Subject: City of Los Angeles Response to Draft Audit Report
City of Los Angeles Community Development Department
CDBG-Funded Activities

November 12, 2009

Page 5 of 5

Should you have additional questions or comments regarding the materials submitted with this letter, please contact David Esparza, Assistant General Manager, LA-CDD, at 213-744-7397, or by email at David.Esparza@lacity.org.

Sincerely,


RICHARD L. BENBOW
General Manager

Attachments: Packet A: Capitol Records Surface Parking Project
Packet B: Capitol Records Campus Development
Packet C: Western Ave. Commercial Façade and Signage Improvement
Packet D: Venice Hope Park
Packet E: Pico Union Child Care Facility

cc: Bud Ovrom, Mayor's Office
Larry Frank, Mayor's Office
Rhonda Gaston, Mayor's Office
Cecilia Estolano, CRA
David Esparza, CDD
Robert Sainz, CDD
Ninoos Benjamin, CDD
Tanya Schulze, HUD
Ratronda Gowdy, HUD

OIG Evaluation of Auditee Comments

Comment 1 "The City maintains that once the poverty threshold has been established by fact, the City can invoke the "presumption" provisions without need of additional documented proof of poverty and general distress." We maintain that while jobs were ultimately created, the City did not have sufficient records and documentation to show the jobs provided went to low- and moderate-income persons. The City has not addressed the regulations at 24 CFR 570.506(b)(5)(ii) which state,

"(5) For each activity determined to benefit low- and moderate-income persons based on the creation of jobs, the recipient shall provide the documentation described in either paragraph (b)(5)(i) or (ii) of this section.

(ii) Where the recipient chooses to document that at least 51 percent of the jobs will be held by low- and moderate-income persons, documentation for each assisted business shall include:

(A) A copy of a written agreement containing:

(1) A commitment by the business that at least 51 percent of the jobs, on a full-time equivalent basis, will be held by low- and moderate-income persons." The City provided a copy of the Disposition and Development Agreement which states in section 4.7 "The Developer will cooperate in good faith to assist the City in satisfying all job creation and retention requirements associated with the Agency Funds..." However, it is not evident that the business was aware that part of satisfying all job creation and retention requirements involved making at least 51 percent of the jobs available to low- and moderate-income persons. The regulations go on to state, "(2) A listing by job title of the permanent jobs to be created, identifying which are part-time, if any." In the regulations, the words *to be created* imply that the business would know ahead of time what jobs it planned on creating. The documentation provided by the City was not created before Capital Records, Inc. started hiring it was created after hiring was done. Next, it states, "(B) A listing by job title of the permanent jobs filled and which jobs were initially held by low- and moderate-income persons." The City provided nothing showing which jobs were initially held by low- and moderate-income persons. Finally, the regulations state, "and (C) For each such low- and moderate-income person hired, the size and annual income of the person's family prior to the person being hired for the job."

Further down in section 7 of the regulations is an alternative for (C) which states, (7) For purposes of documenting, pursuant to paragraph (b)(5)(i)(B), (b)(5)(ii)(C), (b)(6)(iii) or (b)(6)(v) of this section, that the person for whom a job was either filled by or made available to a low- or moderate-income person based upon the census tract where the person resides or in which the business is located, the recipient, in lieu of maintaining records showing the person's family size and income, may substitute records showing either the person's address at the time the determination of income status was made or the address of the business providing the job, as applicable, the census tract in which that address was located, the percent of persons residing in that tract who either are in poverty or who are low-

and moderate-income, as applicable, the data source used for determining the percentage, and a description of the pervasive poverty and general distress in the census tract in sufficient detail to demonstrate how the census tract met the criteria in section 570.208(a)(4)(v), as applicable.” The OIG agrees that the City provided information to show the census tract was in distress, however, the regulations mentioned in this section require the recipient to provide documentation showing that requirements 1, 2 and 3 were met. The City has only met number 3.

Comment 2 As stated in Comment 1, we concluded that while jobs were ultimately created, the City did not have sufficient records and documentation to show the jobs provided went to low- and moderate-income persons as required by 24 CFR 570.506(b)(5)ii). The City provided the agreement for this project which states, "This project meets the following national objective: Activities benefiting low and moderate income persons under 24 CFR 570.208 Job Creation/Retention activities that are designed to create or retain jobs for at least 51 percent low and moderate income persons." The City also provided the Scope of Work which states, "The project is anticipated to eliminate blighted conditions and save and/or create approximately five hundred (500) jobs over the next five years." The Scope of Work also states under the Identification of Project Eligibility/National Objective section "The Contractor shall endeavor to pursue development of the Capitol Records Surface Parking Project after acquisition of the real property in order to meet the national objective indicated herein.

Additionally, 24 CFR 570.506 (b)(6) states "(6) For each activity determined to benefit low- and moderate-income persons based on the retention of jobs: (i) Evidence that in the absence of CDBG assistance jobs would be lost." The City provided an article from the Los Angeles Business Journal that states, "Before entering serious discussions with the city, Capitol had been working with a real estate brokerage considering relocation alternatives outside of Hollywood, sources confirmed." In our opinion, merely relocating does not necessarily mean that the jobs would have been permanently lost. Therefore, we will consult with HUD during the resolution of the audit to determine whether this adequately supports the eligibility under the job retention requirements.

The regulations go on to state, "(ii) For each business assisted, a listing by job title of permanent jobs retained, indication which of those jobs are part-time and (where it is known) which are held by low- and moderate-income persons at the time the CDBG assistance is provided. Where applicable, identification of any of the retained jobs (other than those known to be held by low- and moderate-income persons) which are projected to become available to low- and moderate-income persons through job turnover within two years of the time CDBG assistance is provided. Information upon which the job turnover projections were based shall also be included in the record; (iii) For each retained job claimed to be held by a low- and moderate-income person, information on the size and annual income of the person's family; (iv) For jobs claimed to be available to

low- and moderate-income persons based on job turnover, a description covering the items required for “available to “ jobs in paragraph (b)(5) of this section; and (v) Where jobs were claimed to be available to low- and moderate-income persons through turnover, a listing of each job which has turned over to date, indicating which of those jobs were either taken by, or available to, low- and moderate-income persons. For jobs made available, a description of how first consideration was given to such persons for those jobs shall also be included in the record.

(7) For purposes of documenting, pursuant to paragraph (b)(5)(i)(B), (b)(5)(ii)(C), (b)(6)(iii) or (b)(6)(v) of this section, that the person for whom a job was either filled by or made available to a low- or moderate-income person based upon the census tract where the person resides or in which the business is located, the recipient, in lieu of maintaining records showing the person’s family size and income, may substitute records showing either the person’s address at the time the determination of income status was made or the address of the business providing the job, as applicable, the census tract in which that address was located, the percent of persons residing in that tract who either are in poverty or who are low- and moderate-income, as applicable, the data source used for determining the percentage, and a description of the pervasive poverty and general distress in the census tract in sufficient detail to demonstrate how the census tract met the criteria in section 570.208(a)(4)(v), as applicable.” The documentation provided by the City in Packet A of its response did not meet the requirements of 24 CFR 570.506(b)(6).

- Comment 3** The additional information provided by the City adequately supported the projects met the slum and blight national objective. Therefore, we revised the finding accordingly and reduced the questioned costs.
- Comment 4** The additional information provided by the City adequately supported the projects met the low and moderate benefit national objective. Therefore, we revised the finding accordingly and reduced the questioned costs.
- Comment 5** We appreciate that changes in the project file development and maintenance have been instituted and will be reviewed more timely and more rigorously assessed. During our audit fieldwork, we had repeatedly asked for all the records and information for the five projects we reviewed, so it is unclear as to why this information was not provided prior to the City’s response to the draft report.
- Comment 6** We agree that there are monitoring procedures and controls within the City and that the Project and Expenditure Plan can be an effective tool. However, we have not been provided any policies and procedures to assure ourselves that the subrecipient has rigorous standards for its CDBG-funded projects. Therefore, we cannot agree with that statement.

Comment 7 Since the recommendation is addressed to HUD's Director of the Office of Community Planning and Development, we will confer with him during the audit resolution process and reach a management decision on the recommendation to suspend CDBG funding to the subrecipient until acceptable policies and procedures are in place. As of the report issuance date, the Director had not expressed any disagreement with the recommendation and we believe it is appropriate and necessary to ensure that HUD's CDBG funding is spent appropriately in the future.

Appendix C

CRITERIA

24 CFR 570.208, Criteria for National Objectives

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

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

(4) Job creation or retention activities. An activity designed to create or retain permanent jobs where at least 51 percent of the jobs, computed on a full time equivalent basis, involve the employment of low- and moderate-income persons. To qualify under this paragraph, the activity must meet the following criteria:

(i) For an activity that creates jobs, the recipient must document that at least 51 percent of the jobs will be held by, or will be available to, low- and moderate-income persons.

(ii) For an activity that retains jobs, the recipient must document that the jobs would actually be lost without the CDBG assistance and that either or both of the following conditions apply with respect to at least 51 percent of the jobs at the time the CDBG assistance is provided:

(A) The job is known to be held by a low- or moderate-income person; or

(B) The job can reasonably be expected to turn over within the following two years and that steps will be taken to ensure that it will be filled by, or made available to, a low- or moderate-income person upon turnover.

(iii) Jobs that are not held or filled by a low- or moderate-income person may be considered to be available to low- and moderate-income persons for these purposes only if:

(A) Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and

(B) The recipient and the assisted business take actions to ensure that low- and moderate-income persons received first consideration for filling such jobs.

(iv) For purposes of determining whether a job is held by or made available to a low- or moderate-income person, the person may be presumed to be a low- or moderate-income person if:

(A) He/she resides within a census tract (or block numbering area) that either:

(1) Meets the requirements of paragraph (a)(4)(v) of this section;

(2) Has at least 70 percent of its residents who are low- and moderate-income persons; or

(B) The assisted business is located within a census tract (or block numbering area) that meets the requirements of paragraph (a)(4)(v) of this section and the job under consideration is to be located within that census tract.

(v) A census tract (or block numbering area) qualifies for the presumptions permitted under paragraphs (a)(4)(iv)(A)(1) and (B) of this section if it is either part of a Federally-designated Empowerment Zone or Enterprise Community or meets the following criteria:

(A) It has a poverty rate of at least 20 percent as determined by the most recently available decennial census information;

(B) It does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the tract has a poverty rate of at least 30 percent as determined by the most recently available decennial census information; and

(C) It evidences pervasive poverty and general distress by meeting at least one of the following standards:

(1) All block groups in the census tract have poverty rates of at least 20 percent;

(2) The specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent; or

(3) Upon the written request of the recipient, HUD determines that the census tract exhibits other objectively determinable signs of general distress such as high incidence of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline.

24 CFR 570.506(b)(5) and (6), Records to Be Maintained

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

(b) Records demonstrating that each activity undertaken meets one of the criteria set forth in section 570.208. (Where information on income by family size is required, the

recipient may substitute evidence establishing that the person assisted qualifies under another program having income qualification criteria at least as restrictive as that used in the definitions of “low and moderated income person” and “low and moderated income household” (as applicable) at section 570.3, such as Job Training Partnership Act (JTPA) and welfare programs; or the recipient may substitute a copy of a verifiable certification from the assisted person that his or her family income does not exceed the applicable income limit established in accordance with section 570.3; or the recipient may substitute a notice that the assisted person is a referral from a state, county or local employment agency or other entity that agrees to refer individuals it determines to be low and moderated income persons based on HUD’s criteria and agrees to maintain documentation supporting these determinations.) Such records shall include the following information:

(5) For each activity determined to benefit low- and moderate-income persons based on the creation of jobs, the recipient shall provide the documentation described in either paragraph (b)(5)(i) or (ii) of this section.

(i) Where the recipient chooses to document that at least 51 percent of the jobs will be available to low and moderated income persons, documentation for each assisted business shall include:

(A) A copy of a written agreement containing:

(1) A commitment by the business that it will make at least 51 percent of the jobs available to low- and moderate-income persons and will provide training for any of those jobs requiring special skills or education;

(2) A listing by job title of the permanent jobs to be created indicating which jobs will be available to low- and moderate-income persons, which jobs require special skills or education, and which jobs are part-time, if any; and

(3) A description of actions to be taken by the recipient and business to ensure that low- and moderate-income persons receive first consideration for those jobs; and

(B) A listing by job title of the permanent jobs filled, and which jobs of those were available to low- and moderate-income persons, and a description of how first consideration was given to such persons for those jobs. The description shall include what hiring process was used; which low- and moderate-income persons were interviewed for a particular job; and which low- and moderate-income persons were hired.

(ii) Where the recipient chooses to document that at least 51 percent of the jobs will be held by low- and moderate-income persons, documentation for each assisted business shall include:

(A) A copy of a written agreement containing:

- (1) A commitment by the business that at least 51 percent of the jobs, on a full-time equivalent basis, will be held by low- and moderate-income persons; and
- (2) A listing by job title of the permanent jobs to be created, identifying which are part-time, if any;
 - (B) A listing by job title of the permanent jobs filled and which jobs were initially held by low- and moderate-income persons; and
 - (C) For each such low- and moderate-income person hired, the size and annual income of the person's family prior to the person being hired for the job.
- (6) For each activity determined to benefit low- and moderate-income persons based on the retention of jobs:
 - (i) Evidence that in the absence of CDBG assistance jobs would be lost:
 - (ii) For each business assisted, a listing by job title of permanent jobs retained, indication which of those jobs are part-time and (where it is known) which are held by low- and moderate-income persons at the time of the CDBG assistance is provided. Where applicable, identification of any of the retained jobs (other than those known to be held by low- and moderate-income persons) which are projected to become available to low- and moderate-income persons through job turnover within two years of the time CDBG assistance is provided. Information upon which the job turnover projections were based shall also be included in the record;
 - (iii) For each retained job claimed to be held by a low- and moderate-income person, information on the size and annual income of the person's family;
 - (iv) For jobs claimed to be available to low- and moderate-income persons based on job turnover, a description covering the items required for "available to" jobs in paragraph (b)(5) of this section; and
 - (v) Where jobs were claimed to be available to low- and moderate-income persons through turnover, a listing of each job which has turned over to date, indicating which of those jobs were either taken by, or available to, low- and moderate-income persons. For jobs made available, a description of how first consideration was given to such persons for those jobs shall also be included in the record.
- (7) For purposes of documenting, pursuant to paragraph (b)(5)(i)(B), (b)(5)(ii)(C), (b)(6)(iii) or (b)(6)(v) of this section, that the person for whom a job was either filled by or made available to a low- or moderate-income person based upon the census tract where the person resides or in which the business is located, the recipient, in lieu of maintaining records showing the person's family size and income, may substitute records showing either the person's address at the time the determination of income status was made or the address of the business providing the job, as applicable, the census tract in

which that address was located, the percent of persons residing in that tract who either are in poverty or who are low- and moderate-income, as applicable, the data source used for determining the percentage, and a description of the pervasive poverty and general distress in the census tract in sufficient detail to demonstrate how the census tract met the criteria in section 570.208(a)(4)(v), as applicable.