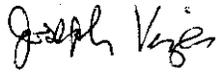




Issue Date November 12, 2010

Audit Report Number 2011-NY-1002

TO: Christine Soucy, Acting Director, Community Planning and Development, 2FD

 for

FROM: Edgar Moore, Regional Inspector General for Audit, New York/New Jersey,
2AGA

SUBJECT: The City of Bayonne, NJ, Did Not Adequately Administer Its Economic
Development Program

HIGHLIGHTS

What We Audited and Why

We audited the City of Bayonne, NJ's (City) Community Development Block Grant (CDBG) economic development activities in response to a complaint (HL-09-1015) that contained four allegations. Our audit objectives were to determine whether the City (1) disbursed CDBG economic development funds efficiently and effectively in accordance with its submission to HUD and with the applicable rules and regulations, (2) used CDBG economic development funds to meet one of the three national program objectives, and (3) had a financial management system in place to adequately safeguard the funds.

What We Found

The City did not adequately administer its economic development program. Specifically, it (1) did not adequately monitor its subrecipient, (2) made disbursements for ineligible items, (3) made disbursements for technical assistance and salary costs that were not reasonable, (4) did not maintain documentation to support accomplishment of the CDBG national objectives, and

(5) did not reprogram unused economic development funds in a timely manner when its loan program ended. These deficiencies occurred because the City did not have adequate controls in place to ensure that its economic development activities were administered in accordance with HUD regulations. As a result, (1) \$5,335 was disbursed for ineligible consulting costs; (2) \$640,266 was disbursed for technical assistance, salaries, and payroll taxes that did not appear to be reasonable; (4) documentation was not maintained to support accomplishment of the CDBG national objectives; and (5) \$196,292 in unused economic development funds needs to be reprogrammed.

What We Recommend

We recommend that the Director of HUD's New Jersey Office of Community Planning and Development instruct the City's Department of Community Development to (1) strengthen procedures to monitor its subrecipients to ensure compliance with HUD rules and regulations; (2) repay from non-Federal funds the \$5,335 in ineligible consultant costs and parking fees charged to the CDBG economic development program; (3) strengthen controls to ensure that costs charged to the CDBG program are eligible according to HUD regulations; (4) provide documentation to support the eligibility of \$640,266 in unreasonable technical assistance costs, salaries, and payroll taxes charged to the economic development program so that HUD can make an eligibility determination; and (5) provide documentation to show that the City reprogrammed \$196,292 in remaining economic development funds so that these funds can be put to better use.

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 discussed the results of our review during the audit and at an exit conference held on October 25, 2010. On October 25, 2010, City officials provided their written comments, along with various attachments, which were provided to the HUD CPD field office for their use and evaluation. The City generally disagreed with the draft report findings. The complete text of the City's response, along with our evaluation of that response, can be found in appendix C of this report.

TABLE OF CONTENTS

Background and Objectives	4
Results of Audit	
Finding : The City Did Not Adequately Administer Its Economic Development Program	5
Scope and Methodology	11
Internal Controls	12
Appendixes	
A. Schedule of Questioned Costs and Funds To Be Put to Better Use	14
B. Evaluation of Complaint Allegations	15
C. Auditee Comments and OIG's Evaluation	16

BACKGROUND AND OBJECTIVES

The Community Development Block Grant (CDBG) program was established by Title I of the Housing and Community Development Act of 1974 (Public Law 93-383). The program provides grants to State and local governments to aid in the development of viable urban communities. Governments are to use grant funds to provide decent housing and suitable living environments and to expand economic opportunities, principally for persons of low and moderate income. To be eligible for funding, every CDBG-funded activity must meet one of the program's three national objectives. Specifically, every activity, except for program administration and planning, must

- Benefit low- and moderate-income persons,
- Aid in preventing or eliminating slums and blight, or
- Address a need with a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community.

The City of Bayonne, NJ (City), has been an entitlement recipient of CDBG funds since the inception of the program in 1974 and has received Emergency Shelter Grant funds as well. The City of Bayonne was awarded a total of \$2.8 million in CDBG funding during the program years 1995 through 2008. During the audit period, the City executed a subrecipient agreement with the Bayonne Economic Development Corporation (subrecipient) to administer the small business loan program, as well as to provide technical assistance to Bayonne small business owners. Another economic development activity administered by the subrecipient was a planning activity, which included various projects. As of June 30, 2009, the subrecipient had begun a liquidation process and no longer receives CDBG funding for administering the economic development program. The City's Department of Community Development services the economic development loan repayments.

The City's Department of Community Development has a full-time director and a part-time assistant. It is located at City Hall, 630 Avenue C, Bayonne, NJ.

We audited the City's CDBG economic development activities in response to a complaint (HL-09-1015) that contained four allegations. The audit objectives were to determine whether the City (1) disbursed CDBG economic development funds efficiently and effectively in accordance with its submission to HUD and with the applicable rules and regulations, (2) used CDBG economic development funds to meet one of the three national program objectives, and (3) had a financial management system in place to adequately safeguard the funds.

RESULTS OF AUDIT

Finding : The City Did Not Adequately Administer Its Economic Development Program

The City did not adequately administer its economic development program. Specifically, it (1) did not adequately monitor its subrecipient, (2) made disbursements for ineligible items, (3) made disbursements for technical assistance and salary costs that were not reasonable, (4) did not maintain documentation to support accomplishment of the CDBG national objectives, and (5) did not reprogram unused economic development funds in a timely manner when its loan program ended. These deficiencies occurred because the City did not have adequate controls in place to ensure that its economic development activities were administered in accordance with HUD regulations. As a result, (1) \$5,335 was disbursed for ineligible consulting costs; (2) \$640,266 was disbursed for technical assistance, salaries, and payroll taxes that did not appear to be reasonable; (3) documentation was not maintained to support accomplishment of the CDBG national objectives; and (4) \$196,292 in unused economic development funds needs to be reprogrammed.

Inadequate Monitoring of Subrecipient

The City did not have adequate controls to ensure that its economic development loan program was conducted in accordance with CDBG requirements and did not adequately monitor its subrecipient responsible for administering the economic development activities. According to the subrecipient agreement signed and executed by the City and its subrecipient, section 4, entitled Monitoring, the City had the right to inspect all records, books, accounts, and ledgers for the purpose of ensuring the appropriateness of all program expenditures. The City's lack of monitoring led to disbursements for ineligible, unsupported, and unreasonable costs. As a result, the City could not assure HUD that all CDBG economic development disbursements complied with HUD rules and regulations.

Review of the economic development activities, which consisted of small business loans, technical assistance, and planning, disclosed that the City did not conduct monitoring reviews or properly implement control procedures to ensure compliance with HUD requirements and ensure that loan recipients complied with loan provisions.

Regulations at 24 CFR (Code of Federal Regulations) 570.506(b) (5) (i) and (6) require that the City maintain records to demonstrate compliance with CDBG job creation and retention requirements. However, the City did not monitor its subrecipient to ensure that it collected and maintained documentation from loan recipients to ensure compliance with the regulations. The documentation required

to show job creation included identification of the job titles and documentation showing that the employees hired were categorized as being low or moderate income, based on earnings, family size, or a residence at an address in a census tract labeled as low or moderate income. The subrecipient only provided a memorandum to the City, which included job creation numbers without supporting documentation for the jobs. Due to the City's lack of monitoring, no assurance could be placed on the number of jobs included in the memorandum.

Disbursements Made for Ineligible Items

During the audit period, the City made disbursements to its subrecipient for ineligible items totaling \$5,335. These payments were to a consultant for preparing an application for a New Jersey State grant and parking fees for the staff of its subrecipient. Office of Management and Budget (OMB) Circular A-87, section C, Basic Guidelines, parts 1a and 1d, specifies that costs must be necessary and reasonable for proper and efficient performance and administration of Federal awards and conform to any limitation or condition of the award or applicable regulations. Further, regulations at 24 CFR 570.207 provide that any costs not authorized under the regulations at 24 CFR 570.201-206 are ineligible costs. Therefore, expenses for consultant services related to services to obtain State grants and parking fees are not an authorized Federal expense. This condition occurred because the City and its subrecipient did not have adequate controls to ensure that the costs reimbursed were eligible CDBG costs. As a result, the program was deprived of \$5,335 in CDBG funds, which could have been used for other eligible CDBG expenses.

Unreasonable Technical Assistance Costs

Technical assistance costs charged to the CDBG economic development program for program years 2002 through 2007 did not appear to be reasonable. Specifically, the City disbursed a total of \$195,000 for a consultant to provide technical assistance to individuals and small businesses in preparing business plans and applications for loans. However, the subrecipient did not have a written executed agreement or contract on file for the services provided. OMB Circular A-87, section C, Basic Guidelines, parts 1a and 1d, specify that costs must be necessary and reasonable for proper and efficient performance and administration of Federal awards and conform to any limitation or condition of the award or applicable regulations. In addition, the City and its subrecipient did not comply with the regulations at 24 CFR 85.20(b)(4), which provide that financial information must be related to performance or productivity data and 570.200(a)(3), which require entitlement recipients to ensure that CDBG funds are expended for activities that benefit low and moderate income people. For

example, technical assistance provided by the consultant did not result in economic development loans being awarded by the subrecipient and there was no evidence to suggest that these services benefited low and moderate income people. As a result, we question the total \$195,000 disbursed for technical assistance as unreasonable costs. We also recommend that this amount be repaid to the program with non-Federal funds so that the funds can be used for other eligible CDBG activities.

Unreasonable Salary Costs

A total of \$445,266 was disbursed for salary and payroll taxes during the subrecipient's fiscal years 2006 through 2008 for the administration of the economic development loan program. However, these salary costs did not appear to be reasonable because the economic loan activity was minimal during this period. The subrecipient only awarded one loan during the fiscal year ending October 31, 2006, three loans during the year ending October 31, 2007, and no new loans during the year ending October 31, 2008.

Fiscal year ending	Salaries	Number of economic development loans awarded
October 31, 2006	\$150,508	1
October 31, 2007	\$155,410	3
October 31, 2008	\$139,348	0
Totals	\$445,266	4

Regulations at 24 CFR 570.206 require that costs charged for administration of the program include reasonable costs to carry out the program. Before 2005, the loan awards fluctuated between one and seven loans per year. Additionally, limited monitoring was conducted for the few loans that were awarded, and loan proceeds were not reinvested during the period 2006 and 2007. This condition occurred because the City did not provide adequate oversight of its subrecipient to ensure that salary costs charged were sufficient in relation to the number of loans awarded. As a result, the City could not assure HUD that \$445,266 in salary and payroll taxes charged to the economic development activities were reasonable due to the minimal loan awards during the period.

Documentation Not Maintained To Support CDBG National Objectives

The City and its subrecipient did not maintain documentation to ensure that the economic development loan program met the CDBG national objective of job creation. Regulations at 24 CFR 570.209(b)(1)(i) provide that a recipient that

used CDBG funds for special economic development activities must create or retain at least one full-time-equivalent permanent job per \$35,000 in CDBG funds used. The City did not have policies and procedures in place to ensure compliance with the CDBG national objective for job creation. As a result, it could not assure HUD that it complied with HUD rules and regulations. More than \$1.1 million in economic development loans was granted from fiscal years 2000 through 2008. Therefore, approximately 32 full-time-equivalent jobs should have been created. However, there was no documentation provided to show that any eligible jobs had been created as a result of issuing the economic development loans.

Reprogramming of Remaining Funds Needed

In June of 2009, the City's subrecipient went out of business and no longer administers the economic development program. Accordingly, the economic development loan program was no longer funded, and the remaining funds were not reprogrammed in a timely manner. Regulations at 24 CFR 85.20, (3) entitled "Internal control", provide that effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes. The City had \$196,292 in unspent economic development funds at the start of our audit in January 2010. Since the funds were not being used to make economic development loans, there was no benefit to low and moderate income people, therefore these funds should have been reprogrammed for other eligible community development block grant activities. This deficiency occurred because the City did not have adequate controls in place to ensure timely disbursement of funds and the timely reprogramming of the unexpended economic development funds for other eligible community development activities.

On May 7, 2010, City officials stated that \$50,000 in remaining economic development activity funds would be used for planning the redevelopment of phase 2 of its scattered-site project. However a timeframe for when the funds would be used was unknown at the end of our fieldwork in July 2010. Based on our inquiry on the status of the remaining funding, City officials also made an amendment to reprogram \$134,075 from funding years 2006 and 2007 to the CDBG commercial façade program. At the end of our fieldwork, City officials stated that they planned to use \$12,217 in funds for technical assistance, as the contract for the consultant that provided technical assistance was being reviewed. Nevertheless, the City needs to ensure that the entire \$196,292 in unspent economic development funds have been put to better use by reprogramming these funds to other eligible CDBG activities.

Conclusion

The City did not adequately administer its economic development program in accordance with CDBG requirements. Consequently, \$5,335 was disbursed for ineligible items, and \$640,266 was disbursed for unreasonable technical assistance, salary, and payroll tax expenses. Further \$196,292 in unused economic development funds needs to be reprogrammed so that these funds can be put to better use. This noncompliance occurred because the City did not implement adequate controls and procedures to oversee the economic development activities administered by its subrecipient.

Recommendations

We recommend that the Director of HUD's Newark Office of Community Planning and Development instruct the City's Department of Community Development to

- 1A. Implement adequate controls and procedures to ensure that subrecipients are monitored to ensure compliance with HUD rules and regulations.
- 1B. Repay from non-Federal funds the \$5,335 in ineligible costs charged to the CDBG economic development program, related to payments to a consultant for the preparation of an application for a New Jersey State grant and parking fees for the staff of its subrecipient.
- 1C. Strengthen controls to ensure that all costs charged to the CDBG program are eligible as provided by HUD regulations.
- 1D. Provide documentation in relation to the technical assistance activities carried out for program years 2002 through 2008 so that HUD can determine compliance with HUD regulations and the eligibility and reasonableness of the \$195,000 in technical assistance costs charged. Any amounts determined to be ineligible should be reimbursed to the CDBG program from non-Federal funds.
- 1E. Obtain and provide supporting documentation for the CDBG activities carried out and jobs created for program years 2006 through 2008 so that HUD can determine compliance with HUD regulations and the eligibility and reasonableness of \$445,266 in salary and payroll costs charged for administering the economic development activities during that period. Any amounts determined to be ineligible should be reimbursed to the CDBG program from non-Federal funds.

- 1F. Provide documentation to HUD that demonstrates that the total \$196,292 in unused economic development funds have been reprogrammed and put to better use on other eligible CDBG activities.

SCOPE AND METHODOLOGY

The audit focused on the City's economic development activities during the fiscal years beginning November 1, 2005, and ending October 31, 2008, and was expanded when necessary. Audit fieldwork was conducted between January and July 2010. The review was conducted at the offices of the Department of Community Development at City Hall, Bayonne, NJ.

To accomplish our objectives, we

- Reviewed regulations at 24 CFR Part 570 relating to the economic development activities and other relevant rules and regulations;
- Reviewed the City's consolidated plan, action plans, and independent auditors' reports for fiscal years 2006, 2007, and 2008;
- Interviewed appropriate personnel of HUD's Office of Community Planning and Development Newark field office and reviewed field office monitoring reports;
- Interviewed the complainant, City officials, a consultant for the subrecipient, the accountant for the subrecipient/City, the consultant for the Department of Community Development, and the attorney for the subrecipient to obtain an understanding of the City's administration of the economic development activities;
- Reviewed and tested the City's/subrecipient's policies and procedures; files; and records related to the loan program, planning, and technical assistance to determine whether costs charged were eligible, reasonable, necessary, and adequately supported as required by HUD CDBG rules and regulations.
- Selected a non-statistical sample of 4 loans out of a universe of 11 loan files amounting to \$548,000 to ensure that the loans met one of the CDBG national objectives. The sample of loans amounted to \$228,000 or 41.6 percent of the universe. Loans were sorted by dollar value and selected based on the high dollar value from each category, which included current, paid off and defaulted loans.
- Verified all drawdowns made during the audit period. The universe of economic development activity drawdowns amounted to \$507,392, which was tested to ensure that the disbursements were for eligible, reasonable, and necessary expenditures in accordance with HUD rules and regulations.

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

INTERNAL CONTROLS

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

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

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

Relevant Internal Controls

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

- Effectiveness and efficiency of operations- Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Compliance with applicable laws and regulations- Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.

We assessed the relevant controls identified above.

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

Significant Deficiency

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

- The City did not have adequate controls over the effectiveness and efficiency of operations and compliance with laws and regulations, as it did not adequately administer its economic development program or comply with

HUD regulations with regard to disbursement of CDBG funds and monitoring of its subrecipient responsible for administering the economic development activities (see finding).

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS AND FUNDS TO BE PUT TO BETTER USE

Recommendation number	<u>Ineligible 1/</u>	<u>Unreasonable or unnecessary 2/</u>	Funds to be put to <u>better use 3/</u>
1B	\$5,335		
1D		\$195,000	
1E		\$445,266	
1F			\$196,292
Total	<u>\$5,335</u>	<u>\$640,266</u>	<u>\$196,292</u>

- 1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations.
- 2/ Unreasonable/unnecessary costs are those costs not generally recognized as ordinary, prudent, relevant, and/or necessary within established practices. Unreasonable costs exceed the costs that would be incurred by a prudent person in conducting a competitive business.
- 3/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this instance, if the City implements our recommendation and provides HUD evidence that it reprogrammed the unused CDBG funds remaining for economic development activities, these funds can be used for other eligible CDBG activities.

Appendix B

EVALUATION OF COMPLAINT ALLEGATIONS

Allegation 1

The complaint alleged misappropriation of CDBG funds by the City's subrecipient.

Evaluation - This allegation had merit. We noted that CDBG funds were not disbursed in accordance with HUD requirements, as funds were disbursed for ineligible and unreasonable items (see finding).

Allegation 2

The complaint alleged that loan proceeds were not reinvested in the economic development loan program and there was no accountability for the loan proceeds.

Evaluation - This allegation had merit during our audit period. However, since the City's Department of Community Development has taken responsibility for incoming loan proceeds, program income is being reinvested into the CDBG program.

Allegation 3

The complaint alleged that there was a failure to make loans and monitor/report the job creation for the economic development loans.

Evaluation - This allegation had merit. The economic development loan activity was minimal during the audit period, and the City did not have documentation to substantiate that it monitored the jobs created for the economic development loans (see finding).

Allegation 4

The complaint alleged that funds for the economic development activities were not used for loans, but were improperly used for personal expenses, payroll, and benefits.

Evaluation - This allegation had some merit. Economic development funds were used to pay for payroll and related expenses, which we included as an unreasonable cost (see finding). However, the review did not disclose that funds were used to pay for personal expenses.

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments



CITY OF BAYONNE
Finance Department
630 Avenue C, Bayonne, NJ 07002
Phone (201)858-6043 Fax (201)823-9825
Mayor Mark A. Smith
Terrence Malloy, *CMFO*



October 20, 2010

To: Edgar Moore
Regional Inspector General for Audit, New York/New Jersey-2GA
(Copy: Christine Soucy, Acting Director CPD/HUD Newark, NJ)
From: Terrence Malloy, Chief Financial Officer, City of Bayonne, New Jersey
Subject: Audit Report-City of Bayonne-Number 2011-NY-XXXX
Date: October 20, 2010

The City of Bayonne has reviewed the subject (draft) Audit Report and has prepared a preliminary response to the findings. It is anticipated that our response and the audit information will be discussed at the scheduled October 25, 2010 meeting with the staff of the Office of the Inspector General and City personnel.

Finding 1- Inadequate Monitoring of Sub recipient

Unfortunately the CDBG Director and the BEDC Director for the audit period are no longer employed by the City and the Corporation. Current staff is disadvantaged relative to knowledge of previous procedures and monitoring provided for the BEDC CD program. However, the CDBG files do document business development and employment or job retention for low and moderate income persons for the audit timeframe. Attachment A provides for a listing of economic development projects for the period of 2005-2008 and establishes a record of needed job creation relative to loan activity for the BEDC.

Further, at the conclusion of the audit review by the IG staff, letters were sent to each business that received CDBG financing requesting employment information based on current payroll data. The US Census American Fact Finder data for the addresses listed in the payroll documentation that was returned to the City was utilized to determine low and moderate income household location. The information was utilized to cull the low/mod percentage ratio from the applicable census tabulations. The percentage of 42.2% represents the City of Bayonne's eligibility ratio for CDBG low/mod qualification. According to IG staff, each address with that ratio or higher will constitute a lower income job holder. Each page for the fact finder data was coded with a handwritten number indicating the low/mod ratio for the identified address.

Staff tabulated the number of addresses, the number of lower income addresses with the following results:

- Total number of addresses	126
- Total number of low/mod addresses	70

Finding 2-Disbursements Made for Ineligible Items

Comment 1

Comment 1

Ref to OIG Evaluation

Auditee Comments

Comment 2

The City response to this item is limited. Invoices were approved for the costs noted in the audit report. It appears that the expenditures were viewed as appropriate since NJ grant funds were being sought to leverage with CDBG and other resources in order to address the BEDC sub recipient agreement to provide for economic development. Approved parking fees were a result of travel to Trenton to obtain State funding.

Comment 3

Finding 3-Unreasonable Technical Assistance Costs

In accordance with 570.203(b) (see Attachment B) the BEDC CDBG sub recipient agreement included an annual amount of \$20,000 to provide technical assistance to owners or persons development micro-enterprises. These funds were used for consultant fees and were documented by the issuance of an IRS 1099 tax form. Clearly the Board of the Corporation was knowledgeable of the service provider.

Comment 3

Further, the consultant provided monthly spreadsheet reports listing the serviced businesses and other identification, planning status, anticipated development and technical assistance needs. This information was presented to the BEDC and the CDBG staff. In addition, the information was reviewed by the Newark HUD office as part of a periodic monitoring of the CD program. Work was primarily provided in the UEZ area where low and moderate income job creation is not a requirement for CDBG benefit or eligibility.

Comment 4

Finding 4-Unreasonable Salary Costs

Reference is again made to information presented in the discussion under Finding 1. Further, the CDBG sub recipient agreement with BEDC (See Attachment C) clearly indicates the inclusion of services directed at redevelopment initiatives. Attachment D describes the redevelopment activities undertaken by BEDC during the audit report timeframe. Information is offered describing current redevelopment area status including leveraged financing; job creation; and, location of major business anchors in the zone.

Comment 5

Finding 5-Documentation not Maintained to Support CDBG National Objectives

Reference is directed to information presented for Finding 1 and 4.

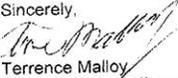
Comment 6

Finding 6-Reprogramming of Remaining Funds

The \$196,292 in unspent economic development funding has been reallocated including program income funds. Funds have been applied as follows:

- Façade Program for UEZ
- Housing Rehabilitation Assistance for Lower Income Households
- Planning for Redevelopment Zone and Scattered Affordable Housing

The City of Bayonne welcomes the opportunity to further discuss the draft audit report and the information presented in this memorandum.

Sincerely,

Terrence Malloy
Chief Financial Officer

OIG Evaluation of Auditee Comments

- Comment 1** City officials stated that they did not have knowledge of the previous procedures and monitoring of the BEDC due to staff turnover, but that the CDBG files do document the business development and job retention for low and moderate income people for the audit period. City officials provided additional information per their attachment A regarding job creation related to the BEDC. City officials also stated that they contacted businesses that received CDBG financing and requested employment information and determined that 70 of 126 addresses were for low or moderated income families based on census track data. They mentioned that OIG staff indicated that each address with an eligibility ratio of 42.2 percent or higher within the census track data would constitute a lower income job holder; however, OIG staff did not provide such information. Also, the documentation provided during the audit and with attachment A did not meet HUD requirements at 24 CFR 570.206(b)(5)(i) and (6). The documentation did not include a listing of the employees with the employees' job title and documentation of the employees' former status as low and moderate income. Therefore, the finding has not been revised and HUD will have to determine the sufficiency of any additional documentation regarding jobs created and eligibility of the related costs.
- Comment 2** City officials indicate that the expenditures appeared to be appropriate because the costs were incurred in order to obtain funding from the State of New Jersey to leverage with CDBG and other resources. However, the costs related to the State of New Jersey grant application and parking are not eligible as they are not allowable under Federal regulations at 24 CFR 570.201-206.
- Comment 3** City officials indicate that BEDC's board had knowledge about the service provider because of the subrecipient agreement's provisions allowed for technical assistance, and because the consultant provided monthly reports that was periodically monitored by HUD. Attachment B was a copy of the regulations at 24 CFR 570.203(b). Attachment C was a copy of the subrecipient agreement between the City and the BEDC. Further, City officials indicated that the work was performed in the urban enterprise zone area where low and moderate job creation is not a requirement for CDBG eligibility. However, the City was unable to provide a copy of the contract with the consultant that was required by the subrecipient agreement between the City and the BEDC. Therefore, the City and BEDC did not comply with the regulations at 24 CFR 85.20(b)(4), which required financial information must be related to performance data and regulations at 24 CFR 570.200(a)(3), which require entitlement recipients to ensure that CDBG funds are expended for activities that benefit low and moderate income people. Since economic development loans were not made and there was no evidence that the services benefited low and moderate income people the costs for technical assistance are questioned.

- Comment 4** City officials disagreed that salary costs were unreasonable and provided additional documentation. Attachment C is the subrecipient agreement between the City and the BEDC and Attachment D is a letter to HUD from the City which notes various economic development activities undertaken by the BEDC during the period audited. However, City officials were not able to provide documentation that supports that the salary costs were reasonable, as over \$445,000 was paid for salaries when only four loans were awarded over a three year period.
- Comment 5** City officials disagreed with the finding related to documentation not being maintained to support accomplishment of the CDBG national objective and indicated to see their responses to comments one and four. City officials were not able to provide documentation to support the national objective of job creation was accomplished as over \$1.1 million of economic development loans had been made from 2000 through 2008 and 32 full time equivalent jobs should have been created, but there was no documentation that any eligible jobs had been created.
- Comment 6** City officials indicated that they had reallocated the \$196,292 in unspent economic development funding for listed activities. Nevertheless, the City officials' actions are responsive to the finding and recommendation.