



Issue Date	July 8, 2011
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Audit Report Number	2011-AT-1012
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TO: José R. Rivera, Director, Community Planning and Development, San Juan Field Office, 4ND

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FROM: James D. McKay, Regional Inspector General for Audit, Atlanta Region, 4AGA

SUBJECT: The Office of the Commissioner for Municipal Affairs, San Juan, PR, Did Not Always Ensure Compliance With Block Grant Recovery Act Program Requirements

## **HIGHLIGHTS**

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

We audited the Office of the Commissioner for Municipal Affairs' (OCAM <sup>1</sup>) State Community Development Block Grant (Block Grant) funds that it received under the American Recovery and Reinvestment Act of 2009 (Recovery Act). We selected OCAM for review as part of our strategic plan, based on the amount of Block Grant Recovery Act funds allocated. The objectives of this audit were to determine whether OCAM (1) disbursed Block Grant Recovery Act funds in accordance with applicable requirements and for eligible purposes and (2) reported to HUD accurate and supported information on program accomplishments.

### **What We Found**

OCAM did not always charge the Block Grant Recovery Act program for supported disbursements or ensure that its funds were used in a timely manner in accordance with HUD regulations. In addition, it did not always report accurate and supported information on program accomplishments. HUD lacked assurance that more than \$135,000 in Block Grant Recovery Act program expenditures was

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<sup>1</sup> OCAM for its acronym in Spanish

allowable and allocable, and more than \$42,000 in drawdowns remained unexpended. In addition, OCAM reported inaccurate information to HUD when it overstated program expenditures by at least \$450,000 and lacked support for the number of jobs created or retained. As a result, HUD lacked assurance that the expenditures were reasonable, allocable, and used for authorized purposes in a timely manner and that reported program accomplishments were accurate and complete.

### **What We Recommend**

We recommend that the Director of the San Juan Office of Community Planning and Development require OCAM to submit documentation to adequately support the allowability and allocability of \$135,445 charged to the Block Grant Recovery Act program associated with administrative costs. The Director should also require OCAM to ensure that \$42,829 associated with unexpended drawdowns is used for the approved activity or reprogrammed for other eligible purposes.

The Director should also require OCAM to review all Block Grant Recovery Act spending and job information in the Federal reporting Web site and correct any inaccurate information. We further recommend that the Director require OCAM to establish adequate internal controls and procedures to ensure that all Block Grant Recovery Act expenditures are supported, disbursed in a timely manner, properly accounted for, and reconciled with HUD's information system and that they comply with HUD requirements. In addition, the Director should require OCAM to establish and implement internal control measures to ensure that accurate and supported Block Grant Recovery Act data are reported.

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 findings with HUD and OCAM during the audit and at the exit conference on June 15, 2011. OCAM provided its written comments to our draft report on June 20, 2011. In its response, OCAM generally agreed with the findings.

The complete text of OCAM's response, along with our evaluation of that response, can be found in appendix B of this report.

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## BACKGROUND AND OBJECTIVES

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The American Recovery and Reinvestment Act of 2009 (Recovery Act) (Public Law 111-5) appropriated \$1 billion in Community Development Block Grant (Block Grant) funds to States and local governments to carry out, on an expedited basis, eligible activities under the Block Grant program. These funds were to be distributed to grantees that received Block Grant funding in fiscal year 2008 in accordance with the provisions of 42 U.S.C. (United States Code) 5306. The Block Grant program under Title XII of the Recovery Act is commonly referred to as the CDBG-R program. Funding available under the Recovery Act has clear purposes—to stimulate the economy through measures that modernize the nation’s infrastructure, improve energy efficiency, and expand educational opportunities and access to health care.

The Office of the Commissioner for Municipal Affairs (OCAM) was created by Act number 81 of August 30, 1991, known as the Commonwealth of Puerto Rico Autonomous Municipalities Act of 1991 as amended. This act states that one of the responsibilities of OCAM is to regulate, advise, and give technical and professional assistance to the municipalities in the areas related to their organization, administration, and operations. OCAM was the lead agency charged by the governor of Puerto Rico with the responsibility of overseeing the administration of the State allocation of Block Grant Recovery Act program funds.

OCAM is the largest recipient of Block Grant Recovery Act funds in Puerto Rico. HUD awarded OCAM more than \$12.7 million in Block Grant funds in August 14, 2009, which OCAM distributed among the 51 nonentitlement municipalities (subrecipients) within Puerto Rico. OCAM’s quarterly progress report for the period ending December 31, 2010, at the Recovery Act Web site reflected the following:

<b>Description</b>	<b>Amount/percentage</b>
Total award	\$12,753,068
Total disbursements	\$5,099,693
Total infrastructure expenditures	\$4,972,989
Percentage of total awards disbursed	39%

OCAM’s books and records are maintained at 255 Ponce de Leon Avenue, San Juan, PR. We audited OCAM’s Block Grant Recovery Act program as part of the HUD Office of Inspector General’s (OIG) strategic plan. OCAM was selected for review based on the amount of Block Grant Recovery Act funds provided.

The objectives of this audit were to determine whether OCAM (1) disbursed Block Grant Recovery Act funds in accordance with applicable requirements and for eligible purposes and (2) reported to HUD accurate and supported information on program accomplishments.

## RESULTS OF AUDIT

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### Finding 1: OCAM Did Not Fully Comply With Block Grant Recovery Act Program Requirements

OCAM did not always charge the Block Grant Recovery Act program for supported disbursements or ensure that its funds were spent in a timely manner in accordance with HUD regulations. In addition, it did not always report accurate and supported information on program accomplishments. These conditions occurred because OCAM did not have controls and procedures to ensure that (1) Block Grant Recovery Act expenditures were properly supported and only used for authorized purposes, (2) funds passed through to subrecipients were used in a timely manner, and (3) reported program accomplishments were accurate and complete. As a result, HUD lacked assurance that more than \$135,000 in Block Grant Recovery Act program expenditures was allowable and allocable, and more than \$42,000 in drawdowns remained unexpended. In addition, OCAM reported inaccurate and unsupported information in the Federal reporting Web site when it overstated program expenditures by at least \$450,000 and reported unsupported job information.

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#### Unsupported and Untimely Expenditures

Unsupported program expenditures - Office of Management and Budget (OMB) Circular A-87, attachment A, section C, provides that to be allowable under Federal awards, costs must be necessary and reasonable for proper and efficient performance and administration of Federal awards and be allocable to the Federal award. It further provides that a cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.

OCAM did not always support the allocability and eligibility of expenditures charged to the Block Grant Recovery Act program and did not ensure that disbursed funds were used in a timely manner. It charged to the Block Grant Recovery Act program more than \$135,000 associated with rent and security system expenses without maintaining adequate documentation evidencing the allocability of these charges to the program. OCAM did not implement a cost allocation plan to distribute its administrative expenses among all HUD and other Federal and State programs it administered. The budget director informed us that the charge to the Block Grant Recovery Act program was based on the availability of funds to pay for these expenditures. OCAM did not maintain documentation evidencing the reasonableness and allocability or the basis of these charges to its Block Grant Recovery Act program. Therefore, HUD had no assurance of the

reasonableness, allowability, and allocability of more than \$135,000 in administrative expenses charged to the Block Grant Recovery Act program.

Untimely disbursements of funds - Regulations at 24 CFR (Code of Federal Regulations) 85.21 allow the payment of advances to a subrecipient, provided it demonstrates the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and the disbursement.

Contrary to HUD’s regulations, subrecipients failed to disburse drawdowns totaling more than \$470,000 in Block Grant Recovery Act funds in a timely manner.

Activity number	Drawdown amount	Date of drawdown deposit	Date of subrecipient disbursement	Days elapsed between deposit and disbursement dates
12841	\$225,646 <sup>2</sup>	May 27, 2010	Oct. 6, 2010	132
12838	<u>\$245,000</u>	Apr. 23, 2010	May 25, 2010	32
Total	<u>\$470,646</u>			

OCAM did not have procedures and controls to ensure that the Block Grant Recovery Act program drawdowns passed through to subrecipients were disbursed in a timely manner. As a result, HUD lacked assurance that funds were adequately accounted for, safeguarded, and solely used for authorized purposes in accordance with Block Grant Recovery Act requirements.

### **Inaccurate Expenditure and Unsupported Job Information**

Public Law 111-5 Section 1512 requires grant recipients to report spending and performance data, including estimates of the number of jobs created or retained, to the Federal reporting Web site. OMB Memorandum M-09-21 states that data quality is an important responsibility of key stakeholders associated with the Recovery Act. OCAM did not report accurate and supported information related to its spending and job created or retained data.

Inaccurate expenditures - OCAM did not accurately report the amount of Block Grant Recovery Act expenditures. For the reporting period ending December 31, 2010, the infrastructure expenditures were overstated by at least \$450,000. For example, OCAM used Block Grant funds to fund two subrecipient activities totaling more than \$450,000, but it incorrectly reported that Recovery Act funds

<sup>2</sup> As of March 31, 2011, the subrecipient had disbursed only \$182,817. Thus, \$42,829 in Block Grant Recovery Act funds remained unspent and OCAM must ensure the funds are put to better use for eligible activities.

were disbursed. In addition, it failed to report more than \$51,000 paid to a contractor for street resurfacing activities.

Unsupported job information - For the reporting period ending December 31, 2010, OCAM reported 7.14 jobs created. The 7.14 jobs created were related to activities undertaken by five subrecipients. However, for four of five subrecipient activities, OCAM reported the number of jobs created or retained as a result of its Block Grant Recovery Act activities based on incomplete and inaccurate information.

- OCAM did not properly calculate the number of jobs created or retained. For a partially funded Block Grant Recovery Act activity, it reported that 1.4 jobs were created or retained when the correct number was .63 jobs. OCAM incorrectly reported all of the jobs created as a result of its Recovery Act activities without an allocation to the other sources of funds.
- OCAM did not maintain adequate records to support 5.02 of the 7.14 jobs it reported as created or retained for the period ending December 31, 2010.

As a result of the inconsistencies in the reporting of Block Grant Recovery Act program accomplishments, the public did not have access to accurate and complete information regarding the amount of Recovery Act funds OCAM received from HUD that was expended for activities and the estimated number of jobs created or retained with Block Grant Recovery Act program proceeds as required by Public Law 111-5, Section 1512.

## Conclusion

OCAM lacked procedures and controls to ensure that the Block Grant Recovery Act expenditures were properly supported, funds were used in a timely manner, and reported program accomplishments were accurate and complete. As a result, HUD had no assurance that more than \$178,000 Block Grant Recovery Act funds were reasonable and allocable, and used solely for eligible purposes in a timely manner and that reported accomplishments were accurate and complete. Management must establish procedures and controls to ensure that it complies with HUD and Recovery Act requirements.

## Recommendations

We recommend that the Director of the San Juan Office of Community Planning and Development

- 1A. Require OCAM to submit documentation to adequately support the allowability and allocability of \$135,445 charged to the Block Grant Recovery Act program associated with administrative costs or reimburse the Block Grant Recovery Act program from non-Federal funds.
- 1B. Require OCAM to ensure that \$42,829 associated with unexpended drawdowns is used for the approved activity or reprogrammed for other eligible purposes.
- 1C. Require OCAM to review all Block Grant Recovery Act spending and job information in the Federal reporting Web site, and correct any inaccurate information.
- 1D. Require OCAM to establish adequate internal controls and procedures to ensure that all Block Grant Recovery Act expenditures are supported and that the Block Grant Recovery Act funds passed through to subrecipients are disbursed in a timely manner.
- 1E. Require OCAM to establish and implement internal controls to ensure that funds passed through to subrecipients are properly accounted for, are reconciled with HUD's information system, and comply with HUD requirements.
- 1F. Require OCAM to establish and implement internal control measures that include procedures and guidelines to appropriately collect and verify the accuracy and completeness of the information reported quarterly, to ensure that data reported is supported and Section 1512 reporting requirements were met and to ensure the accuracy of its reported activities in HUD's information system.



## SCOPE AND METHODOLOGY

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The objectives of this audit were to determine whether OCAM disbursed Block Grant Recovery Act funds in accordance with applicable requirements and for eligible purposes and whether OCAM reported to HUD accurate and supported information on program accomplishments.

To accomplish our objectives, we

- Reviewed the Recovery Act, applicable HUD regulations, and other OMB and HUD program requirements;
- Reviewed OCAM's controls and procedures as they related to our objectives;
- Interviewed HUD, OCAM, and subrecipient officials;
- Reviewed independent public accountant report;
- Reviewed OCAM's and subrecipients' files and records, including activity files and accounting records;
- Traced information reported in HUD's information system to OCAM's records, including accounting records and executed agreements; and
- Performed site inspections of activities.

HUD's information system reflected that OCAM had 24 activities with 67 drawdowns totaling more than \$4.6 million as of December 31, 2010. We reviewed eight drawdowns that were greater than \$200,000, totaling more than \$1.8 million. We selected five additional drawdowns associated with program administration expenditures in the amount of \$135,445. We reviewed these drawdowns to determine whether OCAM withdrew Block Grant Recovery Act funds in accordance with Recovery Act and HUD requirements and for eligible purposes.

The progress report for the period ending December 31, 2010, reflected \$4.9 million in Block Grant Recovery Act expenditures associated with work performed by 25 subrecipients. We reviewed a sample of seven subrecipients with disbursements totaling more than \$1.6 million. The progress report also showed that 7.14 jobs were created or retained related to activities undertaken by five subrecipients. We reviewed the reported expenditures and job information to determine whether OCAM reported accurate and supported information on program accomplishments.

To achieve our audit objectives, we relied in part on computer-processed data contained in OCAM's database and HUD's information system. Although we did not perform a detailed assessment of the reliability of the data, we performed a minimal level of testing and found the data adequate for our purposes. The results of the audit apply only to the items selected and cannot be projected to the universe or population.

The audit generally covered the period August 1, 2009, through December 31, 2010, and we extended the period as needed to accomplish our objectives. We conducted our fieldwork from January through June 2011 at OCAM's offices in San Juan, PR.

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

# INTERNAL CONTROLS

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Internal control is 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.

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## Relevant Internal Controls

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

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives, while considering cost effectiveness and efficiency.
- 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.
- Safeguarding of assets and resources – Policies and procedures that management has implemented to reasonably prevent or promptly detect unauthorized acquisition, use, or disposition of assets and resources.
- Validity and reliability of data – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.

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:

- OCAM did not have controls and procedures to ensure that (1) Block Grant Recovery Act expenditures were properly supported and used only for authorized purposes, (2) funds passed through to subrecipients were used in a timely manner, and (3) reported program accomplishments were accurate and complete (see finding 1).

## APPENDIXES

### Appendix A

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

<u>Recommendation number</u>	<u>Unsupported 1/</u>	<u>Funds to be put to better use 2/</u>
1A	\$135,445	
1B		\$42,829
Total	<u>\$135,445</u>	<u>\$42,829</u>

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.

2/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an 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 OCAM implements recommendation 1B, funds will be available for other eligible activities consistent with Block Grant Recovery Act program requirements.

## Appendix B

# AUDITEE COMMENTS AND OIG'S EVALUATION

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### Ref to OIG Evaluation


### Auditee Comments

#### Comment 1


#### Comment 2

#### Comment 3

GOBIERNO DE PUERTO RICO

  
Oficina del Comisionado de Asuntos Municipales

Omar E. Negrón Justice, MBA  
Comisionado



June 20, 2011

James D. McKay  
Regional Inspector General for Audit  
Atlanta Region  
Office of Inspector General

Dear Mr. McKay:

On your review of OCAM's Block Grant Recovery Act on June 9, 2011, you signaled several concerns regarding the management of federal funds. Please find below our response to your audit report and several corrective actions that OCAM is already undertaking.

- In relation to your comments pertaining to the \$450,000 of program expenditures, due to inadvertent error, these ARRA funds were paid with CDBG funds. OCAM will make the necessary corrections in coordination with Andrés Delgado, Senior Financial Analyst at HUD. Additionally, OCAM will eliminate this amount from the ARRA Quarterly report, since these funds have not been procured and also appear in the December report. Such adjustment was recently made for \$490,000 in the Federal Reporting.gov website.
- Your comments regarding the \$42,000 of unexpended funds relates to the Municipality of Morovis. See the attached documents for evidence related to the purchase of material collected in the Asphalt Plant.
- The information regarding the \$42,829 of unexpended drawdowns pertains to the Municipality of Adjuntas. This will be referred to the Advisory, Regulatory and Fiscal Interventions Office at OCAM. This office will prepare a memorandum providing instructions to Municipalities in relation to the management of federal funds, and, particularly, instructions on the evidence required for payroll in projects

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*« Toda la correspondencia oficial deberá dirigirse al Comisionado »*

P.O. BOX 70167 San Juan, P. R. 00936 – 8167 Tel: (787) 754 - 1600 Fax: (787) 753-8254

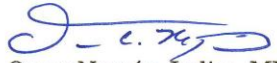
**Comment 4**

developed with ARRA funds. Please find attached evidence from the Municipality of Adjuntas concerning the creation of the ARRA Funds account and the disbursement of \$42,829.

- In relation to the allocation of \$170,000 from the rent activity, OCAM has conducted an internal analysis based on the number of employees that work with this fund. Additionally, OCAM is coordinating a meeting with Andrés Delgado, Senior Financial Analyst at HUD, to obtain the proper technical assistance regarding this matter. Particularly, an indirect cost plan will be developed in coordination with HUD's Financial Department. Such plan will allow OCAM to comply with federal regulations set forth in OMB-87.

If you have any question, please contact me at (787)-754-1600.

Sincerely,



Omar Negrón-Judice, MBA  
Commissioner

## OIG Evaluation of Auditee Comments

OCAM generally agreed with the findings. However, it did not address recommendations 1D and 1E.

**Comment 1** OCAM stated that the recovery Act activities were paid with CDBG funds because of an error, and is working with HUD to make the appropriate corrections. It also mentioned that it has made corrections in the Federal Reporting.gov Web site to eliminate the overstated expenditures.

Although OCAM stated that it made corrections in the Federal Reporting.gov Web site, we found that not all the necessary corrections have been made. The vendor transactions section still reflects the incorrect amount of expenditures. OCAM will need to provide HUD adequate documentation to show that all corresponding amounts and sections reflect accurate information of program accomplishments.

**Comment 2** OCAM provided additional documentation related to the street resurfacing expenditures.

We examined the documentation and determined that \$35,448 was supported. We removed the questioned costs and recommendations associated with the street resurfacing activities.

**Comment 3** OCAM stated that it will refer the matter to its advisory, regulatory and fiscal interventions office and provide guidance to its subrecipients. It also provided additional documentation showing that the subgrantee established a separate bank account for the Recovery Act funds and disbursed the \$42,829.

The supporting documentation did not provide details showing the work or services paid. OCAM did not provide us adequate support that could substantiate their position. Accordingly, we did not modify the report.

**Comment 4** OCAM stated that it will work with HUD to obtain proper technical assistance and develop an indirect cost plan to ensure compliance with applicable HUD requirements.