



Issue Date

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Audit Report Number

2011-FW-1014

TO: Regenia Hawkins, Director, Office of Public Housing, 6APH

//signed//

FROM: Gerald R. Kirkland
Regional Inspector General for Audit, Fort Worth Region, 6AGA

SUBJECT: The Housing Authority of the City of Wichita Falls, TX, Generally Ensured That
Its Recovery Act Capital Fund Grant Complied With Requirements

HIGHLIGHTS

What We Audited and Why

In accordance with our goal to review funds provided under the American Recovery and Reinvestment Act of 2009 (Recovery Act), we audited the Housing Authority of the City of Wichita Falls' Public Housing Capital Fund Stimulus (formula) Recovery Act-funded activities. Specifically, our objectives were to determine whether the Authority followed Recovery Act rules and regulations when obligating and expending its Recovery Act capital funds and reported Recovery Act funds as required.

What We Found

Generally the Authority followed Recovery Act rules and regulations with two minor exceptions. It properly used the formula grant funds to expand its extensive capital projects already underway. It met the time deadlines and provided support for both obligations and expenditures associated with the formula grant. It also reported its use of the funds in a timely manner. However, the Authority relied on its architect's statement that only one asbestos monitor could provide needed services, resulting in a \$16,600 contract being awarded

without adequate competition. In addition, it did not ensure that water heaters, which cost \$16,799, met Federal Energy Management Program requirements before purchase. These minor exceptions¹ occurred because the Authority did not follow or was not aware of the Federal requirements.

What We Recommend

We recommend that the Director of the U.S. Department of Housing and Urban Development's (HUD) Office of Public Housing require the Authority to provide support for the \$16,600 spent for asbestos monitoring and the \$16,799 spent for noncompliant water heater purchases. If the Authority cannot support the costs, HUD should return the unsupported cost to the U.S. Treasury.

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 a draft report to the Authority on June 15, 2011, and held an exit conference with it and HUD on June 20, 2011. We requested a written response by June 24, 2011. In its June 24, 2011 response, the Authority agreed and disagreed with the findings and recommendations. The complete text of the Authority's response, along with our evaluation of that response, can be found in appendix B of this report.

¹ These represented only 2.5 percent of the total formula grant.

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BACKGROUND AND OBJECTIVES

The Housing Authority of the City of Wichita Falls, TX, is a public body that was established pursuant to the laws of the State of Texas.² The Authority may construct, lease, and operate housing projects. The governing body of the Authority is its board of commissioners appointed by the mayor. The Authority receives capital funds annually via a formula grant from the U.S. Department of Housing and Urban Development (HUD). It may use its capital funds for development, financing, modernization, and management improvements for its public housing developments.

On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 (Recovery Act) into law.³ The Recovery Act provided \$4 billion for public housing agencies to carry out capital and management activities, including modernization and development of public housing. It allocated \$3 billion for formula grants and \$1 billion for competitive grants. The Recovery Act required public housing agencies to obligate 100 percent of the funds within 1 year of the date on which funds became available to the agency for obligation and expend 60 percent within 2 years and 100 percent within 3 years of such date.

HUD allocated more than \$1.3 million to the Authority for one Recovery Act Capital Fund formula grant. HUD made the formula grant available to the Authority on March 18, 2009, resulting in a statutory obligation deadline of March 17, 2010. If the Authority failed to comply with the obligation deadline, HUD was required to recapture those obligations that did not meet the deadline and return the funds to the U.S. Treasury for the sole purpose of deficit reduction.⁴

HUD required the Authority to use its Recovery Act formula grant on eligible activities already identified in either its annual statement or 5-year action plan. The HUD-approved plans set forth all of the Authority's physical and management improvement needs for its public housing developments and must demonstrate long-term physical and social viability of proposed projects, including cost reasonableness. If the Authority decided to undertake work items not in its approved plans, HUD required it to amend its approved plans.

Our audit objectives were to determine whether (1) the Authority properly followed the Recovery Act rules and regulations when obligating and expending its Recovery Act capital funds and (2) reported Recovery Act funds as required.

² Section 392.031 of the Texas Local Government Code; Bylaws of the Housing Authority of the City of Wichita Falls; Resolutions 129 and 51

³ Public Law 111-5

⁴ The Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203) amended the Recovery Act, requiring recaptured funds to be returned to the U.S. Treasury and dedicated for the sole purpose of deficit reduction.

RESULTS OF AUDIT

Finding: The Authority Generally Complied With Recovery Act Requirements

Generally the Authority followed the Recovery Act rules and regulations with two minor exceptions. It properly used the formula grant funds to expand capital projects already underway. It met the time deadlines for both obligation and expenditures associated with the formula grant. It also included in its 5-year action plan its intention to update residential units' heating and air units. Upon receipt of the Recovery Act formula grant, the Authority expanded its project to include additional residential units. It generally followed HUD procurement regulations; however, it awarded one contract without adequate competition and purchased electric water heaters that did not meet Federal energy requirements, which resulted in \$33,399 being unsupported. These two minor instances of noncompliance occurred because the Authority did not follow or was not aware of Federal requirements.

The Authority's Obligations Were Supported and Timely

The Authority's obligations were supported with appropriate contracts. The Authority executed each of its 10 vendor contracts well before the Recovery Act deadline of March 17, 2010. It also verified that equipment and supplies purchased were American made.

The Authority Properly Supported Its Costs

The Authority supported the expenses related to the formula grant supporting contracts with an effective accounting system. It ensured that work and equipment were verified as complete by performing joint architect and Authority inspections before paying invoices for the installation of the heating and air units. In addition, the purchasing functions were separated from the payable function of the Authority.

The Authority's Procurements Were Generally Supported With Minor Exceptions

The Authority reported its plans to update its property units' heating and air conditioning in its 5-year action plan and annual plan. With the Recovery Act formula grant, the Authority procured new heating and air conditioning units for additional residential units, including geothermal units for residential units with sufficient exterior space for installation. It procured contractors appropriately for both large and small contracts with one exception.

The Authority selected the asbestos monitor for its asbestos abatement without soliciting bids from competitors. It relied on its architect's statement that only one asbestos monitor was located in the area. A review of the licensed asbestos monitors on the State of Texas' Web site showed that one monitor was in the immediate vicinity of Wichita Falls; however, many asbestos monitors were located in the State. Although this \$16,600 contract was a small purchase, the Authority should have solicited bids from additional licensed asbestos monitors within the State or followed sole source procurement procedures.

In addition, the Authority purchased a total of 84 electric water heaters at a cost of \$16,799 but it did not ensure that the water heaters met Energy Star or Federal Energy Management Program (FEMP) requirements. The Authority indicated that an electric Energy Star water heater was not available and it was unaware of FEMP requirements. HUD required that a public housing agency acquire only equipment that met or exceeded the minimum efficiency requirements established by the U.S. Department of Energy unless it was not cost effective to do so. The Authority did not determine that water heaters did not meet FEMP requirements or were not cost effective before making its purchase. Although the Authority's May 2011 cost justification appeared to support its reasoning for purchasing noncompliant water heaters, HUD will need to determine whether it will accept a cost justification made after the fact.

The Authority Reported as Required

The Recovery Act required recipients of Recovery Act grants to report the way the money received was used to promote transparency in the use of the funds. With a few insignificant timing differences, the Authority reported the use of funds as required.

Conclusion

The Authority had made substantial improvements to the residential units in its three developments using its Recovery Act formula grant. Its costs related to the formula grant were adequately supported, and it complied with Federal regulations with two minor exceptions, which totaled \$33,399.

Recommendations

We recommend that the Director of HUD's Office of Public Housing require the Authority to

- 1A. Support the contract amount of \$16,600 for asbestos monitoring or reimburse this amount to the U.S. Treasury.
- 1B. Develop a procedure to ensure that it solicits competitive bids for purchases or follows its sole source procedures when applicable.
- 1C. Provide justification and support for not purchasing Energy Star or FEMP-compliant water heaters to HUD for its determination of whether the documentation is sufficient to support the cost effectiveness of the \$16,799 in water heater purchases since the Authority's determination was made after the purchase. If the amounts are not supported, HUD should recapture the \$16,799 and reimburse it to the U.S. Treasury.

SCOPE AND METHODOLOGY

We conducted our audit work at the Authority's administrative office in Wichita Falls, TX, and in the HUD Office of Inspector General's (OIG) office in Fort Worth, TX. We performed our audit work between January and April 2011. The audit generally covered the period March 18, 2009, to December 31, 2010. We limited our scope to the Recovery Act Capital Fund formula grant because it was the largest grant awarded.

To accomplish our objectives, we performed the following steps as they related to the Authority's Recovery Act Capital Fund formula grant:

- Reviewed relevant laws, regulations, and HUD guidance.
- Reviewed meeting minutes of the Authority's board of commissioners.
- Reviewed the Authority's audited financial statements for fiscal years 2009 and 2010.
- Reviewed the Authority's Recovery Act Capital Fund formula grant agreement, annual plan, and 5-year action plan.
- Reviewed the Authority's procurement records and environmental review reporting.
- Traced obligations and project costs from procurement through HUD's Line of Credit Control System drawdown of funds for eight contracts procured with the Recovery Act formula grant funds.
- Reviewed 100 percent of expenditures made to ensure that disbursement were adequately supported.
- Interviewed Authority staff to determine procurement, contract, accounts payable, and reporting procedures.
- Reviewed the Authority's compliance with energy efficiency requirements.
- Verified that the Authority's Recovery Act reporting was timely, complete, and accurate.
- Conducted site visits of and photographed representative units reflecting the Authority's use of formula grant funds.
- Interviewed HUD Office of Public Housing staff in Fort Worth, TX.

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:

- Controls to ensure that the Authority followed procurement requirements.
- Controls to ensure that payments were properly authorized and allocated to the appropriate source and that the Authority received the goods and services for which it paid.
- Controls to ensure that the Authority met mandated environmental review requirements.
- Controls to ensure that the Authority met Recovery Act and HUD reporting requirements.

We assessed the relevant controls identified above.

A deficiency in internal controls 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.

We evaluated internal controls related to the audit objectives in accordance with generally accepted government auditing standards. Our evaluation of internal controls was not designed to provide assurance regarding the effectiveness of the internal control structure as a whole. Accordingly, we do not express an opinion on the effectiveness of the Authority's internal controls.

APPENDIXES

Appendix A

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

Recommendation number	Unsupported <u>1/</u>
1A	\$16,600
1C	<u>16,799</u>
Total	<u>\$33,399</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.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

WICHITA FALLS HOUSING AUTHORITY

501 Webster Street • P.O. Box 544
Wichita Falls, Texas 76307
(940) 723-8389 • Fax (940) 723-1680
Donna Piper, Executive Director

Thursday, June 16, 2011

Mr. Gerard R. Kirkland
Regional Inspector General for Audit
U.S Department of Housing and Urban Development
Office of Inspector General, Region VI
819 Taylor Street, Suite 13A09
Forth Worth, Texas 76102

Dear Mr. Kirkland,

RE: 06/15/2011 OIGS Draft Audit Report

Per your request, please find below the written response to the 06/15/2011 draft audit report.

Should you have any questions, please do not hesitate to contact Donna Piper, Executive Director, at (940)723-8389.

Sincerely,

//signed//
Donna Piper,
Executive Director

Enclosure(s)

1 A. Support for the contract amount of \$16,600 for asbestos monitoring or reimburse this amount to the U.S. Treasury.

Wichita Falls Housing Authority has older housing units that frequently require the use of asbestos related services for most of its construction projects.

Asbestos monitoring consulting services fall under a highly specialized field that includes the testing of air samples to detect asbestos particles before, during and after an asbestos abatement project according to established methods and protocols to evaluate the hazard potential of asbestos exposure.

The Texas Asbestos Health Protection Rule (TAHPR) regulates asbestos abatement or any asbestos-related activities in public buildings in order to control and minimize public exposure to airborne asbestos fibers.

Per the Texas asbestos rules, policies and regulations found in the Texas Administrative Code (Title 25, Part I, Chapter 295, Subchapter C, Rule § 295.48),

“(a) a company employing an individual asbestos consultant and one or more additional asbestos consultants, inspectors, project managers, or air monitor technicians must be licensed as an asbestos consultant authority. Consultant organizations desiring to be licensed as asbestos consultant agencies shall designate one or more individuals licensed as asbestos consultants as their responsible persons, who shall be either principals or employees, and who shall have responsibility for the organization's asbestos activity.

(b) a licensed asbestos consultant authority is specifically authorized to employ asbestos consultants, asbestos project managers, asbestos inspectors and management planners, and air monitoring technicians who are currently licensed under these rules to assist in the conduct and fulfillment of the authority's asbestos consultation activity, as necessary.”

Comment 1 Within the immediate vicinity of Wichita Falls, there is only one known asbestos consultant agency with a local office that employs and/or subcontracts a multitude of licensed individuals that can provide those services. All other asbestos individuals and or consultant agencies that could provide those types of services have offices that are located outside of the area with the closest one being roughly 120 miles away from Wichita Falls.

Comment 1 In the past, the Wichita Falls Housing Authority has sought to obtain a reasonable number of quotes to procure asbestos monitoring services by means of advertisement and/or direct solicitation. This method of procurement did not produce a reasonable number of quotes since very few contractors were interested in bidding for jobs in our area. A trend developed where a given individual was either employed or subcontracted by Lambert & Associates (the local asbestos monitoring consultant agency) and/or the local consultant agency was the only bidder or the lowest bidder, with bids substantially lower than its competitors. Given the nature of the business involved, the authority's historical knowledge of the industry as well as prior

procurement outcomes for asbestos monitoring services in our area, the authority moved towards direct solicitation of vendor and/or the sole-source method of procurement for those services.

Roughly three years ago, Wichita Falls Housing Authority started a renovation project to upgrade its HVAC units which again, required the procurement of services in the field of asbestos monitoring. Based on its prior knowledge of the industry, the authority selected the direct solicitation method for the project. Besides the local contractor, only one contractor located outside of the area submitted a bid over the phone to the authority's architect and engineering (A/E) firm which was substantially higher. The difference in the price might have been attributed to additional costs such as per diem, travel, and lodging that the contractor would have had incurred for the length of the project.

Comment 1 Prior to starting the project, Wichita Falls Housing Authority already had in place a procurement procedure that defined the rules for competitive and non-competitive proposals (sole-source). A cost analysis and estimation of asbestos related services for the HVAC project was discussed between the authority and its A/E firm prior to the procurement. The authority had set aside in its budget funds to account for those services based on those discussions and its knowledge of prior asbestos projects.

Thus, based on a good faith review of asbestos monitoring services in the area, current and historical bids for those services and all other pertinent information available at the time, the authority and its contracted A/E service firm was able to determine that the local contractor was the only qualified vendor to offer this type of service in the most competitive way.

Comment 1 In conclusion, the Wichita Falls Housing Authority selection was based on a good faith review of available service providers and management discussions and analysis of those services. In addition, past and current competitive bids that have been submitted in earlier construction phases and projects were also taken into consideration.

In the future, the authority will implement a contract tracking procedure that will be included in the budget process with checks and balances that will ensure that all documentation, rules and regulations are in place before, during and after the procurement of services.

1 B. Develop a procedure to ensure that it solicits competitive bids for purchases or follows its sole source procedures when applicable.

Comment 2 Wichita Falls Housing Authority already has in place a procedure that sets out the rules and regulations for procurement which includes competitive and non-competitive proposals (sole-source). However, in addition to the procedure, WFHA will develop and/or incorporate in its budget tracking templates a section that will enable the Authority to better monitor its procurement policy. This will include checklists and other key procedures that will test all its adopted procurements standards against budget and contractual activities. Furthermore, the Authority will also develop and implement grant management

procedures that will encompass all aspects of grant management based on known rules, laws and regulations as well as standard and industry best practices.

1 C. Provide justification and support for not purchasing Energy Star or FEMP compliant water heater to HUD for its determination of whether the documentation is sufficient to support the cost effectiveness of the \$16,799 in water heater purchases since the Authority's determination was made after the purchase. If the amounts are not supported, HUD should recapture the \$16,799 and reimburse it to the U.S. Treasury.

The Wichita Falls Housing Authority had elected to purchase Energy Star Water Heaters and could not find any at its targeted price range. The decision was made to purchase 40 gallons electric water heaters based on historical purchases and usages for all the project units with the exception of its 1 bedroom units that uses 30 gallons water heaters.

Comment 3

The authority had no previous knowledge of FEMP guidelines for electric water heaters prior to this audit. The purchase was made solely based on the search for Energy Star rated appliances at a price that the authority could afford at the time. Had the authority have known about the cost justification required to comply with the FEMP guidelines, it would have done a cost analysis prior to procuring the hot water heaters to justify the purchase. However, based on the high cost of FEMP compliant electric water heaters and the funding available at the time, the authority would have still bought the same water heaters.

The authority would like to reiterate its May 2011 cost justification to support its reasoning for purchasing the noncompliant electric water heaters on the basis of its lack of awareness of FEMP requirements prior to the purchase and the unavailability of affordable FEMP compliant as well as Energy Star rated electric water heaters.

OIG Evaluation of Auditee Comments

- Comment 1** The Authority said it procured the asbestos monitor based on its past experience and a good faith review of asbestos monitoring services in the area. It stated it had sole source procurement policies. However, the Authority had two options. It could have followed competitive procurement procedures or it could have followed sole procurement requirements. Neither option was properly followed. Further, the Authority did not clearly document in its procurement files the process it stated in its response. The Authority's implementation of a contract tracking procedure with checks and balances should help it ensure that all documentation, rules and regulations are in place both before and after the procurement of services.
- Comment 2** We acknowledge the Authority's willingness to develop and implement grant management procedures that encompass HUD regulations.
- Comment 3** The Authority admitted it did not follow the Federal Energy Management Program in its water heater purchases. It provided a cost analysis that appeared to support the purchase of the water heaters. HUD will need to determine whether the cost justification is acceptable since it was made after the fact.