



The City of Cedar Rapids, IA
CDBG Disaster Recovery Program



U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
OFFICE OF INSPECTOR GENERAL

Issue Date: October 23, 2012

Audit Report Number: 2013-KC-1001

TO: Yolanda Chavez, Deputy Assistant Secretary for Grant Programs, DG

//signed//

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

SUBJECT: The City of Cedar Rapids, IA, Did Not Ensure a Competitive Procurement Process and Did Not Properly Execute Its CDBG Disaster Recovery-Funded Contracts

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), final results of our review of the City of Cedar Rapids, IA.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8L, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at (913)-551-5870.



October 23, 2012

The City of Cedar Rapids, IA, Did Not Ensure a Competitive Procurement Process and Did Not Properly Execute Its CDBG Disaster Recovery-Funded Contracts

Highlights

Audit Report 2013-KC-1001

What We Audited and Why

We audited the City of Cedar Rapids, IA's property acquisition program. We selected the City for review based on a citizen's hotline complaint and the amount of disaster funding received by the City. During fiscal years 2008 through 2011, the City's property acquisition program was awarded more than \$125 million in disaster funding. Our audit objective was to determine whether the City (1) expended its Community Development Block Grant (CDBG) Disaster Recovery program grant funds for property acquisition in accordance with Federal regulations and (2) complied with all contract procurement regulations.

What We Recommend

We recommend that the U.S. Department of Housing and Urban Development (HUD) work with the State to ensure that the City (1) develops and implements detailed operational procedures that fully implement its procurement policy and complies with its ordinances, (2) justifies more than \$9.3 million in spent funds or reimburses the unsupported amount to the program, (3) justifies more than \$2.8 million in unspent funds or cancels the use of unsupported funds, and (4) modifies the contracts to include all of the required contract provisions.

What We Found

The City generally expended its CDBG Disaster Recovery grant funds for property acquisition in accordance with applicable Federal regulations. However, it did not ensure a competitive procurement process and did not properly execute its CDBG Disaster Recovery-funded contracts. It (1) did not adequately advertise requests for proposals for its two professional services contracts, (2) did not establish the cost reasonableness of two contracts totaling more than \$12.2 million, (3) executed one contract before obtaining city council authorization, and (4) did not include all required provisions in the contracts. The City lacked detailed operational procedures, including checklists, to ensure it adhered to applicable procurement regulations.

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BACKGROUND AND OBJECTIVE

In May 2008, the Federal Emergency Management Agency declared various counties in the State of Iowa as disaster areas as a result of severe storms and flooding. The disaster declaration allowed those counties to receive Federal aid from certain Federal agencies. In the late spring and early summer of 2008, the State suffered a series of disastrous tornadoes, followed by record-breaking floods. In some cases, the same community was hit by both events. Among the larger communities, Cedar Rapids, Iowa's second largest city, was especially hard hit. An estimated 1,300 blocks in Cedar Rapids were flooded to the point that repair or rehabilitation was difficult or impossible.

The U.S. Department of Housing and Urban Development (HUD) awarded more than \$890 million in disaster funding through its Community Development Block Grant (CDBG) Disaster Recovery program. The award was to help the State recover from the disastrous events. The State developed plans for using the Federal Disaster Recovery funds, and the plans and amendments to the plans were approved by HUD. The State was required to ensure that all contracts funded under the Disaster Recovery allocation were carried out in accordance with Federal and State rules and regulations. It distributed a substantial portion of those funds for planned activities in the areas of housing buyouts, housing production, and infrastructure projects.

The State tasked the Iowa Department of Economic Development with administering its Disaster Recovery activities. In part, the Department's mission is to enhance the economic development of the State by providing direct financial and technical assistance; providing training to businesses and individuals; and coordinating other Federal, State, and local economic development programs.

During calendar years 2009 through 2012, the Department awarded the City of Cedar Rapids more than \$166 million of its CDBG Disaster Recovery grant funds. The funds were to help the City recover from the disastrous events by funding its voluntary property acquisition (buyout) program. The buyout program was meant to assist property owners in relocating their homes and businesses outside areas threatened by flooding. The City, in turn, subcontracted the administration of its buyout program to private entities, some of which joined forces to submit one single proposal. The City was required to ensure that all contracts funded under the Disaster Recovery allocation were carried out in accordance with Federal and State rules and regulations.

The Office of Inspector General (OIG) received a citizen's complaint containing general allegations related to misuse of CDBG Disaster Recovery grant funds. We concluded that the city generally expended its CDBG Disaster Recovery grant funds for property acquisitions in accordance with applicable Federal regulations; however, we did note issues with the city's procurement process, as detailed in Finding 1.

The objective of our review was to determine whether the City

- Expended its CDBG Disaster Recovery grant funds for property acquisition in accordance with applicable Federal regulations and
- Complied with all applicable contract procurement regulations.

RESULTS OF AUDIT

Finding: The City Did Not Ensure a Competitive Procurement Process and Did Not Properly Execute Its CDBG Disaster Recovery-Funded Contracts

The City did not ensure a competitive procurement process and did not properly execute its CDBG Disaster Recovery-funded contracts. It (1) did not adequately advertise requests for proposals for its two professional services contracts, (2) did not establish the cost reasonableness of two contracts totaling more than \$12.2 million, (3) executed one contract before obtaining city council authorization, and (4) did not include all required provisions in the contracts. The City lacked detailed operational procedures, including checklists, to ensure it adhered to applicable procurement regulations. As a result, the State and HUD lacked assurance that the City received the best value for nearly \$12.2 million spent on the procurement contracts.

The City Did Not Adequately Advertise Its Contracts

The City did not adequately advertise its two CDBG Disaster Recovery-funded professional services contracts in the newspaper as required by its procurement manual. The City's procurement manual requires a more formal request for bids or proposals for purchases over \$10,000. In part, it requires its purchasing department to use the City's bid list for products or services and advertise bids or proposals in the newspaper as part of the procurement process.

During calendar year 2009, the City solicited proposals from private companies for two separate contracts to provide professional services for the administration of its voluntary property acquisition (buyout) program. For both contracts, one in May and the other in September, the City solicited proposals from companies on its bid list via email and posted the request for proposals on its Web site. However, it did not advertise the requests for either contract in the newspaper. The contracts totaled nearly \$70,000 and more than \$4.8 million, respectively.

The City Did Not Establish the Cost Reasonableness of Its Contracts

The City did not establish the required cost reasonableness of two contracts that totaled more than \$12.2 million. Regulations at 24 CFR (Code of Federal Regulations) 85.36(f) required the City to perform a cost or price analysis in

connection with every procurement action, including contract modifications. A cost analysis is necessary when adequate price competition is lacking and for sole-source procurements, including contract modifications or change orders, unless the price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on the prices set by law.

For the first contract, a professional services contract estimated to cost more than \$4.8 million, the City solicited proposals from 12 companies on September 16, 2009. Three of the companies joined forces to submit the only proposal received. The City then awarded the contract to the three companies without performing an independent cost estimate or a detailed cost analysis to determine the cost reasonableness of the contract price.

The City also executed six contract modifications to this contract, increasing the contract cost to more than \$12 million, without performing independent cost estimates and cost analyses. As of June 12, 2012, the City had spent more than \$9.3 million of the master contract amount of \$12 million.

For the second contract, estimated to cost nearly \$70,000, the City did not perform a required independent cost estimate or detailed cost analysis. It solicited proposals from private companies to provide professional intake services for its buyout program on May 14, 2009, and received four proposals. The City then awarded the contract to the lowest bidder without performing an independent cost estimate or cost analysis for each of the proposals to determine the cost reasonableness of the contract price.

The City also performed six separate contract modifications to this contract, increasing the contract cost to more than \$184,000, without performing independent cost estimates and price analyses. As of March 5, 2012, the City had spent more than \$176,000 of its own money on this contract and requested HUD approval to be reimbursed with CDBG Disaster Recovery grant funds.

The City Improperly Executed One Contract

The City executed one contract before obtaining city council authorization. City ordinance section 4.03(d) requires the city council to authorize the making of all contracts. In part, it states that no contract “shall bind or be obligatory upon the City unless either made by ordinance or resolution adopted by the Council, or reduced to writing and approved by the Council, or expressly authorized by ordinance or resolution adopted by the Council.” Section 5.02(b) permits the City manager to execute contracts on behalf of the City when authorized by the council.

A former city manager executed a professional services contract for nearly \$4.8 million before obtaining the required city council authorization. The manager executed the contract on February 4, 2010, and city council authorization for the city manager to sign the contract was granted on February 10, 2010.

Contracts Did Not Contain All Required Provisions

For the two professional service contracts, the City did not include all contract provisions required by regulations at 24 CFR 85.36(i). For example, the contracts did not contain provisions related to notice of awarding agency requirements and regulations pertaining to reporting. In addition, one of the contracts did not contain the provision related to compliance with all applicable standards, orders, or requirements issued under the Clean Air and Clean Water Acts, including the Environmental Protection Agency regulations relating to energy efficiency.

The City Lacked Operational Procedures

The City lacked detailed operational procedures to implement applicable procurement regulations, including checklists to ensure that its staff (1) advertised requests for proposal for its Disaster Recovery-funded contracts in the newspaper, (2) established the cost and price reasonableness of the contracts, and (3) obtained written approval from the city council before executing contracts, included language in the contracts stating that a contract is not valid until receiving city council approval, or added an additional signature block within the contracts requiring a city council member's signature.

The City Did Not Ensure the Best Value for Procurement Activities

As a result of the issues discussed above, the State and HUD could not be assured that the City received the best value and greatest overall benefit for nearly \$12.2 million spent on its procurement contracts. Further, the City put its Disaster Recovery funds at risk by executing its professional services contract before obtaining city council authorization.

Recommendations

We recommend that HUD's Deputy Assistant Secretary for Grant Programs work with the State to require the City to

- 1A. Develop and implement detailed operational procedures to ensure that it fully implements its existing procurement policy requiring advertisement of requests for proposals in the newspaper and compliance with its ordinance requiring written approval from the city council before executing contracts.
- 1B. Provide cost justification for one professional services contract, including each of the six contract modifications totaling \$9,355,375 in spent funds, or reimburse the unsupported amount to the State's Disaster Recovery program from non-Federal funds.
- 1C. Provide cost justification for the remaining unspent funds of the professional services contract totaling \$2,670,390 or cancel the use of the grant funds for the unsupported portion of this amount.
- 1D. Provide cost justification for the intake services contract, including each of the six contract modifications totaling \$184,482 in unspent funds. If the City cannot justify this amount, HUD should deny its request for reimbursement using grant funds for the unsupported portion of the contract.
- 1E. Modify the two Disaster Recovery-funded contracts to include all of the required contract provisions.

SCOPE AND METHODOLOGY

Our review period generally covered October 1, 2009, through February 29, 2012. We performed onsite work from March 19 through July 25, 2012, at City Hall located at 101 1st Street Southeast, Cedar Rapids, IA. We performed additional onsite work at one of the consultant's offices located at 417 1st Avenue Southeast, Cedar Rapids, IA.

To accomplish our objective, we reviewed

- Applicable Code of Federal Regulations, the Stafford Act, and Office of Management and Budget circulars;
- Applicable HUD handbooks, the State CDBG Management Guide, and the City's Purchasing Manual;
- Applicable sections of the Iowa Administrative Code and the City's Municipal Code;
- Relevant audit reports and the City's audited financial statements;
- Relevant contracts and related contractor grant agreements;
- Property acquisition and disposition files; and
- City council meeting minutes and agendas.

We also interviewed the hotline complainant and relevant Iowa Department of Economic Development, City, and contractor's staff.

We reviewed a sample of 12 separate property acquisition expenditures out of the 833 that had successfully passed through the City's buyout program by March 2, 2012. We selected a total of 11 expenditures from the CDBG Disaster Recovery grant received by the City and selected the highest amount due to the likelihood of misstatements or the potential for high risk. The first nine expenditures selected for testing were transactions for the acquisition of single-family properties. The additional two expenditures selected for testing were transactions for the acquisition of nonresidential properties. To address a specific allegation contained in the hotline complaint, we selected another single-family property expenditure that was not part of the sample universe for a total of 12 expenditures. The cumulative dollar amount of the expenditures we tested was nearly \$2.9 million out of the more than \$55.7 million in expenditures.

To address additional specific allegations brought to our attention during survey, we reviewed 8 separate property disposition contracts out of the 161 that had successfully passed through the City's property disposition program by June 12, 2012. We selected the eight property disposition contracts from a list of the properties acquired using CDBG Disaster Recovery grant funds received by the City. We selected all of the properties donated to two developers that were specifically identified by the complainant as private entities, the management of which served on the City's Replacement Housing Task Force, which recommended priority use of public funds for housing while influencing the disbursement of or directing public funds to organizations in which they had financial interests. We examined the documents to determine whether the

property disposition activities generally complied with all applicable Federal, State, and local procurement regulations, policies, and procedures. We did not review the expenditures associated with the property dispositions because there were none to review.

We also reviewed the City's procurement process used to select two contractors involved in the administration of the buyout program. The two contractors were the only ones involved in the administration of professional services for the City's buyout program. The total dollar amount of the two contracts was more than \$12.2 million.

We relied on computer-processed data provided by the City and one of the contractors that managed the buyout program. We performed sufficient tests of the data using data analysis techniques, and based on the assessments and testing, we concluded that the data were sufficiently reliable to be used in meeting our objective.

We performed our review 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 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 objective:

- Controls over the procurement of goods and services

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 Deficiencies

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

- The City lacked detailed operational procedures for implementing applicable procurement regulations to ensure that its staff advertised requests for proposals for its Disaster Recovery-funded contracts in the newspaper and established the cost and price reasonableness of the contracts.
- The City lacked sufficiently detailed operational procedures, including checklists, requiring its manager to obtain written approval from the city council before executing contracts or including language in the contract stating that a contract is not valid until authorized by the city council.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Unsupported 1/
1B	\$9,355,375
1C	\$2,670,390
1D	\$184,482

- 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

Comment


October 11, 2012
Ronald J. Hosking Regional Inspector General for Audit HUD Office of Inspector General Gateway Tower II 400 State Avenue, Suite 501 Kansas City, KS 66101
Mr. Hosking:
This is the City of Cedar Rapids, Iowa written response to the proposed audit report of the City's property acquisition program from U.S. Department of Housing and Urban Development Office of Inspector General (HUD - OIG).
HUD – OIG received a citizen's complaint containing general allegations related to misuse of CDBG Disaster Recovery grant funds and has concluded that the city generally expended its CDBG Disaster Recovery grant funds for property acquisition in accordance with applicable Federal regulations.
City Response: The City is in agreement with HUD – OIG finding regarding the citizen complaint.
During the audit of CDBG Disaster Recovery grant funds HUD – OIG reported one finding and has made recommendations (1A through 1E). The City has outlined its response to each recommendation below:
1A. HUD – OIG Recommendation: Develop and implement detailed operational procedures to ensure that it fully implements its existing procurement policy requiring advertisement of request for proposals in the newspaper and compliance with its ordinance requiring written approval from the city council before executing contracts.
City Response: The City will establish a procurement check list to ensure the procurement process is being followed and has updated its procurement process changing advertising of bids in the newspaper to advertising of bids on the City's website in order to obtain a larger pool of bids.
The City considers execution of contracts not being official until approved by City Council as outlined under Municipal Code Section 4.03 section (d) which states: The Council shall make or authorize the making of all contracts, and no contract shall bind or be obligatory upon the city unless either made by ordinance or resolution adopted by the Council, or reduced to writing and approved by the Council, or expressly authorized by ordinance or resolution adopted by the Council. The City will add language to contracts going forward that specifically states contracts are not valid until after City Council approval per Municipal Code Section 4.03 (d) to eliminate any misinterpretation of when a contract is valid.

Ref to OIG Evaluation

Auditee Comments

1B. HUD – OIG Recommendation: Provide cost justification for one professional services contract, including each of the six contract modifications totaling \$9,355,375 in spent funds, or reimburse the unsupported amount to the State’s Disaster Recovery program from non-Federal funds.

City Response: The City believes the cost are reasonable, but will provide cost justification to HUD for the professional service contract including each of the six contract modifications.

1C. HUD – OIG Recommendation: Provide cost justification for the remaining unspent funds of the Professional services contract totaling \$2,670,390 or cancel the use of the grant funds for the unsupported portion of this amount.

City Response: The City believes the cost are reasonable, but will provide cost justification to HUD for the professional service contract.

1D. HUD – OIG Recommendation: Provide cost justification for the intake services contract, Including each of the six contract modifications totaling \$184,482 in unspent funds. If the City cannot justify this amount, HUD should deny its request for reimbursement using grant funds for the unsupported portion of the contract.

City Response: The City believes the cost are reasonable, but will provide cost justification to HUD for the intake services contract including each of the six contract modifications.

1E. HUD – OIG Recommendation: Modify the two Disaster Recovery-funded contracts to include all of the required contract provisions.

City Response: City will add contract provisions required by regulations at 24 CFR 85.36(i) and will include requirements issued under the Clean Air and Clean Water Acts, including the Environmental Protection Agency regulations relating to energy efficiency.

Thank you for your consideration of these comments as you draft your final report.

Sincerely,



Casey Drew
Finance Director

OIG Evaluation of Auditee Comments

Comment The City agreed with the finding and suggested ways for implementing each of the recommendations. Implementation of the suggested actions should help correct the problems.