



City of Houston's Housing and Community Development Department, Houston, TX

Community Development Block Grant Disaster Recovery Program

**Office of Audit
Fort Worth, TX**

**Audit Report Number: 2021-FW-1002
June 21, 2021**





OFFICE OF INSPECTOR GENERAL
U.S. Department of Housing and Urban Development

To: Stacia Johnson, Director, Community Planning and Development, 6HD

//signed//

From: Kilah S. White,
Assistant Inspector General for Audit, GA

Subject: The City of Houston's Housing and Community Development Department,
Houston, TX, Did Not Always Ensure That Its Program Followed Procurement
Requirements

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the City of Houston's Community Development Block Grant Disaster Recovery 2015 program.

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, appendix 8M, requires that OIG post its reports on the OIG website. Accordingly, this report will be posted at <https://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me or Audit Director Danita Wade at 817-978-9309.

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Highlights

What We Audited and Why

We audited the City of Houston's Community Development Block Grant Disaster Recovery (CDBG-DR) 2015 program. Under this program, the Consolidated Appropriations Acts of 2016 and 2017 made funds available for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization.

We audited this program based upon the U.S. Department of Housing and Urban Development, Office of Inspector General's (HUD OIG) 2019 audit plan priority to review disaster assistance programs.

Our objective was to determine whether the City ensured that it maintained adequate supporting documentation for disbursements and its program complied with procurement requirements.

The City of Houston's Housing and Community Development Department, Houston, TX, Did Not Always Ensure That Its Program Followed Procurement Requirements

What We Found

The City generally ensured that it maintained adequate supporting documentation for disbursements; however, it did not always ensure that its program complied with procurement requirements. Specifically, the City did not always ensure that (1) it procured its master contractor agreements in accordance with competition and other procurement requirements for its home repair program; (2) it and its subrecipients maintained documentation to support that it performed independent cost estimates and cost analyses for its home repair and housing buyout programs; or (3) it and its subrecipients included all contract provisions in awarded contracts for its home repair, housing buyout, and infrastructure programs. This condition occurred because the City did not always understand procurement requirements and ensure that its subrecipients understood and followed requirements and had adequate controls and procedures. As a result, the City could not (1) show that it awarded 12 contracts worth more than \$10 million in a manner that allowed for unrestricted competition and provided the most advantage to it and HUD, (2) support the cost reasonableness of more than \$1.2 million in contract disbursements, and (3) provide reasonable assurance to HUD that it had adequate procurement control systems to ensure the proper administration and expenditure of disaster funds.

What We Recommend

We recommend that HUD require the City to (1) support that it awarded contracts without restriction and in a manner advantageous to it and HUD or put the more than \$9.7 million in contract awards to better use, (2) support or repay more than \$1.2 million in contract disbursements, and (3) develop and implement written procedures and take actions to better ensure that it and its subrecipients meet all program procurement requirements.

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Background and Objectives

The Consolidated Appropriations Acts, 2016,¹ and the Consolidated Appropriations Act, 2017,² made available \$641.2 million in funds for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization. On June 17, 2016, the U.S. Department of Housing and Urban Development (HUD) directly allocated more than \$66.5 million in Community Development Block Grant Disaster Recovery (CDBG-DR) 2015 program funds to the City of Houston,³ and on August 7, 2017, it directly allocated additional funds totaling more than \$20.5 million.⁴ Federal Register Notices⁵ required the City to submit risk analysis documentation to show, in advance of signing a grant agreement, that it had proficient controls, procedures, and management capacity. This requirement included demonstrating financial controls, procurement processes, and adequate procedures to prevent a duplication of benefits as defined by Section 312 of the Stafford Act. The Federal Register Notices also required the City to submit an action plan⁶ detailing its proposed use of the funds.

The City's Housing and Community Development Department is responsible for the oversight, administration, and implementation of the disaster programs under this allocation. The City provided its risk analysis to HUD on July 22, 2016, showing that it had adequate processes and procedures to administer its disaster programs. The action plan, dated September 19, 2016, stated that the City would use the funding for (1) home repairs, (2) housing buyout, and (3) infrastructure. HUD executed a grant agreement with the City on December 7, 2016, for more than \$66.5 million, and it amended the agreement on March 7, 2018, to include additional funds totaling more than \$20.5 million. In the agreement, HUD required the City to comply with all Federal Register requirements under the Acts.

The City implemented its home repair program. To assist with implementation, the City executed an interlocal agreement⁷ with the Harris County Flood Control District for its housing buyout program in October 2017 and a letter of agreement with the City's Department of Public Works for its infrastructure program in August 2017, which was amended in April 2019. Both agreements, considered subrecipient agreements, required these entities to follow all program requirements and the City to review all documentation before closing and issuing payment. In addition, Federal regulations⁸ held the City responsible for ensuring that its funds would be used in accordance with all program requirements and determining the adequacy of performance under subrecipient agreements and procurement contracts and for taking appropriate action when

¹ Public Law 114-113, dated December 18, 2015

² Public Law 115-31, dated May 5, 2017

³ 81 Federal Register (FR) notice 117, page 39687 (June 17, 2016)

⁴ 82 FR 150, page 36812 (August 7, 2017)

⁵ 81 FR 117, page 39687 (June 17, 2016), section III

⁶ 81 FR 117, page 39687 (June 17, 2016), section I, and 82 FR 150, page 36812 (August 7, 2017), section I(A)

⁷ The City defines an interlocal agreement as an agreement between one or more government entities for the purpose of performing governmental functions and services.

⁸ 2 CFR (Code of Federal Regulations) 200.302(a), 303(b), 328(a), 331(d), and part 326

performance problems arose. The City had obligated and disbursed the following amounts for its and its subrecipients' program as shown in table 1.

Table 1: CDBG-DR 2015 programs and funding as of October 13, 2020

Grantee or subrecipient	Program	Amount obligated	Amount spent
City	Housing - home repair	\$12,000,000	\$2,451,220
Harris County	Housing buyout	10,660,000	3,005,168
Public Works	Infrastructure – public facilities and improvements	59,880,907	2,051,190
Totals		82,540,907	7,507,578

Our objective was to determine whether the City ensured that it maintained adequate supporting documentation for disbursements and its program complied with procurement requirements.

Results of Audit

Finding 1: The City Did Not Always Ensure That Its Program Complied With Procurement Requirements

The City did not always ensure that its program complied with Federal procurement requirements. Specifically, it did not always ensure that (1) it procured its master contractor agreements in accordance with competition and other procurement requirements for its home repair program; (2) it and its subrecipients maintained documentation to support that it performed independent cost estimates and cost analyses for its home repair and housing buyout programs; or (3) it and its subrecipients included all contract provisions in awarded contracts for its home repair, housing buyout, and infrastructure programs. This condition occurred because the City did not always understand procurement requirements and ensure that its subrecipients understood and followed requirements and had adequate controls and procedures. As a result, it could not (1) show that it awarded 12 contracts worth more than \$10 million⁹ in a manner that allowed unrestricted competition and provided the most advantage to it and HUD, (2) support the cost reasonableness of more than \$1.2 million in contract disbursements, and (3) provide reasonable assurance to HUD that it had adequate control systems to ensure the proper administration and expenditure of disaster funds.

The City Did Not Always Ensure That It Procured Its Master Contractor Agreements in Accordance With Procurement Requirements for Its Home Repair Program

The City did not always ensure that it followed procurement requirements when it procured its master contractor agreements for its home repair program. Federal regulations prohibited the City from restricting competition by making arbitrary actions in the procurement process.¹⁰ Federal regulations also stated that price could be excluded from consideration only for architectural and engineering contracts.¹¹ However, a review of the master contractor agreements that the City executed under its home repair program determined that it did not always follow these requirements.

The City conducted a procurement to generate a prequalified contractors list for its home repair program, for which 24 potential contractors submitted bids. From this procurement, the City selected 12 contractors (see appendix C) for its prequalified contractors list, and it executed master contractor agreements with each contractor.

⁹ To determine the amount of funds to be put to better use of more than \$9.7 million, we used the contract award amounts for the 12 prequalified contractors totaling \$10.8 million as of September 30, 2019, minus the unsupported amount as of October 2020 totaling more than \$1 million.

¹⁰ 2 CFR 200.319(a), 200.319(a)(7), and 200.319(c)(2). The procurement process begins with the independent cost estimate and ends when the contracts are executed.

¹¹ 2 CFR 200.320(d)(5)

A review of the file documentation for this procurement determined that the City took arbitrary actions when it made changes to the scoring mechanisms and process. The changes made to the scoring mechanisms were different from the specific weight per factor disclosed in the original bid solicitations provided to potential bidders. Specifically, it (1) increased the technical weighted factor from 35 to 40 points in section 2.2¹² of the request for proposal during the evaluation process and (2) did not complete the pass-fail section for bidder responsiveness for any of the 24 bidders. In addition, the City did not consider any of the price proposals, worth 15 points, submitted by the 24 bidders during the scoring process,¹³ violating HUD requirements. Specifically, a review of the scoring sheets determined that the City did not put a score for any of the contractors in the price category. Because these were not architectural or engineering contracts, HUD prohibited the City from excluding price as a factor. When asked for the price proposals, the City stated that it no longer had the price proposal documentation¹⁴ because the project manager left the City without saving the documentation on a shared drive and the hardcopies were lost in two moves since the procurement was conducted.

The City stated that it no longer had the price proposal documentation.

The City did not document the reasons for these arbitrary actions/changes in the scoring process and did not notify the 24 bidders of these actions. To add to this, the City initially awarded each contractor equal amounts (\$900,000 per contract). However, after the initial award; although the overall total remained \$10.8 million, the City reduced the award amount for some contracts and increased the award amount for other contracts. For example, it increased one contract to nearly \$2.3 million as of January 2019. When asked about the increased award amounts, the City stated that it would, on a contract-by-contract basis, transfer unallocated funds to fund contracts if it had insufficient funds available. Without maintaining the price proposal documentation, the City could not assure HUD that it procured its Home Repair Program in accordance with requirements. Although we did not find evidence of any contractors receiving preferential treatment, we were unable to determine if these service contracts were the most advantageous for the City and HUD.

Therefore, the City could not support that it awarded these 12 contracts worth \$10.8 million¹⁵ without taking actions restrictive of competition,¹⁶ as required.

¹² Section 2.2 covers qualifications and requirements related to the proposal, including (1) the quality of the detailed proposal, (2) client references, and (3) experience complying with the Davis-Bacon Act and Section 3 of the HUD Development Act of 1968.

¹³ Under 2 CFR 200.320(d)(5), price proposals may be excluded only for architectural and engineering contracts.

¹⁴ 2 CFR 200.318 (i) required the City to maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

¹⁵ To determine the amount of funds to be put to better use of more than \$9.7 million, we used the contract award amounts for the 12 prequalified contractors, totaling \$10.8 million as of September 30, 2019, minus the unsupported amount as of October 2020 totaling more than \$1 million.

¹⁶ 2 CFR 200.319(a)

The City Did Not Always Maintain Documentation Supporting That It Assessed Cost Reasonableness In Its Subcontracting Procurement Process

The City did not always ensure that it maintained documentation to support that it assessed cost reasonableness before receiving bid proposals and awarding contracts for home repairs. To support the cost reasonableness of contracts, Federal regulations stated that the City must perform independent cost estimates **before** receiving bids or proposals.¹⁷

The master contractor agreements (discussed in the section above) allowed the 12 prequalified contractors to bid on individual homes needing repairs under the home repair program, under a separate procurement. During our audit period, the City awarded 13 home repair contracts to 5 of the 12 prequalified contractors,¹⁸ under this separate procurement. A review of the procurement documentation determined that for four contractors and seven contracts, the City generally ensured that it followed procurement requirements. However, for the remaining one contractor, who was awarded 8 contracts, the City did not have documentation to support that it performed independent cost estimates for six of those contracts, with disbursements totaling \$1,063,364, before receiving bids or proposals or awarding the contracts. When asked, the City provided a valuation report, which included the cash value of the property and the value of the property with estimated replacement costs. However, the City did not prepare the valuation report, dated until almost 5 months after it received the bid proposals and almost 1 month after the contract award date, violating HUD requirements. Without the historical valuation and cost estimate amounts, we were unable to determine the cost reasonableness of more than \$1 million disbursed to this contractor, at the time of our audit. HUD will need to make the determination of cost reasonableness.

The City Did Not Ensure That It or Its Subrecipient Performed Independent Cost Estimates and Cost Analyses for Its Housing Buyout Program

The City did not always ensure that it or its subrecipient, Harris County, maintained documentation to support that it performed independent cost estimates and cost analyses. For its housing buyout program, the City executed a subrecipient agreement with Harris County. This agreement required Harris County to follow all program requirements and the City to review all procurement documentation before issuing payment. In addition, Federal regulations held the City responsible for ensuring that its subrecipients used funds in accordance with all program requirements.¹⁹

To support the cost reasonableness of contracts, Federal regulations required (1) independent cost estimates before receiving bids or proposals and (2) a cost or price analysis in connection with every procurement action.²⁰ However, a review of procurement file documentation determined that neither the City nor Harris County had documentation to support that it met these requirements for one demolition services contract and three appraisal services contracts.

¹⁷ 2 CFR 200.323(a)

¹⁸ Seven of the contractors from the prequalified contractors list had not received contract awards.

¹⁹ 24 CFR 570.501(b) and 2 CFR 200.328(a) and 200.331(d)

²⁰ 2 CFR 200.323(a)

For the demolition contract, with disbursements totaling \$170,066, the procurement file did not include adequate documentation of an independent cost estimate and a cost analysis for a contract price increase. Specifically, while the procurement file documentation included an independent cost estimate, it was \$1.8 million less than the cost estimated in the bid documentation and, thus, insufficient to support the estimated cost. In addition, the file did not include documentation of a cost analysis for an executed contract amendment that increased this contract amount by \$1.7 million.

For the three appraisal contracts, with disbursements totaling \$27,250, the procurement file documentation did not include cost analyses for contract amendments executed with existing appraisers²¹ to provide services under the housing buyout program and increasing the original contract amount. Therefore, the City could not support the cost reasonableness of the \$170,066 and \$27,250, respectively, paid on these four contracts.

The City's and Its Subrecipients' Contracts Did Not Always Include All Required Contract Provisions for Its Home Repair, Housing Buyout, and Infrastructure Programs

Although required by Federal regulations,²² the City did not always ensure that contracts executed by it and its subrecipients, Harris County and Public Works, included all contract provisions, which may prevent the City from enforcing required contract provisions. Specifically, contracts executed under the City's home repair, housing buyout, and infrastructure programs did not always include all required contracts provisions, such as equal employment opportunity, the Davis-Bacon and Anti-Kickback Acts, the Contract Work Hours and Safety Standards Act, the Clean Air Act, and the Anti-Lobbying Amendment, as required.²³ In addition, although required by the City's procurement policy, it did not attach appendix A,²⁴ which would have fulfilled the missing contract requirements.

The City Did Not Understand Requirements and Did Not Ensure That Its Subrecipients Had Adequate Controls and Procedures

The City did not always understand procurement requirements and ensure that its subrecipients understood and followed requirements and had adequate controls and procedures. Specifically, the City incorrectly believed that it did not have to perform cost analyses for professional services contracts because these types of contracts could be procured noncompetitively.

In addition, federal regulations required the City to monitor the activities of its subrecipients.²⁵ The City's agreements with its subrecipients also required the City to review documentation for its program activities. While the City monitored its subrecipients, Harris County and Public

²¹ Of the three appraisal contracts, one was dated in 2008 with a 2-year term and 4-year contract renewals; one was dated in 2014 with a 2-year renewal that ended in 2016 but allowed automatic annual 1-year extensions after 2016; and one was dated in 2008, amended in 2014 to end in 2016, but with annual extension options.

²² 2 CFR 200.326

²³ 2 CFR 200.326 and 2 CFR Part 200, Appendix II, Required Contract Clauses

²⁴ Procurement Policy Appendix A, effective August 29, 2013, and signed July 21, 2016, covered all of the contract provisions required by Federal regulations and would have satisfied the requirement.

²⁵ 2 CFR 200.331(d)

Works,²⁶ the monitoring reviews were insufficient, as the reviews were limited in scope; consisted of only desk reviews; and did not identify the missing independent cost estimates, cost analyses, and required contract provisions.

In addition, the City did not ensure that Harris County had adequate policies and procedures. When asked, Harris County stated that it used its May 2013 policies and procedures to execute procurements, which did not address contract provisions. While these policies required a determination of cost reasonableness, they did not specifically address the procedures for conducting independent cost estimates. Harris County also (1) did not know that this determination required a cost analysis; (2) believed that cost analyses were not required before 2018; and (3) stated that it made procurements for the entire organization and not specific to any grant award, although it should follow the requirements outlined in each individual grant award.

Conclusion

Because the City did not always ensure that it and its subrecipients understood and followed program requirements and its subrecipients had adequate controls and procedures, it could not support that it sufficiently evaluated bid proposals, prepared independent cost estimates before the bidding process, performed cost analyses for contract modifications, and included required contract provisions. As a result, the City could not (1) show that it did not restrict competition and ensured the most advantageous situation for it and HUD when awarding 12 contracts worth more than \$10²⁷ million, (2) support the cost reasonableness of more than \$1.2 million in contract disbursements, and (3) provide reasonable assurance to HUD that it had adequate procurement control systems to ensure the proper administration and expenditure of disaster funds.

Recommendations

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

- 1A. Provide documentation, including but not limited to showing that it (1) notified and allowed a response from bidders regarding the bidding and scoring processes; and (2) awarded home repair master agreement contracts without restriction and were in line with the bid evaluation requirements, or provide a documented re-evaluation of the procurement showing that it provided the best advantage to it and HUD, thereby putting the remaining \$9,736,636 award amount to better use.
- 1B. Support \$1,063,364 or repay its CDBG-DR program from non-Federal funds for payments made to one prequalified contractor under its home repair program without independent cost estimates and cost analyses.

²⁶ The City's monitoring division completed one monitoring review of Harris County in March 2019. The City's monitoring division completed one monitoring review of Public Works in January 2019.

²⁷ To determine the amount of funds to be put to better use of more than \$9.7 million, we used the contract award amounts for the 12 prequalified contractors, totaling \$10.8 million as of September 30, 2019, minus the unsupported amount as of October 2020 totaling more than \$1 million.

- 1C. Support \$170,066 or repay its CDBG-DR program from non-Federal funds for payments made to the demolition contractor under its housing buyout program without independent cost estimates and cost analyses.
- 1D. Support \$27,250 or repay its CDBG-DR program from non-Federal funds for payments made to three appraisal contractors under its housing buyout program without cost analyses.
- 1E. Develop and implement a HUD-approved written plan and checklists that will correct and prevent the deficiencies outlined in the finding.
- 1F. Provide training to City staff to ensure that it understands and follows procurement requirements, such as performing independent cost estimates, cost analysis, scoring, including all contract provisions, ensuring that subrecipients understand and follow procurement requirements, and maintaining appropriate procurement documentation.
- 1G. Update its procurement policies and procedures to ensure compliance with disaster assistance program requirements
- 1H. Ensure that monitoring includes a review of its subrecipients' (1) policies and procedures to ensure that the policies and procedures are current and comply with HUD requirements, (2) documentation supporting cost reasonableness to ensure that the documentation is sufficient, and (3) training provided regarding procurement and other program requirements to ensure that trainings are adequate.

Scope and Methodology

We conducted our audit at the City's office in Houston, TX, and the HUD Office of Inspector General's (OIG) offices in Houston, TX, and New Orleans, LA, between October 2019 and October 2020. Our audit scope generally covered the City's CDBG DR 2015 program for the period December 1, 2016, through September 30, 2019. We expanded the audit period to October 13, 2020, to obtain updated disbursement data, as needed, to accomplish our audit objective.

To accomplish our objective, we

- Reviewed relevant laws, regulations, and program guidance.
- Reviewed HUD's and the City's grant agreement, dated December 7, 2016, and March 7, 2018 (amended).
- Reviewed HUD's monitoring reports, dated September 18, 2018, and September 27, 2019.
- Reviewed the City's organizational structure and written policies for the program.
- Reviewed the City's audited financial statements for 2015, 2016, 2017, and 2018.
- Reviewed the City's 2016, 2017, 2018, and 2019 action plans, and action plan amendments as applicable.
- Reviewed the City's program procurement documentation and its subrecipients'²⁸ program procurement documentation as applicable.
- Reviewed the City's expenditure files.
- Reviewed the City's monitoring reports on its subrecipients.²⁹
- Reviewed HUD's Disaster Recovery Grant Reporting system³⁰ reports.
- Interviewed HUD officials to obtain an understanding of the program.
- Interviewed City officials to obtain an understanding of the City's program processes.
- Interviewed the City's subrecipient staff to obtain clarification regarding certain documentation.

For the procurement file review, from a universe of seven procurements for the City's home repair, infrastructure, and housing buyout programs,³¹ with contract award amounts totaling nearly \$17.6 million and disbursements totaling more than \$3.8 million as of September 30, 2019, we selected all of the procurements for review. We reviewed the procurement files to determine whether the City ensured that it followed procurement requirements. Through the file reviews, we assessed the reliability of the City's computer-processed data regarding the

²⁸ City of Houston Public Works Department and Harris County Flood Control District

²⁹ The City's monitoring division completed one monitoring review of Harris County in March 2019. The City's monitoring division completed one monitoring review of Public Works in January 2019.

³⁰ The Disaster Recovery Grant Reporting system is primarily used by grantees to access grant funds and report performance accomplishments for grant-funded activities.

³¹ These procurements included one contract for the home repair program, two contracts for the infrastructure program, and four contracts for the housing buyout program.

disbursed amounts for the procured contracts and determined that the data were generally reliable.

For its home repair program, the City conducted one procurement to generate a prequalified contractors list. From this procurement, the City selected 12 contractors for its prequalified contractors list and executed an individual master contractor agreement with each one. The City awarded contracts to 5 of the 12 prequalified contractors. We performed a review of these five prequalified contractors and associated contracts totaling more than \$1.6 million. We reviewed the procurement files to determine whether the City ensured that it followed procurement requirements. Through the file reviews, we assessed the reliability of the computer-processed data regarding the disbursed amounts for the procured contracts and determined that the data were generally reliable. Although this approach did not allow us to project the results of the sample to the population, it was sufficient to meet the audit objective.

For the expenditure file review, from a universe of 58 funding drawdowns from HUD completed by the City, with disbursements totaling more than \$5.6 million between February 18, 2017, and September 25, 2019, we used the nonstatistical sampling method to select for review a sample of 18 expenditure line items associated with 14 drawdowns, with disbursements totaling more than \$3.4 million. We used the nonstatistical sampling method to ensure that we reviewed all of the City's project titles and activity³² numbers. We reviewed the expenditure files to determine whether the City maintained adequate supporting documentation. Through the file reviews, we assessed the reliability of the computer-processed data for the disbursed amounts and determined that the data were generally reliable. We did not identify any significant issues during this review. Although this approach would not have allowed us to project the results of the sample to the population, it was sufficient to meet the audit objective.

To determine the amount of funds to be put to better use of more than \$9.7 million, we used the contract award amounts for the 12 prequalified contractors totaling \$10.8 million as of September 30, 2019, minus the unsupported amount as of October 2020 totaling more than \$1 million.

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

³² Activities included administration and the housing repair, housing buyout, and infrastructure programs.

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 policies and procedures used to ensure that program requirements are met.
- Reliability of data provided for disbursement and procurement activities.
- Compliance with applicable Federal requirements.

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 item is a significant deficiency:

- The City did not understand procurement requirements and ensure that its subrecipients understood and followed requirements and had adequate controls and procedures (finding).

Appendixes

Appendix A

Schedule of Questioned Costs and Funds To Be Put to Better Use

Recommendation number	Unsupported 1/	Funs to be put to better use 2/
1A		\$9,736,636
1B	\$1,063,364	
1C	170,066	
1D	27,250	
Totals	1,260,680	9,736,636


- 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, the City could not document that it followed the proper procurement requirements for bid evaluation. Requiring the City to support that it awarded more than \$9.7 million for its home repair master contractor agreement contracts fairly and in line with the bid evaluation requirements or canceling and rebidding the contracts will ensure that the City makes the best use of its disaster funds.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments



CITY OF HOUSTON
Housing & Community Development Department

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April 16, 2021
VIA Email
Danita Wade
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Re: HUD Office of Inspector General (“OIG”) Audit, City of Houston
CDBG-DR 15 Funds (Audit Report Number: 2021-FW1001)

Dear Ms. Wade:

This letter serves as the City of Houston’s (“City”) response to a draft of the above-referenced audit (the “Draft Audit”), received on April 1, 2021. Per email correspondence with your team, this response is timely. We understand that this response should be included in full with the final audit report, including all Appendices.

The City has been impacted by unprecedented hurricane/flood events in recent years. In May 2015, two significant flood events impacted the City, followed by another in 2016.

In December of 2016, HUD signed a grant agreement with the City for \$66.5 million (later amended to add additional appropriated funds) in CDBG-DR 15 grant funds (the “Grant”). The City began directing funds to home repair, housing buyout, and infrastructure. In the midst of initial implementation, Hurricane Harvey devastated the City, making landfall on August 25, 2017,

Comment 1

flooding homes and roads with over 50 inches of rain in 4 days, and causing significant destruction, injury, and even death.

The City has strived to comply with the federal requirements applicable to the Grant, and in large part has done so. We very much appreciate the OIG's finding that "the City generally ensured that it maintained adequate supporting documentation for disbursement." Unfortunately, the OIG identified a finding with respect to compliance with other procurement requirements. Below is the City's response to the sole finding and recommendations.

Comment 1

1. The City's CDBG-DR 15 programs are completing much-needed flood recovery efforts for Houstonians.

The single family home repair program has received 182 applications for assistance. Although a number of these applications were incomplete or ineligible, 22 construction projects have been completed with 5 under construction.

The City's housing buyout program initially planned to fund approximately 47 voluntary housing buyouts in targeted neighborhoods adversely impacted by the 2015 flood events. To date, 69 homeowners commenced participation in the program, 54 offers have been made, and 32 buyout offers accepted. The program is well on its way to successful completion, with all \$10.7 million obligated and almost half expended.

The infrastructure program seeks to fund projects that will mitigate flooding and reduce localized drainage problems in low and moderate-income areas throughout Houston. Three projects were selected and are underway in various stages.

Comment 1

2. The City's procurement policies, processes and monitoring today have corrected all of the issues cited in the Draft Report.

As a preliminary matter we must emphasize the significant enhancements to the City's procurement policies, procedures, training, and contract oversight which occurred subsequent to the procurements reviewed in the Audit. Specifically, the City:

- Requires relevant staff to attend (at a minimum) annual training on federal procurements. These include in-house trainings, HUD trainings, and GLO trainings. For example, on April 22, 2021, an attorney from Baker Hosteler will conduct an in-house training covering the following topics:

Comment 1

compliance with federal procurement, how to do cost-benefit analyses, how to determine when a time and materials contract is appropriate, what types of services require an RFQ or an RFP, Section 3 requirements in CDBG grants and what is a beneficiary for CDBG grants? See Appendix 1 for documentation of a 2019, 3-day GLO CDBG training that included procurement and was attended by numerous City staff. See Appendix 2 for the City's sign in sheets from a FEMA procurement training that covered federal procurement requirements.

- Implemented an updated procurement standard operating procedure in 2019, included at Appendix 3. The City's administrative policies 5-7 (Procurement Standards) Competitive Procurements), available at <https://www.houstontx.gov/adminpolicies/5-7.pdf> and <https://www.houstontx.gov/adminpolicies/5-11.pdf>, respectively, provide additional guidance on compliance with the requirements of 2 CFR Part 200 as well as local requirements as does the City's Disaster Guide, excerpted at Appendix 4.
- Requires the purchasing department to prepare a cost estimate before opportunities are published.
- Requires the purchasing department to prepare a cost analysis before award.
- For the home repair program specifically, in-house estimates are created prior to soliciting bids from pre-qualified contractors, and all bids received are reviewed against this cost estimate, with the lowest responsible and responsive bidder selected.
- Works closely with City legal counsel to ensure compliance. This includes a required review, prior to execution, of all contracts by legal counsel to ensure federal provisions are included. In addition, the Legal Department has created contract templates that incorporate required HUD language and exhibits.
- Implemented a procurement checklist for all federally funded projects to ensure relevant requirements, including inclusion of required terms and conducting applicable price or cost estimates and analysis are followed. Copies of the checklist used by the City for monitoring and overseeing subrecipients are available at Appendix 5.

Comment 1

- Implemented “project gates” for all federal funded projects. This requires that senior procurement staff review the project at several of the key decision points in the procurement process, to ensure appropriate requirements are being followed. The project gates are as follows:
 - Completion of Project Scope;
 - Prior to advertisement;
 - Initial review of proposals / Bid Tabs;
 - After initial evaluation committee scoring;
 - After oral presentations and re-scoring;
 - After receipt of Best and Final Offer (as applicable); and
 - After completion of Executive Summary
- Uses a core, well-trained team to manage all federally funded projects, with a specific lead person assigned to the same.
- Collaborates with the Office of Business Opportunity (“OBO”) to ensure the City broadcasts all procurement opportunities to MWSBE companies.
- Enhanced documentation retention program for all federally funded projects, including having two complete project files maintained in separate locations by separate departments, to create redundancies in case of flood or other events that could compromise files. Electronic copies are also now retained.
- Collaborates among internal departments to expand training opportunities for federally funded programs and procurement process changes.
- Hired a third party auditor, Deloitte, to closely review multiple procurements conducted by the City for federally funded projects and to recommend areas for improvement. Deloitte made comprehensive recommendations, which were adopted by the City.
- Procurement activities, among other federal requirements, are routinely reviewed by an internal auditor hired by the Housing and Community Development Department. While we anticipated that this self-monitoring can always identify additional areas for improvement, the extensive efforts to strengthen procurement practices, including external and internal monitoring, should be recognized.

Comment 2

3. The City did properly procure its master contract agreements (“MCAs”) for home repair assistance, but unfortunately some of the documentation requested by the OIG could not be produced as it appears to have been lost due to the flooding and/or office moves.

The Draft Audit concludes that the City did not always ensure that its MCAs were procured in accordance with applicable requirements, but fails to distinguish between actual failures versus an inability to prove compliance due to lost documentation. By way of background, the MCA request for proposals (“RFP”) was published on the date Hurricane Harvey hit Houston, and proposal responses received were evaluated in the midst of the post-hurricane devastation. Twenty-four responses were received to the solicitation, with 12 selected for MCA execution. Contracts were largely executed in January and March 2018. The number of responses alone supports a conclusion that the City promoted competition in its procurement. While the City believes all procurement requirements were observed, including evaluation of pricing proposals and completion of all components of the scoring sheets, the City was unable to provide complete documentation to the OIG in support of the foregoing. We believe this is due to office moves necessitated by the flood damage Hurricane Harvey caused to the City’s procurement offices. In addition, the City primarily utilized a hard copy, paper environment, which means the City did not have electronic backup documentation for procurement files. Turnover in the staff who oversaw the MCA procurement also occurred.

Comment 3

The Draft Audit also complains that the City could not produce documentation explaining why an evaluation scoring spreadsheet¹ provided to the OIG included different scoring for Section 2.2 than was included in the RFP. The Draft Audit indicated that an RFP amendment should have been published to support this change, but the City could not provide one. That change included in the spreadsheet was either a typo or inadvertent error, however, and did not impact the competitive nature of the procurement or its outcome. First, that change was applied to all 24 proposals received. There were substantial scoring differences between the 12 selected proposals and the 12 that were not selected. Notably, there is a 59 point differential between the 12th top proposal score (304) and the 13th rated proposal (245); this far exceeds the 5-point change identified in the Draft Audit. The point differential widens substantially among the remaining 11 proposals that were not selected. Further, the majority of applicants received similar scoring in Section 2.2. As such, this was at most an inadvertent error that did not change or otherwise affect the competitive nature of the procurement.

The Draft Audit also notes that, while there was no evidence of any contractors receiving preferential treatment, it also had concerns about contract increases or decreases because the price proposals could not be found.

Given the foregoing, the City will plan to work with HUD to resolve this issue in accordance with Recommendation 1A, by providing a documented reevaluation of the procurement showing that it provided the best advantage to the City and HUD.

Comment 4

4. The Draft Audit found that the City “generally ensured it followed procurement contracts” for four out of five contractors awarded home repair bids

The City was able to identify and produce cost documentation for the majority of home repair contracts reviewed by the OIG. We recognize that the City could not produce independent cost estimate (“ICE”) documentation for 6 contracts awarded to the remaining contractor, however, the valuation report that was produced, which includes those 6 projects, was sufficiently close in time to the procurement that we believe it supports the cost reasonableness of the procurement. The City will work with HUD to resolve this issue in accordance with Recommendation 1B, so that HUD can confirm the cost reasonableness of the contracts.

Comment 5

5. The City has significantly improved its subcontractor oversight.

Comment 6

The City takes its oversight obligations seriously. As detailed in above, the City recognized some time ago that its subrecipient and subcontractor oversight could be improved and the issues with the buyout demolition and appraisal contracts will not be repeated. We do take issue with the Draft Audit’s assertion that the ICE was insufficient for the demolition contract and was not conducted for the appraisal contracts, as per-unit ICEs were performed for both. We suspect there may have been some confusion with respect to the demolition ICE since the contracts at issue covered both the City’s buyout work as well as other subrecipient work. Please see attached ICEs for both demolition and appraisal work at Appendix 6. We will work with HUD in accordance with Recommendations 1C and 1D to support the cost reasonableness of the four contracts reviewed in the Draft Audit in connection with Harris County’s work on the City buyout program.

Comment 6

6. The City has revised its policies and processes to ensure that all required contract provisions are included in its HUD-funded contracts, and has further revised the contracts at issue in the Draft Audit to reflect such provisions.

As indicated above, the City has substantially augmented its procurement policy and processes to ensure that required provisions are included in all current and future contracts.

Comment 6

7. The City has substantially improved its processes for subrecipient monitoring.

While we respectfully disagree with the Draft Audit's statement that the City did not always understand procurement requirements, and while the City did conduct subrecipient monitoring (as acknowledged in the Draft Audit), we recognize that improvements needed to be made, and we have done so. As referenced above, the City has augmented its subrecipient monitoring in the following ways:

- All contracts to be executed by subrecipients are closely reviewed by the City before execution to ensure applicable compliance requirements and federal language are included. All Houston Public Works construction contracts must include a City-developed HUD 00800 Supplemental Conditions form that specially adds federally-required language and funding requirements.
- The City conducts on-site construction site reviews. Likewise, Houston Public Works will soon procure construction management and inspection services for its construction contracts awarded pursuant to HUD funding, and will do so in a HUD-compliant manner. The City will closely oversee this compliance.
- The City confirms with all subrecipients that a cost analysis must be performed before a bid is advertised.
- Subrecipient agency files are reviewed annually by the City's compliance and Uniform Relocation Act teams to ensure Agreement requirements are being met. When deficiencies are noted in the review letter, the City ensures that deficiencies are resolved in order to successfully close out the reviews.

Comment 6

- Contracts between subrecipients and others may not be increased without prior approval of the Housing and Community Development Department director. City approval is only granted if changes are consistent with federal requirements and the applicable budget.
- The Harris County Flood Control District, the subrecipient working on the buyout project under the Grant, is required to submit to the City both monthly and quarterly reports. All reports are reviewed by the City with any concerns noted and discussed with the subrecipient.
- Project kick-off meetings are held before the projects start. During the kick-off meetings, the City confirms with the subrecipient the City's and HUD's funding requirements, reporting, procurement, and project-related requirements.
- The Housing and Community Development Department holds bi-weekly project meetings with the Harris County Flood Control District.

Comment 6

8. The City has already implemented Recommendations 1E through 1H.

Recommendations 1E through 1H refer to development of checklists, policy and procedure updates, training, and improved monitoring. As detailed above in this response, the City had already implemented all of the above-referenced recommendations. As such, we respectfully request that Recommendations 1E through 1H be removed from the Draft Audit as it is finalized.

We very much appreciate efforts by Congress and HUD to allocate CDBG-DR and other funding to the City to assist with recovery efforts. The City strives to be good stewards of the federal funds entrusted to us – and we have been.

Sincerely,

Tom McCasland
Director, Housing and Community Development Department

OIG Evaluation of Auditee Comments

Comment 1 The City stated that its current procurement policies, processes, and monitoring have corrected all of the issues cited in the draft report. The City emphasized significant enhancements to its procurement policies, procedures, training, and contract oversight, which it implemented subsequent to the procurements reviewed in the audit. In addition, with its response, the City provided the following as evidence of these enhancements: (1) CDBG training and agenda; (2) sign-in sheets for procurement training; (3) updated Housing and Community Development Department Procurement standard operating procedure; (4) procurement excerpts from the City's Disaster Guide; and (5) newly-implemented subrecipient oversight checklists.

As communicated to the City, and due to the voluminous nature and inclusion of personal information, we did not include the additional documentation submitted by the City in this final report.

We acknowledge the City's efforts toward correcting the deficiencies identified in the report. The City will need to provide the documentation to HUD and continue to work with HUD to resolve the findings and address the report recommendations during the audit resolution process.

Comment 2 The City asserted that it properly procured its master contract agreements for home repair assistance, but some of the documentation requested by OIG could not be produced due to office moves necessitated by flood damage. In addition, the City stated that the draft report concluded that the City did not always ensure that its master contract agreements were procured in accordance with applicable requirements but failed to distinguish between actual failures and an inability to prove compliance due to lost documentation. The City further stated that it received 24 responses to the solicitation, with 12 selected for master contract agreement execution; and, that the number of responses alone supports a conclusion that the City promoted competition in its procurement.

We agree that the City had adequate competition with 24 bidders. However, as stated in the report, the City did not always follow procurement regulations, as related to restricting competition by making arbitrary actions in the procurement process and excluding price from consideration. In addition, as agreed by the City in its comments to the draft report, the City could not provide adequate documentation to support that it followed procurement requirements when executing the procurement for its master contract agreements, as required by Federal regulations. Therefore, we maintain our original conclusions and recommendations.

Comment 3 The City stated that the draft report says the City could not produce documentation explaining why an evaluation scoring spreadsheet provided to OIG included different scoring for section 2.2 of the request for proposal than was included in the actual request for proposal. The City asserted that the change included in the spreadsheet was either a typographical or inadvertent error that did not impact the competitive nature of the procurement or its outcome. It further stated that the change was applied to all 24 proposals received and there were substantial scoring differences among the 12 selected proposals and the 12 that were not selected. As such, this was at most an inadvertent error that did not change or otherwise affect the competitive nature of the procurement. The City also stated that it planned to work with HUD to resolve the issues in accordance with recommendation 1A by providing a documented reevaluation of the procurement, showing that it provided the best advantage to the City and HUD.

We acknowledge the City's efforts and willingness to correct the deficiencies identified in the report. However, we disagree that the City's actions did not impact the procurement or its outcome, as the five-point differential is not the only arbitrary action taken by the City. As stated in the report, in addition to increasing the technical weighted factor from 35 to 40 points in section 2.2 of the request for proposal during the evaluation process, the City also did not complete the pass-fail section for bidder responsiveness for any of the 24 bidders and did not consider any of the price proposals, worth 15 points, submitted by these bidders. In addition, the City did not document the reasons for the actions, inform bidders, or identify or take actions to correct these issues before awarding the contracts.

Further, the City could not provide the price proposal documentation submitted by the bidders or documentation supporting that it adequately considered price for the contracts during the procurement process, as required. Federal regulations state that price cannot be excluded from consideration. Considering the arbitrary actions taken by the City and the lack of price proposal documentation, it could not provide HUD reasonable assurance that it did not restrict competition and ensured the most advantageous situation for it and HUD when awarding the 12 contracts.

Therefore, we maintain our original conclusion and recommendations. The City will need to provide its additional documentation to HUD and work with HUD to resolve the findings and recommendation 1A during the audit resolution process.

Comment 4 The City recognized that it could not produce independent cost estimate documentation for six contracts. The City asserted that the valuation report that it produced, which included those six projects, was sufficiently close in time to the procurement. It believed that the valuation report supported the cost reasonableness of the procurement. The City also stated that it will work with

HUD to resolve this issue in accordance with recommendation 1B so that HUD can confirm the cost reasonableness of the contracts.

We acknowledge the City's efforts toward correcting the deficiencies identified in the report. However, we disagree that the valuation reports were sufficiently close in time to the procurement. As stated in the report, Federal regulations state that the City must perform independent cost estimates **before** receiving bids or proposals. The valuation reports were dated almost 5 months **after** the City received the bid proposals and almost 1 month **after** the contract award date and, therefore, did not meet HUD requirements. As such, we maintain our original conclusions and recommendation. The City will need to work with HUD to resolve the finding and address report recommendation 1B during the audit resolution process.

Comment 5 The City took issue with our conclusion in the draft report that the independent cost estimate was insufficient for the demolition contract and was not conducted for the appraisal contracts, and asserted that per-unit independent cost estimates were performed for both. The City stated that it suspected that there may have been some confusion with respect to the demolition independent cost estimate because the contracts at issue covered both the City's buyout work as well as other subrecipient work. With its response, the City provided independent cost estimates for both demolition and appraisal work. The City also stated that it would work with HUD in accordance with recommendations 1C and 1D to support the cost reasonableness of the four contracts reviewed in the draft report in connection with Harris County's work on the City buyout program.

We agree there is confusion regarding the independent cost estimate for the demolition contract. During the audit, we received two different independent cost estimates for the demolition contract: one showing estimated costs of \$5 million, dated May 25, 2018, and another showing estimated costs of \$3 million, dated June 15, 2018. The independent cost estimate submitted with the City's response, dated May 3, 2018, shows estimated costs of \$8,000 per unit. In addition, the City did not provide a cost analysis for a contract amendment that increased the demolition contract amount by \$1.7 million.

For the three appraisal contracts, with its response the City submitted an independent cost estimate for each of these contracts. However, we did not question the lack of an independent cost estimate, but rather, the lack of cost analyses for contract amendments executed with the existing appraisers to provide services under the housing buyout program, which increased the original contract amount.

Therefore, we maintain our original conclusion and recommendations. The City will need to work with HUD to resolve the finding and address report recommendations 1C and 1D during the audit resolution process.

Comment 6 The City stated that it has (1) significantly improved its subcontractor oversight, (2) revised its policies and processes to ensure that all required contract provisions are included in its HUD-funded contracts, and has further revised the contracts at issue in the draft report to reflect such provisions; (3) substantially improved its processes for subrecipient monitoring; and (4) already implemented recommendations 1E through 1H. The City requested that recommendations 1E through 1H be removed from the final report.

We acknowledge the City's efforts toward correcting the deficiencies identified in the report. The City did not provide sufficient documentation to support its claim. Therefore, we did not remove recommendations 1E through 1H from the final audit report. The City will need to provide the final documentation to HUD for a comprehensive evaluation and continue to work with HUD to resolve the findings and address the report recommendations during the audit resolution process.

Appendix C

Prequalified Contractors' Award Details

Contractor count	Contract execution date	Contract end date	Contract amount	Disbursed amount ³³
1	3/13/2018	3/13/2021	\$900,000	\$35,198
2	1/29/2018	1/29/2021	900,000	
3	3/27/2018	3/27/2021	900,000	
4	3/16/2018	3/16/2021	900,000	49,256
5	4/13/2018	4/13/2021	900,000	
6	1/29/2018	1/29/2021	900,000	
7	1/29/2018	1/29/2021	900,000 ³⁴	1,415,980
8	3/13/2018	3/13/2021	900,000	
9	1/29/2018	1/29/2021	900,000	
10	1/29/2018	1/29/2021	900,000	54,027
11	3/13/2018	3/13/2021	900,000	101,963
12	1/29/2018	1/29/2021	900,000	
Totals			10,800,000	1,656,424

³³ As of October 13, 2020

³⁴ After the initial award, the City reduced the award amount for some contracts and increased the award amount for this contract to nearly \$2.3 million as of January 2019. The overall total remained \$10.8 million. The City stated that it would, on a contract-by-contract basis, transfer unallocated funds to fund contracts if it had insufficient funds available.