



City of Mesa, Mesa, AZ

Community Development Block Grant

**Office of Audit, Region 9
Los Angeles, CA**

**Audit Report Number: 2020-LA-1003
April 13, 2020**





To: Kimberly Nash, Director, Office of Community Planning and Development, San Francisco, 9AD

//SIGNED//

From: Tanya E. Schulze, Regional Inspector General for Audit, 9DGA

Subject: The City of Mesa, AZ, Did Not Administer Its Community Development Block Grant in Accordance With HUD 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 Mesa's Community Development Block Grant 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 at 213-534-2471.



Audit Report Number: 2020-LA-1003

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The City of Mesa, AZ, Did Not Administer Its Community Development Block Grant in Accordance With HUD Requirements

Highlights

What We Audited and Why

We audited the City of Mesa's Community Development Block Grant (CDBG) program based on (1) a hotline complaint alleging CDBG noncompliance; (2) a prior U.S. Department of Housing and Urban Development (HUD), Office of Inspector General, audit (2011-LA-1006), which determined that the City needed to improve how it administered its Neighborhood Stabilization Program 1 funds; and (3) our objective to promote fiscal responsibility and financial accountability. The audit objective was to determine whether the City administered its CDBG program funds in compliance with HUD requirements; specifically, whether it (1) awarded funds that met a CDBG national objective, (2) spent funds only for activities that were eligible and supported, and (3) adequately monitored subrecipients.

What We Found

We determined that the complaint had some merit and that the City did not administer its program in accordance with HUD requirements. Specifically, the City did not always (1) ensure that its CDBG activities met a national objective or that subrecipients followed HUD's requirements or its own subrecipient agreements, (2) maintain adequate documentation, and (3) implement adequate internal controls. This condition occurred because the City did not always have sufficient knowledge of and disregarded HUD's and its own requirements when it administered its CDBG program. As a result, the City was unable to support that it spent more than \$3.1 million on CDBG activities that met HUD requirements. There was also little assurance that the City would use the additional \$225,000 allocated for similar activities in compliance with HUD requirements.

What We Recommend

We recommend that the Director of HUD's San Francisco Office of Community Planning and Development require the City to (1) support the eligibility of more than \$3.1 million in CDBG costs or repay its program from non-Federal funds, (2) suspend \$225,000 in activities until it can show that the activities meet program requirements, (3) implement its policies and procedures that require adequate documentation to be maintained, and (4) develop and implement adequate and effective internal controls.

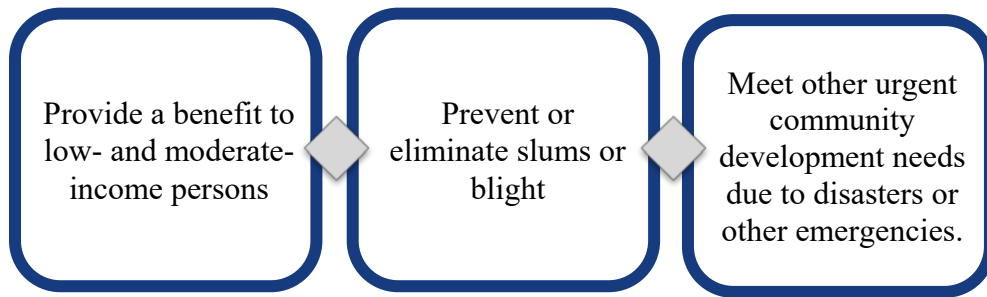
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Background and Objective

The City of Mesa, AZ, receives annual Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development (HUD) entitlement program. The program provides annual grants on a formula basis to entitled cities and counties to develop viable urban communities by providing decent housing and a suitable living environment and by expanding economic opportunities, principally for low- and moderate-income persons. To be eligible for funding, program-funded projects must satisfy one of three HUD national program objectives, detailed in figure 1 below, required by 24 CFR (Code of Federal Regulations) 570.208.

Figure 1 – National objectives



The City’s Housing and Community Development Department is responsible for the administration and oversight of the CDBG program. HUD awarded the City approximately \$13.3 million in CDBG funds for fiscal years 2016 to 2019, detailed in table 1 below.

Table 1 – CDBG funding for fiscal years 2016 to 2019

Fiscal year	Amount
July 1, 2015 – June 30, 2016	\$ 3,199,268
July 1, 2016 – June 30, 2017	3,224,529
July 1, 2017 – June 30, 2018	3,210,202
July 1, 2018 – June 30, 2019	3,634,821
Total	13,268,820

We previously reviewed the City’s Neighborhood Stabilization Program (NSP) 1 grant and issued audit report 2011-LA-1006 on February 8, 2011, which determined that the City did not

meet program requirements. As a result, the City received technical assistance.¹ The City department responsible for CDBG also administered the City's NSP 1 grant.

In addition, HUD monitored the City's CDBG program in 2012, which resulted in no findings or concerns. However, HUD noted that it would look into one of the City's economic development activities, West Mesa Community Development Corporation (CDC), because it appeared that the City had not classified the national objective correctly. The activity in question was also the subject of Office of Inspector General (OIG) hotline complaint HC-2018-11379, which alleged that the City awarded CDBG funds to West Mesa CDC despite submitting a late application and that West Mesa CDC had not complied with CDBG requirements in the past.

Our audit objective was to determine whether the City administered its CDBG program funds in compliance with HUD requirements; specifically, whether it (1) awarded funds that met a CDBG national objective, (2) spent funds only for activities that were eligible and supported, and (3) adequately monitored subrecipients.

¹ None of the audit recommendations is outstanding; all closed between December 2011 and January 2012.

Results of Audit

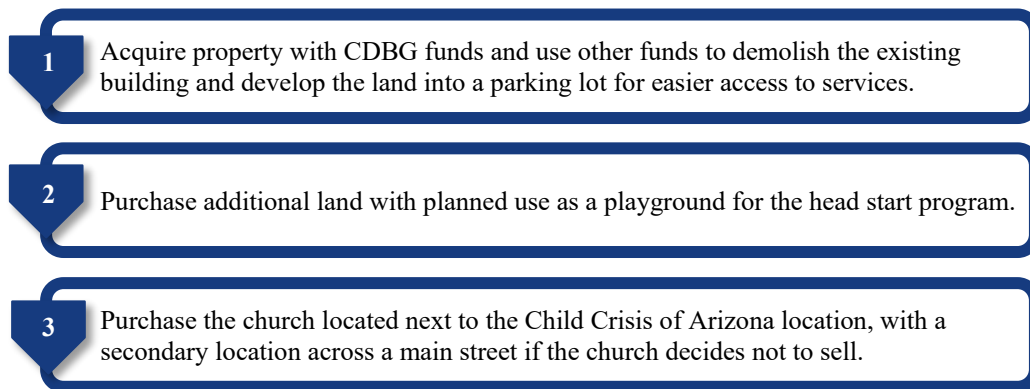
Finding: The City of Mesa Did Not Administer Its Community Development Block Grant in Accordance With HUD Requirements

The City did not administer its CDBG funds in accordance with HUD requirements or require compliance with its own subrecipient agreements. Specifically, it did not always (1) ensure that its CDBG activities were necessary or reasonable and met a national objective or that subrecipients followed HUD requirements and its own subrecipient agreements, (2) maintain adequate documentation, and (3) implement adequate internal controls. This condition occurred because the City did not always have sufficient knowledge of and disregarded HUD's and its own requirements when it administered its CDBG program. As a result, the City used CDBG funds for more than \$3.1 million in unsupported costs, and put \$225,000 allocated for similar activities at risk of questionable use.

The City Did Not Support That Its Child Crisis of Arizona Project Met CDBG Requirements

The City allowed its subrecipient, Child Crisis of Arizona, to use \$300,000 in CDBG funds for its Campus Creation project to acquire property to develop a parking lot as part of a multiphase campus expansion project without supporting (1) it met a CDBG national objective or (2) Child Crisis of Arizona needed the parking lot to increase the capacity of services offered. The campus expansion included three phases as shown in figure 2 below.

Figure 2 – Child Crisis of Arizona expansion phases



The City reported that the project met the national objective for low to moderate income based on a limited clientele for abused children. However, according to 24 CFR 570.208(a)(2)(A), to benefit a clientele generally presumed to be principally low and moderate income the activity must exclusively serve abused children.² Based on the description of services and that the

² See appendix C.

parking lot would possibly be part of a shared parking arrangement with a church, it does not appear to meet this requirement. If it does not serve exclusively abused children, the City must meet one of the other tests listed in 24 CFR 570.208(a)(2).³ The City did not provide support to demonstrate compliance with this requirement because the City stated that this national objective was incorrect and should have been reported as an area benefit under 24 CFR 570.208(a)(1).⁴

In addition, the City did not adequately review the parking needs of the subrecipient before approving the project for funding to determine if it was necessary or reasonable to increase the capacity of CDBG-eligible activities as required by 2 CFR 200.403.⁵ HUD obtained additional feedback and documentation from Child Crisis of Arizona because of the City not maintaining or requesting the documents. Based on the documentation and feedback obtained from HUD, Child Crisis of Arizona was still not able to adequately support that the purchase of land for a parking lot was needed because

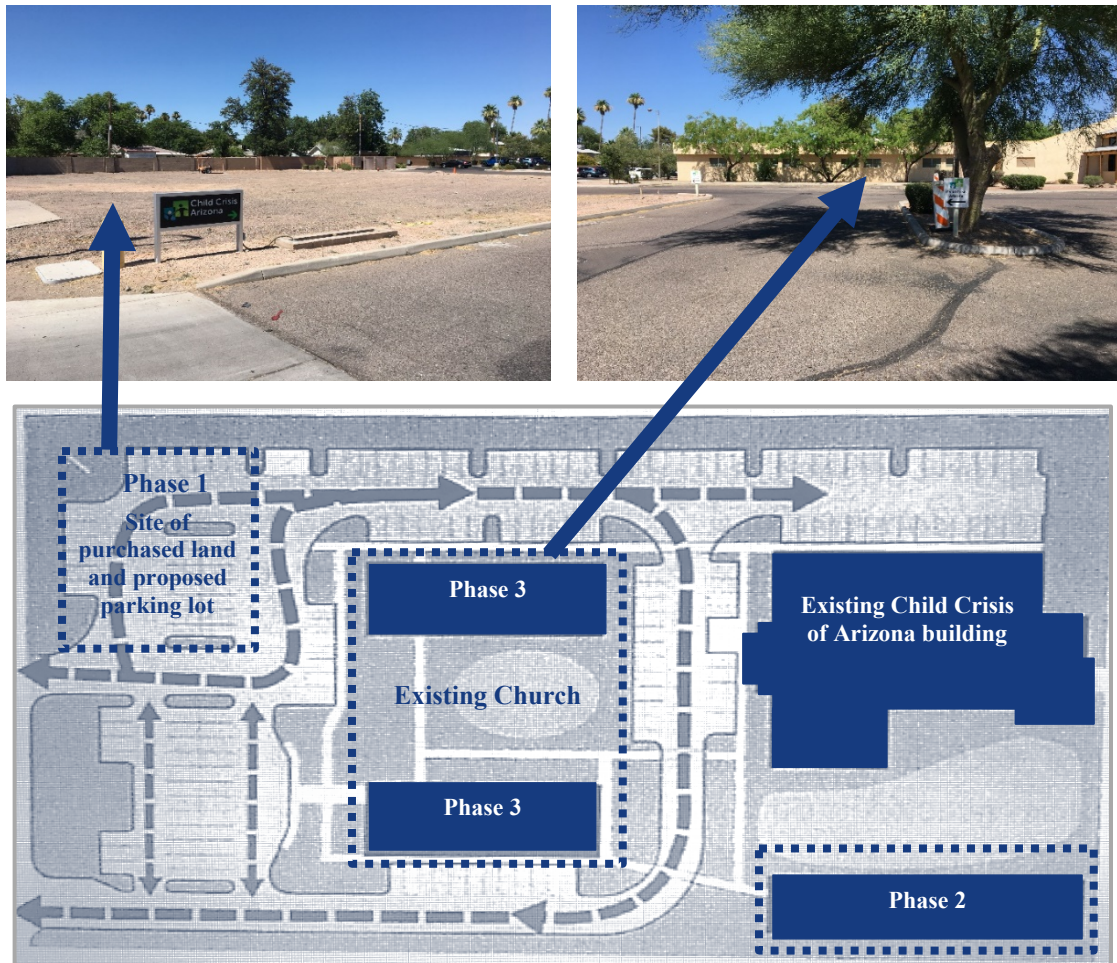
- The Child Crisis of Arizona stated that the need for the parking lot was independent of the plans to purchase the church or other property and that it needed additional parking to handle expanded services at the original building. However, it did not provide adequate support to show the current parking situation was not able to accommodate its needs. In addition, the potential purchase of the church would have included a large parking lot, which may have been able to handle the plans for additional services at both buildings. Although it did provide some support concerning staff and the number of clients served, it did not include an analysis of the existing parking situation demonstrating it did not meet its needs.
- The Child Crisis of Arizona stated the need for parking was to allow safer access to the building. However, an OIG site visit determined that the Child Crisis of Arizona building was accessible from the main street (see figure 3 below). The site visit also did not indicate the existing parking situation was insufficient or overburdened.
- The land for the parking lot was located in an area adjacent to and where the church may benefit and use the parking lot more than the Child Crisis of Arizona (see figure 3 below). There was support stating that there would be a shared parking agreement with the church.

³ See appendix C.

⁴ See appendix C.

⁵ See appendix C.

Figure 3 – Child Crisis of Arizona expansion photos

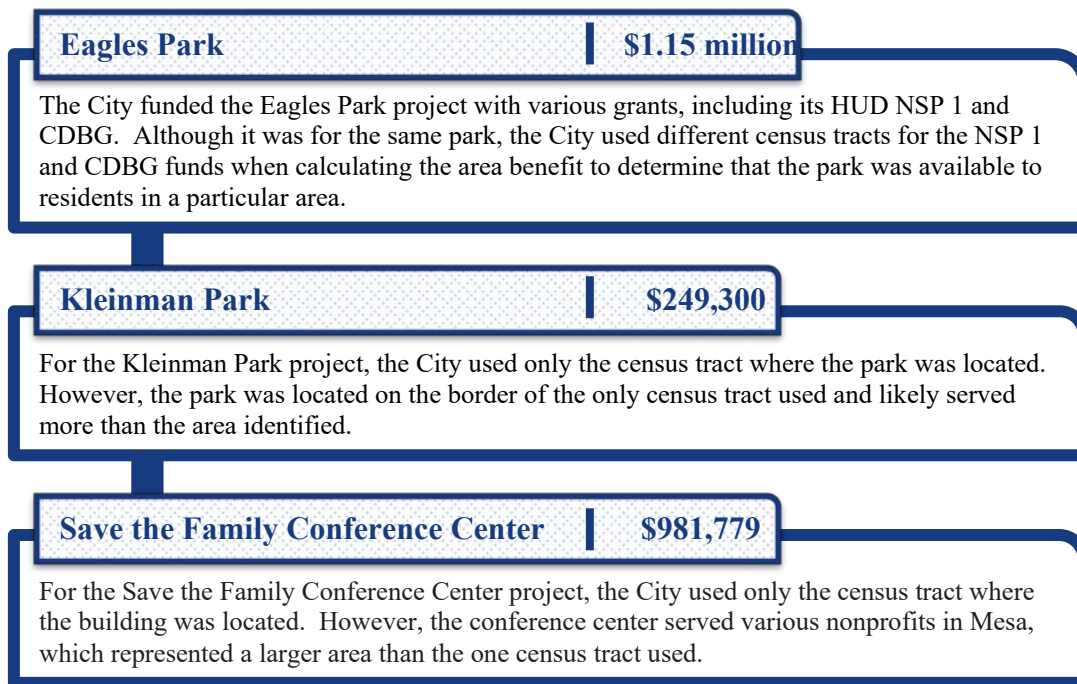


The City Did Not Always Ensure That Activities Met the Low- to Moderate-Income Area Benefit National Objective

HUD requires that funds meet a national objective as defined in 24 CFR 570.208.⁶ One of the three national objectives includes activities that benefit low- and moderate-income persons, which is available to residents in a particular area where at least 51 percent of the residents are low- and moderate-income persons. Such an area must be the entire area served by the activity. For the three activities identified in figure 4 below, the City did not adequately review or support the entire area served. As a result, it did not support that the three projects totaling more than \$2.3 million met the national objective.

⁶ See appendix C.

Figure 4 – Activities that did not meet a CDBG national objective



The City Disregarded HUD requirements for Its West Mesa CDC Special Economic Development Activity

The City spent \$90,000 for the West Mesa CDC Special Economic Development activity in fiscal year 2016, using the national objective of job creation without requiring the subrecipient to adequately document the total jobs created as required by 24 CFR 570.208(a)(4)(i) for activities funded under the subrecipient agreement. In addition, West Mesa CDC could not support that the activity was only for special economic development as required by 24 CFR 570.506 and that it adequately procured a contract as required by 24 CFR 85.36(b)(9).

City's Review of West Mesa CDC

The City monitored West Mesa CDC's fiscal year 2016 grant for special economic development in 2017 and identified issues concerning support for the national objective claimed eligible activity, procurement, and time charged to the program. The City also had a consultant review the activity, which confirmed many of the issues noted. However, instead of requiring West Mesa CDC to repay funds when it could not resolve the issues identified, the City received approval from the city council to switch the eligible activity from special economic development to microenterprise assistance. According to the city council report, the City worked with West Mesa CDC to address the monitoring findings and other program deficiencies. As a result, the council determined that it should have classified the activity as microenterprise assistance. However, the council report was misleading because not all of the issues identified during the City's monitoring visit were resolved and West Mesa CDC did not assist only microenterprise businesses.

National Objective, Procurement, and Expense Eligibility

The \$90,000 spent on the West Mesa CDC special economic development activity for fiscal year 2016 did not meet HUD requirements. Specifically, the City did not ensure that West Mesa CDC (1) implemented an activity that met a CDBG national objective, (2) followed HUD procurement requirements, or (3) adequately supported expenses.

- HUD requirements at 24 CFR 570.208(a)(4) state that an activity, designed to create or retain jobs in which at least 51 percent of the jobs, computed on a full-time-equivalent basis, involve the employment of low- and moderate-income persons, is eligible.⁷ The City did not support that the businesses receiving training from its contractor would hire or make jobs available to low- and moderate-income individuals. In addition, it supported the creation of only one part-time job for the businesses that it claimed received technical assistance. The documentation provided by West Mesa CDC for the remaining jobs reported showed that the business hired the employee before the grant, the job created may not have been permanent, or it could not support that West Mesa CDC provided technical assistance that helped create the job.
- HUD requirements at 24 CFR 85.36(d)(1) state that price or rate quotations must be obtained from an adequate number of qualified sources.⁸ West Mesa CDC did not ensure that it received price or rate quotations on a \$30,000 contract.
- HUD requirements at 24 CFR 570.506 state that the City must establish and maintain sufficient records to determine whether it met CDBG requirements.⁹ West Mesa CDC did not adequately track how the \$60,000 in time charged was for special economic development activities.

In addition, although the City had not officially changed the eligible activity to microenterprise assistance, it would not qualify under this eligible activity. West Mesa CDC did not establish the activity separate from all other business assistance it chose to provide when claiming reimbursement of time for this activity and for its business training class as required by HUD's CDBG Guide to National Objectives and Eligible Activities for Entitlement Communities.¹⁰

This condition occurred because the City and West Mesa CDC initially did not adequately understand HUD requirements and then disregarded HUD requirements after they discovered compliance issues concerning West Mesa CDC. In addition, the deficiencies substantially reduced the assurance that other West Mesa CDC special economic development and microenterprise assistance activities met HUD requirements. Therefore, we determined that the \$85,975 spent for fiscal year 2017 was unsupported and the \$65,000 awarded for fiscal year 2019 was questionable (detailed in table 2 below).

⁷ See appendix C.

⁸ See appendix C.

⁹ See appendix C.

¹⁰ See appendix C.

Table 2 – West Mesa CDC funding

Fiscal year	Amount drawn	Remaining awarded
July 1, 2015 – June 30, 2016	\$ 90,000	\$ 0
July 1, 2016 – June 30, 2017	85,975	0
July 1, 2018 – June 30, 2019		65,000
Total	175,975	65,000

OIG Hotline Complaint

The OIG hotline complaint regarding West Mesa CDC had merit. The complaint alleged that the City awarded the fiscal year 2019 CDBG funds when West Mesa CDC submitted the application 1 day late and had not complied with CDBG rules for several years. West Mesa CDC submitted the application 1 day late, and the City identified compliance issues during a 2017 monitoring review. However, the issues concerning the application submission were not significant because West Mesa CDC submitted the application through email on time but was not able to enter it into the system due to issues with uploading documents. However, we did have concerns that the City chose to award funds to West Mesa CDC for fiscal year 2019 despite prior compliance issues noted during its monitoring review. The City had not spent the \$65,000 awarded for fiscal year 2019 because it had not been able to agree to the terms of the subrecipient agreement.

The City Did Not Ensure That Ability360¹¹ Understood HUD Requirements and Its Own Subrecipient Agreement for Its Mesa Home Accessibility Program

The City spent \$53,024 for Ability360’s fiscal year 2015 Mesa Home Accessibility Program (residential rehabilitation for 11 rental properties) without ensuring that it adequately supported that it followed HUD requirements or its own subrecipient agreement. Specifically, the City did not ensure that Ability360 (1) implemented an activity that met a CDBG national objective, (2) followed HUD procurement requirements, or (3) followed subrecipient agreement requirements.

- HUD requirements at 24 CFR 570.208(a)(3) state that to meet the national objective of benefiting low- and moderate-income persons when improving permanent residential structures that are rental properties, occupancy must be at affordable rents to qualify.¹² The application, subrecipient agreement, and HUD’s Integrated Disbursement and Information System (IDIS) stated that the funds were to be for rehabilitation of rental properties and not home-ownership properties. However, at least 8 of the 11 properties were not rental properties. Additionally, Ability360 did not request or maintain documentation to support that two rehabilitated properties met the affordable rent requirement and did not have enough support to determine whether one property was a rental or homeowner property.
- HUD requirements at 24 CFR 570.208(a)(3) state that to meet the national objective of benefiting low- and moderate-income persons when improving permanent residential

¹¹ Ability360 was formally known as Arizona Bridge to Independent Living.

¹² See appendix C.

structures, the property must be occupied by low- and moderate-income households.¹³ Ability360 did not adequately support that one of the households was low and moderate income as required by 24 CFR 570.208(a)(3) because it (1) did not require a Social Security award letter to verify the gross income, (2) did not include an explanation for why an additional \$12,186 in income was not included in its determination of income, and (3) made changes to the number of persons in the household without an explanation.

- HUD requirements at 24 CFR 85.36(d)(1) state that price or rate quotations must be obtained from an adequate number of qualified sources.¹⁴ Ability360 did not ensure that it received price or rate quotations on any of the 11 rehabilitation projects.
- The City's subrecipient agreement stated that Ability360 would require residents or their family members to contribute 10 percent of the costs of the project or provide matching labor, material, community volunteerism, or advocacy training. Because it received CDBG funds for this activity, Ability360 also received volunteerism equivalent to the 10 percent match amount totaling \$4,293. However, the City did not ensure that Ability360 reduced its reimbursement amount to meet the subrecipient agreement requirement. In addition, residents or their family members did not provide the volunteer hours; instead, other volunteers provided the service.
- The City's subrecipient agreement stated that Ability360 would provide home modifications to improve home access and safety. However, in one instance, it provided \$228 to repair a kitchen sink. There was no indication that Ability360 needed to repair this item to improve home access and safety, and it was not included in the original work order provided to the contractor.

These issues occurred because the City did not provide adequate oversight of Ability360, such as not ensuring that it met the 10 percent match requirement when approving reimbursement requests as part of its desk reviews. Ability360 was either not aware of or disregarded its subrecipient agreement and was not corrected by the City during site visits or desk reviews. Specifically, Ability360 (1) stated that it was not aware that its subrecipient agreement was for rental properties, although it was also listed as an eligibility requirement in its application for funding; (2) did not follow its own policies and procedures to maintain support that properties were rented at affordable rates; (3) accepted inadequate documentation concerning household income; and (4) did not follow HUD procurement requirements that were included in its subrecipient agreement.

Of the \$53,024 drawn from the fiscal year 2015 grant, \$42,931 was for the rehabilitation projects, and \$10,093 was for nonproject expenses. Due to the nature and extent of the significant deficiencies, it would not be reasonable to pay the remaining nonproject expenses unless the City provided adequate support to address the deficiencies. In addition, the deficiencies substantially reduced the assurance that the fiscal years 2016 and 2017 Ability360 Mesa Home Accessibility activities met HUD requirements. Therefore, we determined that the \$72,099 and \$67,440 spent for fiscal years 2016 and 2017 was unsupported and the \$6,809 allocated for fiscal year 2017 were questionable (table 3 below).

¹³ See appendix C.

¹⁴ See appendix C.

Table 3 – Ability360 CDBG funding

Fiscal year	Amount drawn	Remaining allocated
July 1, 2014 – June 30, 2015	\$ 53,024	\$ 0
July 1, 2015 – June 30, 2016	72,099	0
July 1, 2016 – June 30, 2017	67,440	6,809
Total	192,563	6,809

Kleinman Park Playground Equipment Was Not Properly Installed

The City paid its contractor \$3,665 for playground equipment without ensuring that it was usable by the public. The work for Kleinman Park included the installation of playground fossils in a sandpit. However, we could not verify that the fossils existed. According to the City, the contractor installed the fossils deeper than intended (figure 5 below). In addition, there was no sign showing where the fossils were buried so the public would not know that this feature existed. As a result, the City spent \$3,665 of the Kleinman Park project costs on playground equipment that the contractor did not properly install.

Figure 5 – Fossils during and after installation



The City Did Not Maintain Adequate Documentation

HUD regulations at 24 CFR 570.506 require that the City maintain sufficient records to determine whether it met CDBG requirements, such as national objectives and eligible activities.¹⁵ In addition, the regulations require that the City maintain financial records, such as source documentation, to support CDBG expenditures. City and subrecipient files did not include all documentation needed to support that the City’s activities met CDBG or its own subrecipient agreement requirements, or the City accepted low-quality documentation from contractors and subrecipients. For example,

- the City and its subrecipients did not always maintain documentation to support compliance with the national objective or activity eligibility;
- the City and its subrecipients did not always maintain documentation to support procurement transactions and other expenses;

¹⁵ See appendix C.

- the City accepted timesheets from West Mesa CDC without adequate support that the time charged was for allowable activities according to the subrecipient agreement; and
- the City accepted handwritten bids for two contracts totaling \$7.9 million, which required the City to recalculate the bid amounts due to mathematical errors to determine the actual final bid amount.

This condition occurred because the City did not have sufficient knowledge to consistently implement a CDBG program that followed HUD’s and its own requirements. It also did not implement controls to maintain adequate documentation by itself and its subrecipients. As a result, the City struggled to show compliance with CDBG requirements.

The City Did Not Implement Adequate Internal Controls

HUD requirements at 2 CFR 200.303(a) state that the non-Federal entity must establish and maintain effective internal control over the Federal award, which provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award.¹⁶ Although the City performed desk and onsite monitoring reviews, the deficiencies identified in this audit report show how the City’s controls were ineffective.

Monitoring Reviews Were Inadequate

The City performed desk reviews of its subrecipients through eligibility reviews, written agreements, performance reports, and reimbursement requests. Figure 6 below details the extent to which these reviews did not prevent significant deficiencies.

Figure 6 – Deficiencies not prevented

	Child Crisis of Arizona	West Mesa CDC	Ability360
Awarded funds for an activity without ensuring it was reasonable or necessary during its eligibility review	✘		
Did not ensure that the subrecipient completed its activity according to the subrecipient agreement			✘
Accepted performance reports for jobs that the subrecipient did not adequately support		✘	
Reimbursed subrecipients that did not have adequate support for expenses		✘	✘

In addition, the City did not perform desk reviews or have another process to ensure that the Housing and Community Development Department reviewed expenses, such as payroll, from other City departments to ensure that all expenses were for eligible activities.

¹⁶ See appendix C.

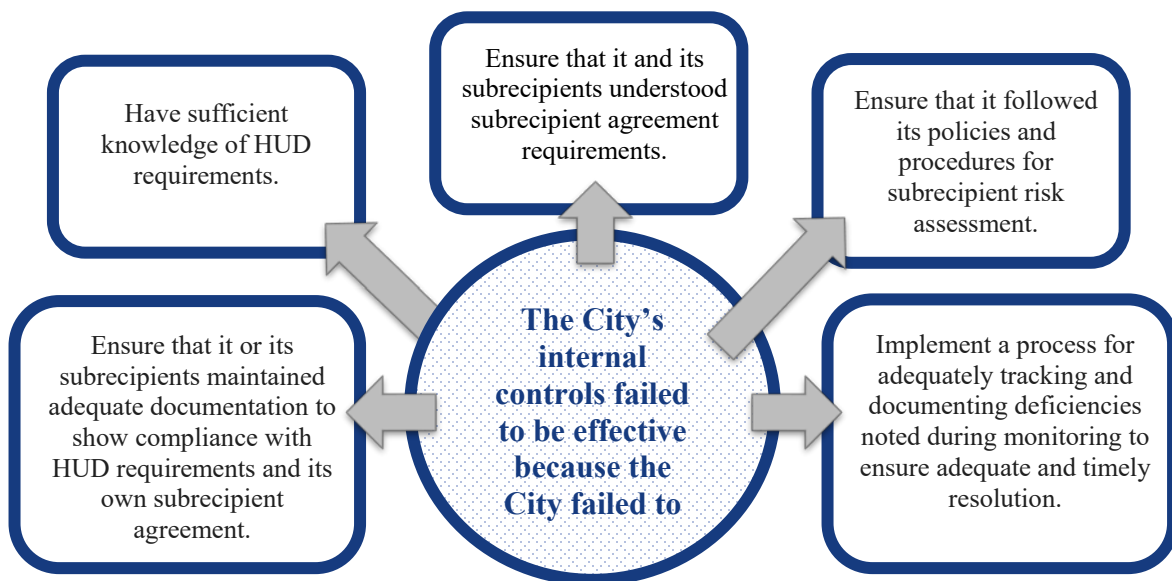
The City also performed onsite reviews of subrecipients. We could not determine the number of reviews performed because the City did not have a method to accurately track the status of its monitoring reviews to help ensure timely resolution of deficiencies identified. The City’s policies and procedures stated that it would use a risk assessment to schedule onsite monitoring visits; however, the City did not implement this process. In addition, the City did not follow its policies and procedures when it did not draft monitoring results letters, including the details on how findings and concerns were resolved, which its policies and procedures stated it should have been able to draft 60 days after the onsite monitoring visit. For example, the City inadequately resolved the findings from its onsite monitoring visit concerning West Mesa CDC’s 2016 grant. The City did not draft a results letter or ensure that all of the issues it identified had been adequately resolved when it only took action to change the eligible activity and did not address the issues concerning inadequate documentation for jobs created, time reported, and procurement.

The City also identified deficiencies during an onsite monitoring visit to its subrecipient, Neighborhood Economic Development Corporation’s (NEDCO) fiscal years 2011 and 2014 grant activities but did not draft a monitoring results letter explaining how the deficiencies were resolved. As a result of this issue and because of the City’s inadequate resolution of deficiencies identified at West Mesa CDC, there was little assurance that the City had resolved deficiencies it identified with its fiscal years 2011 and 2014 NEDCO activities for which it had spent \$105,688 and allocated an additional \$153,191.

The City’s Controls Were Ineffective

The deficiencies identified in this audit report illustrate how the City’s controls were ineffective and did not provide reasonable assurance that the City managed its CDBG funds in compliance with HUD requirements or its own subrecipient agreements (figure 7 below).

Figure 7 – The City’s ineffective internal controls



Conclusion

The City did not administer its CDBG funds in accordance with HUD requirements. Specifically, it did not ensure that one activity was necessary or reasonable and that five other activities followed HUD requirements and its own subrecipient agreements. In addition, its internal controls and lack of adequate documentation did not provide reasonable assurance that the City managed its CDBG funds in compliance with HUD requirements. We attributed this condition to the City's disregard of HUD requirements and its lack of the knowledge, experience, and internal controls to administer the program. As a result, HUD did not have assurance that the City used more than \$3.1 million in grant funds for eligible purposes. There was also little assurance that the City would use the additional \$225,000 allocated for similar activities in compliance with HUD requirements. More significantly, the City's ineffective internal controls decreased HUD's assurance that the City could adequately administer current and future CDBG funding.

Recommendations

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

- 1A. Support the Child Crisis of Arizona campus creation project phase one met a national objective and was necessary and reasonable or repay its program \$300,000 from non-Federal funds.
- 1B. Improve and implement stronger policies and procedures for reviewing potential activities for funding, which include ensuring that they are necessary and reasonable, that the service area for the low- and moderate-income area benefit national objective includes the entire area served by the activity, and that the City has addressed concerns from those reviewing the application.
- 1C. Support that the Eagles Park activity met an eligible CDBG national objective or repay its program \$1,150,000 from non-Federal funds.
- 1D. Support that the Save the Family Community Conference Center activity met a national objective or repay its program \$981,779 from non-Federal funds.
- 1E. Support that the Kleinman Park activity met a national objective or repay its program \$249,300 from non-Federal funds and correct the installation of the playground fossils or repay the program from non-Federal funds.¹⁷
- 1F. Support that the West Mesa CDC special economic development activities for fiscal years 2016 and 2017 met a national objective and that expenses were adequately supported and for eligible activities or repay its program \$175,975 from non-Federal funds.

¹⁷ The total project cost of \$249,300 included \$3,665 in costs for the playground fossils that were not properly installed by the contractor.

- 1G. Ensure that the \$65,000 microenterprise activity awarded to West Mesa CDC for fiscal year 2019 meets CDBG requirements or amend the use of funding to another CDBG-eligible activity.
- 1H. Support that the Ability360 Mesa Home Accessibility activity for fiscal years 2015, 2016, and 2017 followed HUD requirements and its subrecipient agreement or repay its program \$192,563 from non-Federal funds. This includes supporting that all activities met the national objective requirements and were for rental properties, contracts were properly procured, the 10 percent match subrecipient agreement requirement was met (\$4,293) and properly accounted for, and contract expenses were adequately supported (\$228).
- 1I. Ensure that the \$6,809 allocated for the Mesa Home Accessibility activity for fiscal year 2017 meets HUD requirements or amend the use of funding to another CDBG-eligible activity.
- 1J. Implement and reinforce its policies and procedures that require the City and its subrecipients to maintain adequate documentation to support the City's CDBG program activities and maintain adequate documentation of subrecipient monitoring reviews. This includes tracking the status of monitoring reviews, communicating findings to subrecipients, and adequately resolving findings in a timely manner.
- 1K. Support that the findings for the fiscal years 2011 and 2014 NEDCO activity were adequately resolved or repay its program \$105,688 from non-Federal funds.
- 1L. Ensure that the remaining \$153,191 budgeted for the 2010 NEDCO activity meets HUD requirements or amend the use of funds to another CDBG-eligible activity.
- 1M. Develop and implement procedures to ensure that City employees responsible for desk and onsite monitoring reviews and its subrecipients are aware of HUD and subrecipient requirements for each type of activity funded.
- 1N. Improve and implement its desk and onsite monitoring policies and procedures to strengthen its capacity to perform effective desk and onsite monitoring reviews of subrecipients and for using a risk assessment to schedule monitoring visits.
- 1O. Develop and implement policies and procedures for reviewing expenses charged to CDBG from other City departments.
- 1P. Develop and implement a recurring training plan for City CDBG staff to ensure knowledge of HUD regulations and requirements.
- 1Q. Document and submit all activities to HUD for written approval to ensure that they are eligible activities that meet the CDBG national objective requirements before funding

until recommendations 1B, 1J, and 1M to 1P are adequately implemented. This should include documenting all correspondence with HUD, including review and approval.

- 1R. Document and submit all payments to HUD for written approval before reimbursement until recommendations 1B, 1J, and 1M to 1P are adequately implemented. This should include documenting all correspondence with HUD, including review and approval.

Scope and Methodology

We performed our audit fieldwork at the City’s office located at 20 East Main Street, Mesa, AZ, between March and August 2019. Our audit period covered July 1, 2015, to February 28, 2019, which we expanded to include expenses from April 30, 2015, to June 30, 2015 for expenses related to Ability360 because some of the expenses for the activity selected were prior to the audit period. In addition, our recommendations for NEDCO include activities for fiscal years 2011 and 2014 based on indicators of issues similar to West Mesa CDC.

To accomplish our objective, we

- Reviewed applicable CDBG program requirements and Federal regulations.
- Reviewed relevant background information, including organizational charts, written policies and procedures, audited financial statements, consolidated and annual action plans, and consolidated annual performance evaluation reports.
- Interviewed staff from HUD, the City, and subrecipients.
- Reviewed HUD monitoring reports.
- Reviewed reports from IDIS¹⁸ to obtain CDBG disbursements for the period tested. We reviewed backup documentation to support IDIS disbursements. Our assessment of the reliability of IDIS was limited to the data sampled, and the data were reconciled with data in the City’s records. We did not assess the reliability of the systems that generated the data.
- Reviewed documentation from the sampled projects, including subrecipient agreements, procurement documentation, subrecipient requests for payment, and payroll documentation.
- Performed site visits to four of the activities sampled.

We selected a sample of activities because it would not have been practical to review 100 percent of the supporting documentation due to the large number of records. Therefore, we cannot project the results of our testing to estimate an error or compliance rate for the population of activities. The audit universe consisted of 65 activities totaling more than \$14.7 million in drawn funds for the period July 1, 2015, through February 26, 2019. We selected eight activities with a total of \$3.5 million in drawn funds. We broke up the activities into five intervals based on the amount drawn during our audit period and selected two random activities from each interval. We also selected one random activity related to West Mesa CDC to address the OIG hotline complaint. In addition to the hotline complaint allegations, for each activity, we reviewed the award process, national objective and eligible activity, and cost eligibility.

¹⁸ IDIS provides HUD with current information regarding program activities across the Nation, including funding data. HUD uses this information to report to Congress and monitor grantees. IDIS is the drawdown and reporting system for the CDBG program.

For the homeowner rehabilitation activity selected as part of the sample above, we selected a subsample of homes rehabilitated because it would not have been practical to review 100 percent of the supporting documentation due to the large number of records. Therefore, we cannot project the results of our testing to estimate an error or compliance rate for the population of rehabilitation activities. There were 54 homeowner rehabilitation projects totaling \$519,999 for the program year selected as part of our activity sample. We selected the highest five rehabilitation projects, which totaled \$85,726.

In addition to the activities selected above, we reviewed a sample of the City's administrative costs for the 2018-2019 program year because it would not have been practical to review 100 percent of the supporting documentation during our audit timeframes due to the large number of records. Therefore, we cannot project the results of our testing to estimate an error or compliance rate for the population of administrative costs. The universe of administrative expenses totaled \$365,662. We selected all salary-related expenses totaling \$341,967 and the remaining nonsalary expenses included in the highest voucher totaling \$8,854.

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.

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:

- Effectiveness and efficiency of operations – Implementation of policies and procedures to reasonably ensure that program funds are used for eligible purposes.
- Reliability of financial information – Implementation of policies and procedures to reasonably ensure that relevant and reliable information is obtained to adequately support program expenditures.
- Compliance with applicable laws and regulations – Implementation of policies and procedures to ensure compliance with applicable HUD rules and 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 items are significant deficiencies:

- The City lacked sufficient knowledge to ensure that its CDBG activities were eligible and met a national objective or that subrecipients followed its subrecipient agreements (finding).
- The City lacked adequate controls to ensure that the program activities complied with HUD requirements (finding).

Appendixes

Appendix A

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

Recommendation number	Unsupported 1/	Funds to be put to better use 2/
1A	\$300,000	
1C	1,150,000	
1D	981,779	
1E	249,300	
1F	175,975	
1G		\$65,000
1H	192,563	
1I		6,809
1K	105,688	
1L		153,191
Totals	3,155,305	225,000

- 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. In this instance, the unsupported costs include (1) \$300,000 for land purchased for the development of a parking lot, without support it met a national objective and was necessary or reasonable to expand the capacity of services offered; (2) three activities totaling more than \$2.3 million for which the City did not support that it used the entire area served when determining whether it met the national objective; (3) two activities totaling \$368,538 for which the City did not support that the national objective, eligible activity, procurement, or salary expenses met HUD requirements; and (4) one activity totaling \$105,688 for which the City may not have adequately resolved findings.
- 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 allocated funds for (1) two activities totaling \$71,809 for which the City may not be able to support that the national objective, eligible activity, procurement, or salary expenses met HUD requirements because it could not support the costs already spent for the same activities and (2) one activity totaling \$153,191 for which the City may not have adequately resolved findings.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments



December 4, 2019

Tanya E. Schulze
Regional Inspector General for Audit
Office of the Inspector General
United States Department of Housing and Urban Development
300 North Los Angeles Street, Suite 4070
Los Angeles, California 90012

RE: Discussion Draft Audit Report of the City of Mesa's Community Development Block Grant ("CDBG") dated November XX, 2019

Dear Ms. Schulze:

We are in receipt of the draft entitled "City of Mesa, Mesa, Arizona, Community Development Block Grant, Audit Report Number: 2020-LA-10XX, dated November XX, 2019" ("Draft Audit"). The Draft Audit reviewed several CDBG loans and grants made by the City of Mesa ("City") over a multiyear period and whether such loans and grants were made in compliance with Section 105 [§5305] of the Housing and Community Development Act of 1974 ("HCD of 1974"), 24 CFR Part 570 ("Part 570"), and, as applicable, 2 CFR Part 200 ("Part 200").

The City notes at the outset that the primary obligation of any audit is compliance with law. In this respect, the City has in good faith complied with the applicable federal, state, and local law. Moreover, the second issue raised consistently by the Draft Audit is the question of compliance with United States Department of Housing and Urban Development ("HUD") regulations, notably Parts 570 and 2 CFR Part 200 ("Part 200"), to the degree that relevant sections of Part 200 do not conflict with the HCD of 1974. The City's response addresses both aspects. Additionally, the City has relied on HUD-compliance materials, such as notices and handbooks, assuring that the City has been in compliance as set forth below.

As a factual matter, with respect to all HCD of 1974-related allocations by the City, all of the grants and loans were made to projects in census tracts that serve Low- and Moderate- Income ("LMI") communities or programs that serve LMI persons or households where at least 51% of the population is classified as LMI. Moreover, each of the census tracts where the CDBG-funded loan or grant was undertaken was highlighted within the City's Consolidated Plan (and Amendments) (together, the "Consolidated Plan") submitted to HUD and identified by the City as a CDBG Target Area within its Consolidated Plan. See Exhibit A (City of Mesa, 2010 Census Tracts Map).

[00335673.1] 1

Comment 1

Comment 2

Comment 3,
33, and 34

I. Background and Clarification regarding the Neighborhood Stabilization Program 1 Allocations and 2 CFR Part 200 Compliance

The Draft Audit cites two sources of federal funds that are allegedly out of compliance. This letter mostly focuses upon allocations under the HCD of 1974, Part 570, and Part 200, however not exclusively.

The Draft Audit also cites the Neighborhood Stabilization Program ("NSP 1"), which was created under Title III, Division B of the Housing and Economic Recovery Act of 2008, Pub. L. 110-208, 122 Stat. 2654 (July 30, 2008) ("HERA").

NSP 1 was undertaken and administered by HUD, and Congress determined that the regulations set forth in CDBG under Part 570 would apply to NSP 1 *except as otherwise waived by HUD*. Many of Part 570's regulations were, in fact, expressly waived or significantly amended by HUD. HUD made clear that states (and other NSP 1) grantees had the widest possible lawful discretion to allocate NSP 1. See 73 Fed. Reg. 58331. Accordingly, all the City's allocations under NSP 1 would seem to have complied with HERA and HUD's own published parameters.¹

The City received approximately \$9,659,665 in NSP 1 funds from HUD pursuant to its allocation formula. See 73 Fed. Reg. 58330 (October 6, 2008) at 58345. HUD made clear that the eligible activities for the allocation of NSP 1 funding, like many other aspects of NSP 1, differed from that set forth in Part 570.

HUD published a set of clarifications and waivers in the Federal Register on October 6, 2008 that impacted all NSP 1 applications. Those clarification and waivers essentially waived or amended Part 570 significantly. See 73 Fed. Reg. 58330 (October 6, 2008). HUD provided that the definitions for NSP 1 would be different than those set forth in Part 570. Moreover, HUD noted that recipients (states and local governments) would be given "maximum feasible deference" in matters related to their NSP [1] program. *Ibid.* (Brackets added.) HUD itself noted that it permitted different criteria for funding local priorities than are set forth in Part 570 because the NSP 1 was (at the time) a one-time appropriation. See 73 Fed. Reg. at 58331 See also, www.huduser.gov/portal/datasets/NSP.html.² While NSP 1 was used for primarily housing counseling and housing-foreclosure avoidance and other, related activities, among the permitted uses of NSP 1 were area benefit activities that served areas up to 120% of area median income ("AMI"), well in excess of the 80% of AMI requirements set forth in the HCD Act of 1974 and Part 570. See 73 Fed. Reg. at 58335. Under NSP 1, those areas were lawfully redefined as "LMMH" instead of LMI *by HUD*.

¹ We do not address HUD's guidance set forth in 75 Fed. Reg. 52772 (August 27, 2010) because it (a) was not raised as an issue in the Draft Audit, and (b) seems to address a misinterpretation of the applicability of a particular provision of the HCD of 1974 in the context of a HERA appropriation.

² NSP 1 was created under §2301(b) of HERA. The subsequent Neighborhood Stabilization programs were created under a separate Congressional Act, the American Recovery and Reinvestment Act of 2009 ("ARRA") that created NSP 2 and 3. ARRA's provisions are irrelevant to any of the expenditures audited under the Draft Audit and are not addressed herein.

**Ref to OIG
Evaluation**

Comment 4

Comment 5

Comment 6

The City was in compliance with NSP 1 requirements under HERA, including those set forth in the Federal Register. HUD's Office of Community Planning and Development ("CPD") issued a monitoring review letter dated August 15, 2017 containing zero findings and zero concerns regarding the City's administration of NSP 1 funds. See Exhibit B (Letter from Lawrence Wuerstle, Program Manager, CPD). Accordingly, the City does not comment further on the issues raised in passing in the Draft Audit that relate to NSP 1 because they cite concepts that are statutorily relevant to HERA, not the HCD of 1974.

Further, for all other matters addressed herein, the City has presumed that all comments regarding allocations of CDBG by the City were undertaken after 2013 and, therefore, relied upon the HCD Act of 1974, Part 570, and Part 200.

II. Findings and City's Response to Draft Audit

A. Concurrences. The City concurs and accepts the following Draft Audit overall conclusions:

The City shall improve its policies and procedures related to the CDBG program cited in the Draft Audit, including those for funding, monitoring, documentation, internal controls, and training ("Policies & Procedures"). The City is committed to ensure that CDBG funding is utilized in accordance with applicable regulations and acknowledges a need for improvement in the Policies & Procedures necessary to monitor and document the eligibility requirements and CDBG national objective ("National Objective") of each program and project.

In addition, the City concurs with the submission of documentation related to payments and activities to HUD to ensure compliance with National Objectives and funding awards.

In conjunction with its concurrence with the Draft Audit's conclusions, the City has undertaken or will continue to undertake the following actions within the next one hundred eighty (180) days:

1. Scheduled initial staff training on December 11, 2019 (Internal Controls) and January 9, 2019 (Project/Program Eligibility & National Objective); additional training will also be scheduled.
2. Hire an outside consultant with significant experience in the area of monitoring and oversight of CDBG programs, as well as potential staffing changes.
3. In addition to the electronic files, create hard files for each project and program in order to assure that all legally required documentation was received by the City and is maintained in the file in a manner that complies with Part 570. The files include document checklists that ensure consistency between files.
4. On November 21, 2019, the City held training for sub-recipients related to eligible programs and projects under the HCD of 1974 requirement that any CDBG allocation be linked to

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Evaluation

one of the National Objectives. The City will continue to hold such training sessions for future allocations of federal funds, including CDBG.

5. The City created a new procedure related to the execution of any future sub-recipient agreements in the form of a pre-contract orientation meeting with the sub-recipient to outline the sub-recipient's responsibilities related to the CDBG program and the sub-recipient's grant or loan agreements, as applicable.

6. Will create standard operating procedures related to the implementation of Policies & Procedures, including the site and desk monitoring of sub-recipients.

7. Revise the City's current application program (Zoom Grants) to ensure at the outset that each application meets a National Objective and is eligible to receive CDBG funding before moving an application forward in the award process.

8. Create a two-step review process with built in redundancy in order to provide additional review and approval of expenses charged to CDBG by other City departments.

The City welcomes the opportunity to work with CPD and other HUD staff to utilize their expertise in the improvement of the Policies & Procedures and approval of eligible activities and payments to ensure the City's compliance with CDBG programming requirements.

B. Partial Concurrences. The City concurs in part and disagrees in part with the following Draft Audit conclusions:

1. West Mesa Community Development Corporation a/k/a the Greater Mesa Community Development Corporation, an Arizona nonprofit corporation ("West Mesa") (2016 and 2017 Funding)

The City disagrees with certain of the findings in the Draft Audit related to West Mesa and concurs in part. Specifically, the City responds that:

a. The City did not award CDBG allocations in 2016 and 2017 to West Mesa in violation of the HCD of 1974 or Part 570. The City awarded the 2016 and 2017 CDBG funds to West Mesa, the City's CDBG sub-recipient, and those CDBG grants were undertaken in compliance with the stated intent.

b. The City lawfully and expressly disclosed the change in category for its use of CDBG funds from "special development" activity to "microenterprise" activity as permitted by the HCD of 1974 and Part 570. The Draft Audit implies that the City cannot change categories of specific eligible activities when federal law and regulation allow for such a change.

The applicable provisions of 24 CFR 570.506(b), (c), and (h) through (k), impose certain record keeping duties in conjunction with the use of CDBG with the sub-recipients, not just – or even primarily – the City. The City had a monitoring role with West Mesa but did not undertake West Mesa's eligible activity. West Mesa was a sub-recipient and carried the

Comment 5

Comment 7

Comment 8

Comment 9

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Evaluation**

Comment 10

recordkeeping duty to assure that the economic development activities undertaken with CDBG funds, specifically job creation, were documented in compliance with Part 570. The City had different recordkeeping obligations unrelated to those owed by West Mesa and undertook them generally, but incompletely and the City has concurred with that finding in the Draft Report (see above).

c. As it pertains to procurement, regardless of the procurement regimen, the City had no direct obligation to procure under Part 200 or Part 85 in connection with any West Mesa activity – only West Mesa had that obligation. The City has concurred that it failed to properly monitor West Mesa’s procurement process after West Mesa procurement, but the City disagrees that it had a statutory or regulatory obligation to procure on West Mesa’s behalf, as the Draft Audit implies.

Comment 11

d. While the City required West Mesa to keep records in compliance with Part 570, West Mesa failed to do so. The City did not “disregard” HUD requirements. The City has produced reams of information to your office detailing its efforts to counsel West Mesa. Often, the form of the information collected by West Mesa was not in conformity with Part 570, but was substantively relevant nonetheless. As those records indicate, the City went a step further and provided West Mesa with additional technical assistance regarding record management compliance and attempted to assist West Mesa; however, the City acknowledges that it did not provide proper follow-up on the monitoring of West Mesa.

Comment 12

2. Arizona Bridge to Independent Living, Inc., an Arizona nonprofit corporation and its affiliate Ability 360, Inc., an Arizona nonprofit corporation (“Ability 360”)

Ability 360 is a non-profit organization that assists individuals with disabilities in a variety of ways, including by providing the capacity to fund a disabled owner’s or tenant’s reasonable accommodation(s).³ Ability 360 has provided social services and health care assistance to the disabled community throughout the Phoenix-Tempe-Mesa-metropolitan area for decades, with support from many sources, including awarded federal funding. The specific service for which Ability 360 was awarded CDBG funding was to make modifications to housing units to assist Mesa residents in their efforts to live more independent and self-sufficient lives within their homes – owned or rented.

Comment 13

Ability 360 was working with “presumed benefit” clientele, which the City acknowledges is not permitted under the National Objective for housing activities; however, when looking at the individual benefitted clientele, the City believes that the actions of the agency meets the National Objective of LMI benefit. The City is currently working with Ability 360 to gather additional documentation to support the income eligibility of the assisted households to demonstrate that the CDBG National Objective requirements for the program were met at the time the households were served.

³ The term “reasonable accommodation” is defined herein as set forth in Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

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Evaluation**

Comment 12

Comment 14

Comment 15

The CDBG funds allocated to Ability 360 in Fiscal Year 2015/2016 and Fiscal Year 2016/2017 (they received no CDBG funds in Fiscal Year 2017/2018) provided ADA-compliant bathrooms and ramps for several disabled, elderly LMI homeowners and renters, installed grab bars and a ramp for a disabled person living in an apartment, and installed a ramp for a paraplegic who is wheelchair bound. Each of the individuals was LMI *and* elderly, disabled or both and presumed to meet the need criteria in the HCD of 1974. The modality of their living arrangements was irrelevant under federal law.

Comment 16

As it pertains to the ten percent (10%) match requirement listed in the contracts between the City and Ability 360, the City would point out that the ten percent (10%) match is a requirement that Ability 360 places on the recipient households and is not a CDBG requirement. Accordingly, any audit finding relating to the ten percent (10%) match is irrelevant in the context of the HCD of 1974 or Part 570. The City is currently working with Ability 360 on a resolution to the issue of meeting contractual requirements, but the CDBG funding related to the ten percent (10%) match was spent in compliance with the HCD of 1974 and Part 570, including Part 200.

Comment 17

The Draft Audit also cited a \$228.00 expense related to the replacement of a kitchen faucet. The City acknowledges that expense was not eligible and should have been the responsibility of the landlord.

3. The City's Controls were Ineffective

While the City acknowledges that improvements are needed in its internal controls, steps are already being taken to ensure the internal controls are improved (see above). To state that the controls were "ineffective" implies that funds were not spent on persons that were LMI or presumed LMI within the requirements of the HCD of 1974 or Part 570, which the City argues is an inaccurate finding simply because City and sub-recipient records show that the CDBG expenditures served LMI populations, as required by the HCD of 1974. The City will continue to work with HUD and experts in the area of CDBG to ensure that its Policies & Procedures, including the internal controls, support the fact that LMI individuals and households are receiving the benefits of City awarded CDBG funding in a manner that complies with both the HCD of 1974 and Part 570.

Comment 5

C. Objections.

The City objects to the following findings within the Draft Audit and suggests that these audit findings be removed. Specifically:

- 1. Response to Draft Audit's finding that Child Crisis of Arizona did not meet CDBG objectives and the City did not administer its CDBG in compliance with Section 105 [§5305] of the Housing and Community Development Act of 1974, 24 CFR Part 570, and the Community Planning and Development Handbook 6509.2 REV-7 ("CPD 6509.2") ("Findings 1 and 2")**

The City objects to Findings 1 and 2.

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Evaluation**

Comment 18
and 22

The City met the required National Objectives set forth in the HCD of 1974, Part 570, and the monitoring criteria HUD set for itself in CPD 6509.2 when the City provided a loan of CDBG funds to the Child Crisis of Arizona, an Arizona nonprofit corporation ("CCA"). CCA's property in question is located at 817 North Country Club Drive, Mesa, Arizona ("Property"). The Property is in a qualified census tract ("QCT") identified as Census Tract 4210.1, whose population is 56.76% categorized as LMI, and is in a CDBG Target Area.

The City did not grant, but instead loaned CDBG funds to CCA. CCA executed a CDBG Development Block Grant (CDBG) Developer Loan Agreement dated February 27, 2018 with the City ("Loan Agreement") together with a Promissory Note dated February 28, 2018 ("Note"). Both the Loan Agreement and the Note required CCA, as the borrower, to follow all relevant provisions set forth in the HCD of 1974 and Part 570.

Comment 19

CCA's office is located at 827 North Country Club Drive, Mesa, Arizona ("Site"), adjacent to the Property, and provides its services to abused and other children from LMI families at that location. Mesa is one of the fastest growing cities for childhood poverty and CCA provides a menu of services to children at the Site, who are primarily from the relevant qualified census tract where the Site is located but CCA also provides services to children from LMI families who reside in other parts of the City. All the services provided by CCA are permitted under the HCD of 1974. None are barred and are provided in other facilities receiving similar CDBG grants or loans throughout the nation. The Loan Agreement and Note to CCA conformed with the City's Consolidated Plan by encouraging investment in economic growth and the workforce, providing non-homeless public services, primarily to children, and encouraged collaboration with other service providers.

Comment 20

Both the Note and the Loan Agreement require CCA to comply with federal and Arizona law. See *inter alia* Sections 3.2, 4.10, 4.11, 4.16, and 13.30 of the Loan Agreement. The CCA loan was undertaken using the applicable cost and allocation principals. See Parts 570.502 and 570.505. The Loan Agreement is a covenant upon record title pursuant to a Declaration of Affirmative Land Use Restrictive Covenants for CDBG-Assisted Property recorded at 2018-0159900 ("LURC") and a Deed of Trust recorded at 2018-0159901 ("DOT") of the Official Records of Maricopa County, Arizona. Both the LURC and the DOT require CCA to comply with all federal statutory and regulatory requirements. The City has monitored CCA's compliance in accordance with the HCD of 1974 and Part 570.

Comment 21

Comment 22

The City awarded the \$300,000 loan to CCA for purposes of acquiring property, demolishing a previously existing improvement, and creating a parking lot that would more effectively serve the families and children who CCA serves at the Site. The City was obligated under Part 570 to assure the eligible activity *principally* (not, as the Draft Audit maintains, "exclusively") served an LMI population, not a sub-demographic composed of a particular group (i.e., abused children). Part 570.208(a)(2)(A). The City made the correct determination that the loan was compliant with CDBG and, more importantly, the HCD of 1974 and Part 570 provide the City (not HUD or the HUD Office of Inspector General ("HUD OIG")) with the legal capacity to make that determination of need. See Part 570.208(a)(2)(A) *through (D)*. The City was well within its Congressionally-determined lane when it loaned CDBG funds to CCA.

Comment 23

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Evaluation**

Comment 24

While Part 200 invokes the word "necessary" for purposes of cost accounting, the HCD of 1974 does not. Part 200 applies except when a law uses other criteria. See Part 200.403. The HCD of 1974 uses a reasonableness criteria, but does not address "necessary" costs as set forth in Part 200. Accordingly, the City complied with the HCD of 1974's requirements.

Comment 25

Notwithstanding the foregoing, the City determined there was a need for reasons related to the needs of first responders, the safety of the children served at the CCA Site, and general traffic flow required by the City Code.

The CCA campus is oddly situated with improvements at the center and 'back' or southerly half of the Site, behind the church property, toward the center of the block, and away from the principal service road. City Code requires ingress and egress for both the church and CCA from two entrances that serve the entire campus. CCA's acquisition of the Property was undertaken to provide a greater connection to the Site through the road of highest traffic volume (Country Club Drive) and to allow for self-contained, City Code compliant parking ("North Lot"), greater street frontage of the CCA facility from Country Club Drive (as, without the acquisition of the Property, CCA had none), more direct access to the CCA building facility for families, and the placement of more visible signage for CCA that conformed to City Code.

What is indisputable is that the acquisition of the lot for additional parking was necessary.

First responder review of CCA's land use and zoning application is required to receive concurrence from the City of Mesa Fire & Medical Department. As a practical matter, the prior existing church and CCA share a lot with two curb cuts. The Fire & Medical Department requires no "dead end-" or "stove top hat-" style parking so that first responder vehicles can turn within the parking lot. Accordingly, the Fire & Medical Department required the church and CCA to share a cross access easement and maintain a shared parking agreement, as further discussed below.

Comment 26

Secondly, the church and CCA have possessed a shared parking and cross access agreement since 2005 because CCA was required to have fifty-three (53) available spaces and only possessed thirty-eight (38) prior to the CDBG-funded improvement. The CDBG-funded improvement allowed CCA to add twenty-nine (29) parking spaces, which in turn allowed CCA employees to park in the North Lot, leaving the closer parking spaces on the remaining CCA-owned lot for families and children receiving CCA's services at the CCA building, making it safer for children and their families. Currently, CCA has sixty-seven (67) spaces, which is fourteen (14) spaces more than required by City Code, but also means that CCA is not dependent on the shared parking and cross access agreement with the church. Under the former parking and cross access agreement, friction developed in the relationship between CCA and the church when both facilities were in intensive use. The use of the CDBG funds allowed CCA to minimize future friction with the church.

Comment 27

CCA having the ability to function at a high capacity in a manner that allows the non-profit agency to best serve the LMI population of its clients is necessary for the best interests of the City and the City's residents served by CCA. Even if Part 200.403 applied, the determination of "need" for a CDBG recipient is a local one, not a federal one. CCA demonstrably had need and

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Comment 28

necessity. It is worth noting that the City's Planning department has provided CCA with approval for a change of use for the Site, allowing for an increase of up to thirty-five (35) additional students to benefit from CCA's Early Head Start and Head Start programs, thus further evidencing the necessity of the additional parking created by the acquisition of the Property because the CCA facility possesses the necessary qualities in a facility to contract with the State of Arizona in connection with a Head Start center.

Comment 29

Comment 26

Comment 30

The City cannot respond to issues of observation of the HUD OIG auditors ("Auditors") set forth in the Draft Audit. Like any facility that serves children, service times have peak use periods of service and appurtenant parking needs. CCA has long been a high use facility and traffic along the corridor that serves the CCA Site (Country Club Drive) tends to congest when CCA experiences peak service hours. No audit standard is sustainable on a random, one-time observation. It would be helpful to know the dates, times, and conditions of the observations by the Auditors in order to provide an adequate response. CCA's peak parking demand hours are from 8:00a.m. until 9:00a.m. and again between 2:00p.m. and 3:00 p.m. during which times the parking lot is generally full to capacity. The pictures taken yesterday that are attached as Exhibit C show the extent of use. Additionally, the general observation made by the Auditors that the parking lot benefits the church more than CCA was not substantiated in a manner that the City can respond to, particularly when there is no support for the observation other than a parking and cross access agreement between CCA and the church that was required by the City years prior to the award of CDBG funds as a part of the planning and zoning process for the original development of the CCA facility (see above). Accordingly, because this comment is not based on any audit standard whatsoever, this specific conclusion in the Draft Audit should be deleted.

Comment 5
and 31

The loan evidenced by the Loan Agreement complied with all aspects of the HCD of 1974 and Part 570. CCA's intention was to expand its campus using both the CDBG funds and other funding sources of CCA, as CCA planned to (a) acquire property with CDBG funds and used "other funds" to demolish the existing building and develop the land into a parking lot to serve CCA's needs more effectively at the Site, and (b) purchase property for a playground. The City's CDBG allocation was used well and in complete legal and regulatory compliance. Thus, all findings in the Draft Audit relating to CCA should be deleted.

Comment 5

2. **The City Assured All Eligible Activities Were Met with respect to Eagles Park, Kleinman Park, and Save the Family Conference Center, specifically the LMI Requirement ("Finding 2")**

Comment 32

The City further objects to Finding 2, for the reasons described below.

The development of property or installation of improvements with CDBG funds was an eligible activity as set forth in the HCD Act of 1974 and Part 570.200 for Eagles Park, Kleinman Park, and the Save the Family Conference Center.

Comment 2
and 33

a. **Eagles Park**

The City objects to this finding and it should be deleted from the Draft Audit.

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Evaluation**

Comment 34

Comment 2
and 35

The City acquired Eagles Park using City general funds, not CDBG funds. The Draft Audit concludes that “the Eagle [sic] Park project ...[used] different census tracts for the NSP 1 and CDBG funds when calculating area benefit to determine that the park was available to residents in a particular area.”

Eagles Park was constructed on the former site of a junior high school located at 828 East Broadway, Mesa, Arizona and is within census tract 4215.01, a census tract identified as being at least 51% LMI in the City’s Consolidated Plan and within the Consolidated Plan’s CDBG Target Area.

The criteria used by the City with respect to the allocation of CDBG funds in connection with Eagles Park was consistent with the HCD of 1974 and Part 570; the criteria could not match HERA criteria because, as noted above, the HERA and HCD of 1974 provisions are different acts with different criteria. Moreover, the Eagles Park CDBG allocation followed both the above-mentioned laws and regulations. NSP 1 was undertaken under an entirely different statute and regulatory framework than the HCD of 1974 or Part 570 (see above). As such, the fact that the adjacent census tracts used in the CDBG application and the Integrated Disbursement & Information System (“IDIS”) is different than the use and allocation of funds made under NSP 1 has no nexus to the issue of whether the City complied with the HCD of 1974 and Part 570 with respect to the allocation of CDBG funds to Eagles Park in 2014. Thus, there is no inconsistency with the criteria used by the City in connection with the census tracts served under the HCD of 1974 vis-a-vis HERA, simply a different response required in the context of NSP 1 because of a completely different federal act, namely, HERA.

It is of note that, as reflected in IDIS, the City also included under the CDBG National Objective requirements the census tracts used in the NSP 1 eligibility determination and concluded that the combined census tracts met the National Objective where more than 51% of the households were LMI.

The City confirmed that the CDBG grants served a National Objective under the HCD of 1974 and 24 CFR Part 570, thus the CDBG grants for the development of Eagles Park were an eligible activity. Under the HCD Act of 1974, National Objective criteria are set forth in Section 101 [§5301] of the HCD Act of 1974. National Objectives are further detailed in 24 CFR Part 570.208. Moreover, CPD 6509.2 sets forth the monitoring requirements applicable when CPD assesses a grantee that receives CDBG funds, which the City relied upon. The City utilized all the above criteria in its determination of CDBG use for Eagles Park and found it to be compliant.

b. Kleinman Park and the Installation of Playground Equipment

Kleinman Park is located at 710 South Extension Road, Mesa, Arizona. Kleinman Park is located at Census Tract 4221.06. Census Tract 4221.06 is identified as an LMI census tract in the City’s Consolidated Plan. In fact, the City examined an additional seven census tracts to further support that the National Objective of area LMI benefit was met by the use of funds at Kleinman Park; those census tracts are identified in IDIS in the set-up of this activity.

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Comment 36

The Kleinman Park equipment was properly installed in accordance with the instructions from the Original Equipment Manufacturer (“OEM”). The City acknowledges that signage for the fossil find would be helpful and the City is already in the process of providing signage that will adequately identify the fossil find location. Having followed the OEM instructions as required, the installation itself was not inadequate. Nevertheless, the City agrees as a practical – not an audit - matter that signage would be helpful.

Comment 2
and 37

c. Save the Family Conference Center

The City objects to this finding and it should be removed from the Draft Audit.

Save the Family offers housing, case management and supportive services to equip families to address poverty, overcome homelessness, and achieve self-sufficiency. The Save the Family Conference Center is located at 129 East University Drive, Mesa, Arizona 85201. It is within census tract 4214.00 with a 69.56% LMI. The intent of the development was to specifically serve the Washington-Escobedo community and Save the Family clientele within the City of Mesa.

Following development of the Save the Family Conference Center, the City found that a need existed for a community facility within the East Valley for use by agencies and nonprofits serving LMI clientele. Thus, in addition to serving Save the Family’s LMI stakeholder needs, the Save the Family Conference Center has hosted meetings held by the Arizona Hispanic Chamber of Commerce, job fairs, various neighborhood outreach programs and community meetings, Volunteer Income Tax Assistance (VITA), Mesa Youth Leadership conferences, CPR training, and many non-profit organizations, such as, Beyond the Hurt, Community Bridges, Helen’s Hope Chest (which serves foster children), and Kaity’s Way. All the aforementioned Arizona organizations serve the City of Mesa community and their primary clientele is LMI persons.

Comment 38

Nothing in the HCD Act of 1974 or Part 570 bars the use of a community facility by other organizations that serve the general community, particularly non-profit organizations. We note that the observation in the Draft Audit fails to cite a provision of law or a regulation that was violated by allowing a community center to be used by non-profit organizations that serve the greater City area and the community at-large. We would think that the HCD of 1974, Part 570 and Congressional intent would be to encourage, not discourage, such utilization of a facility by community organizations and nonprofits and that their use would be well within Congressional intent for the use of federal taxpayer funds under the HCD of 1974.

There is no statutory or regulatory basis for this audit finding in the Draft Report.

3. West Mesa (2019 Funding) (“Finding 3”)

Comment 2
and 39

The City disagrees with certain of the findings in the Draft Audit relating to West Mesa and, as a result, objects to Finding 3.

As it pertains to the 2019 (\$65,000) funding awarded to West Mesa, to date, the City has taken no active steps to provide the funding to West Mesa, has not entered into a contract for

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the award and, without adequate support and demonstration of capacity to effectively carry out the activity for which they received the award from the City, will not be providing West Mesa with the 2019 funding; thus, any finding or mention in the Draft Audit with respect to any 2019 allocation by the City to West Mesa is premature.

4. **Notwithstanding the Improvements that the City has agreed to undertake with respect to the Policies & Procedures and CDBG Allocations generally, the City has concerns with respect to the Findings related to Ability 360 and Neighborhood Economic Development Corporation (“NEDCO”) (“Findings 4 and 5”)**

With the above concurrences and partial concurrences restated, the City notes its profound concerns in connection with Findings 4 and 5.

a. **Ability 360**

The explanations with respect to Ability 360 above are reiterated. The City finds it difficult to believe that, as an audit matter, the Draft Audit would cite the use of CDBG funds used for the purpose of helping the reasonable accommodations of the elderly and disabled. We strongly disagree with the audit conclusions relating to the manner in which Ability 360 performed its services for those in need of assistance. We reiterate our agreement that the City will improve monitoring and technical compliance by working with Ability 360 under Part 570.570. We urge the HUD OIG to redraft this finding in the Draft Audit other than the City’s monitoring issues, with which the City has concurred above.

b. **NEDCO**

Although the City acknowledges that follow-up letters to the monitoring were not issued to NEDCO, City staff provided extensive technical assistance related to the monitoring findings regarding job creation and documentation, as well as the organization of files, and other cited issues. The City continues working with NEDCO to ensure the organization’s project complies with CDBG requirements. The portion of the West Mesa finding relevant to NEDCO in the Draft Audit fails to cite substantive compliance violations by the City. We suggest deleting this reference because it is largely covered under the improvements to monitoring committed to by the City mentioned above.

III. Issues to which the City Cannot Respond

The City cannot respond to the issues relating to an “adequately procured” contract under 24 CFR Part 85 on page 8 of the Draft Audit because Part 85 was replaced by Part 200 two years earlier and was inapplicable during the periods in question. While the City appreciates the reference to the CPD Notice attached to the Draft Audit (CPD Notice-16-04), that option would be applicable to the City itself and not the City in lieu of a sub-recipient. The City has long complied with 24 CFR Part 85, when it was applicable, and Part 200, currently.

Comment 40

Comment 41

Comment 42

Comment 43

IV. Conclusion

The City cannot concur with the Draft Audit's overall conclusions or recommendations for the reasons set forth above. Specifically, we have reviewed the recommendations with respect to Findings 1 through 5 above and agree with the Draft Audit's recommendations in items 1(B), 1(J), 1 (M) through (P). We have reviewed the recommendations with respect to Findings 1 through 5 above and partially agree with the Draft Audit's conclusions in item 1(F). We have reviewed Findings 1 through 5 above and disagree with the following recommendations in the Draft Audit because the City was in compliance with the HCD of 1974, Part 570, and Part 200: 1(A), 1(C) through (E), part of 1(F), 1(G), 1(H) and (I), 1(K) and (L).

We believe 1(Q) is redundant in the context of the above, but we agree in principal.


We require a better understanding of the practical implementation of 1(R), but, as stated previously, the City is willing to work with HUD to comply with the requirements set forth in CDBG regulations related to this finding.

The City's response above provides numerous facts and legal analysis regarding the Draft Audit findings. The City would welcome the opportunity to have members of HUD OIG audit team and the City's professional staff meet to discuss the City's comments.

Thank you for time and consideration of the City's position.

Sincerely,

City of Mesa, Arizona

By: 
Natalie N. Lewis
Deputy City Manager

OIG Evaluation of Auditee Comments

Comment 1 We appreciate the time and consideration put forth by the City to review and respond to the draft report. However, we disagree with the City's assertion that it complied with applicable HUD regulations and requirements when implementing its CDBG program. The City's response did not change the audit report conclusions that it did not always (1) ensure that its CDBG activities met a national objective or that its subrecipients followed HUD's requirements or its own subrecipient agreements, (2) maintain adequate documentation, and (3) implement adequate internal controls. Therefore, we did not make any significant changes to the audit report.

Overall, the City's responses further support the audit report findings and recommendations in that the City needs to work on better understanding HUD regulations, requirements, and internal controls so that it ensures compliance throughout the CDBG process instead of being reactive to a review or audit. As stated during the exit conference, the City will have an opportunity during audit resolution to work with HUD to provide support, if available, for any questioned projects and costs.

Due to limitations, we note that exhibits A (monitoring letter from HUD), B (2010 census tract maps), and C (pictures of a Child Crisis of Arizona (CCA) site visit conducted by the City) were not included in this audit report and are available upon request.

Comment 2 We disagree with the City's implication that it adequately supported all of its CDBG activities' national objectives because the activities were in census tracts that served low- and moderate-income communities and that all activities were within census tracts highlighted in its consolidated plan. Its response again reinforces the audit report finding that the City did not have a full understanding concerning the requirements to support national objectives. The requirement under 24 CFR 570.208(a)(1) states that an activity, the benefits of which are available to all residents in a particular area where at least 51 percent of the residents are low- and moderate-income persons, is allowable. However, an area need not coincide with census tracts or other officially recognized boundaries but must be the entire area served by the activity.¹⁹ As highlighted in the audit report, the City did not fully support that it met the reported national objectives for six of the eight activities reviewed.

Comment 3 Although the City is correct that the audit report cites NSP 1 funds, the scope of this audit did not include a review of the City's compliance with NSP 1. To clarify, NSP 1 was cited only in reference to a prior OIG audit report for background purposes. Discussion regarding the use of NSP 1 funds and the Eagle

¹⁹ See appendix C.

Park activity illustrated that the City did not consider the entire area served for the CDBG national objective. The City used different census tracts for the NSP 1 and CDBG funds when determining the area benefit available to residents in a particular area. The funding type should not change the determination of the area served because it is the same park serving the same area and available to the same residents. For clarification, we updated the background in the audit report to emphasize that the audit report discussed in the background was previously issued on February 8, 2011. See also comments 32 and 33.

- Comment 4 In addition to references cited by the City, the audit relied on and referred to 24 CFR 85.36 when the City obligated its subrecipient to follow the applicable provisions in 24 CFR 85.36 in its subrecipient agreement.
- Comment 5 The City referred to findings 1 through 5 in its response. To clarify, the audit report included only one finding, that the City did not administer its CDBG program in accordance with HUD requirements. The finding included various sub-findings detailing individual deficiencies identified as part of the overall finding.
- Comment 6 We appreciate and recognize the City's concurrences with the audit report's conclusions as cited in section A of its response, especially those concerning improving its policies and procedures. We look forward to working with HUD to develop and implement corrective actions that address the audit report recommendations.
- Comment 7 To clarify, the audit report did not cite any issues concerning how the City awarded funds to West Mesa CDC in 2016 and 2017. The audit determined that West Mesa CDC submitted the 2019 application 1 day late; however, the issues concerning the application submission were not significant.

We disagree with the City's assertion that West Mesa CDC undertook activities in compliance with the stated intent. It minimizes the importance of requiring its subrecipients to follow the executed subrecipient agreement. The subrecipient agreement states that West Mesa CDC would use funding received under the agreement for direct costs to provide technical assistance and training for special economic development activities provided by West Mesa CDC. West Mesa CDC could not support that funds spent were for this stated purpose. For example, West Mesa CDC did not adequately track how the \$60,000 in time charged was for direct costs related to special economic development activities. While some of the time may have been for special economic development activities, the documentation supported that it included time charged for other activities, such as code candidate meetings and general activities that did not appear related.

- Comment 8 We disagree with the City's statement that the audit report implied that it could not change the categories. The audit report did not state that the City could not

change the eligible activity for another given activity. In this case, the audit report stated that changing the West Mesa CDC activity from special economic development to microenterprise did not resolve the issues the City identified during its monitoring review. In addition, the work performed would not qualify under the new activity because it did not meet microenterprise assistance requirements. West Mesa CDC did not establish the activity separate from all other business assistance it chose to provide when claiming reimbursement of time for this activity and for its business training class as required by HUD's CDBG Guide to National Objectives and Eligible Activities for Entitlement Communities.²⁰

- Comment 9 We appreciate the City's concurrence with respect to its record-keeping duties. However, we disagree that the City was not primarily responsible for record-keeping duties and that it generally undertook them. HUD regulations at 24 CFR 570.501(b) state that the recipient is responsible for ensuring that CDBG funds are used in accordance with all program requirements. The use of designated public agencies, subrecipients, or contractors does not relieve the recipient of this responsibility. The recipient is also responsible for determining the adequacy of performance under subrecipient agreements and procurement contracts and for taking appropriate action when performance problems arise.²¹ When the City identified documentation issues with West Mesa CDC, it did not take appropriate action to resolve the issues identified.
- Comment 10 We appreciate the City's partial concurrence that it failed to adequately monitor West Mesa CDC's procurement process. We also agree that the City did not have the direct obligation to procure under part 200 or part 85 on West Mesa CDC's behalf. However, we disagree that the audit report implied that the City did have a direct obligation to procure. The audit report stated that the City did not ensure that West Mesa CDC followed HUD procurement requirements, referencing its obligation as the primary recipient to provide adequate oversight and monitoring of subrecipients, in this case, West Mesa CDC.
- Comment 11 We recognize the City's acknowledgement that it did not provide proper followup on the monitoring of West Mesa CDC and agree that the City attempted to work with West Mesa CDC to bring its records into compliance. However, we disagree with the City's assertion that it did not disregard HUD requirements. As stated in the audit report, the City and West Mesa CDC initially did not adequately understand HUD requirements and then disregarded HUD requirements after they discovered compliance issues concerning West Mesa CDC. Instead of requiring West Mesa CDC to repay funds when it could not resolve the issues identified, the City received approval from the city council to switch the eligible activity from special economic development to microenterprise assistance. According to

²⁰ See appendix C.

²¹ See appendix C.

the city council report, the City worked with West Mesa CDC to address the monitoring findings and other program deficiencies. As a result, the council determined that it should have classified the activity as microenterprise assistance. However, the council report was misleading because not all of the issues identified during the City’s monitoring visit were resolved and West Mesa CDC did not assist only microenterprise businesses.

Comment 12 We disagree with the statement that the specific service for which Ability360 was awarded CDBG funding was to make modifications to housing units regardless of whether the home was owned or rented. Again, as stated in comment 6 above with respect to West Mesa CDC, the City is minimizing the importance of requiring its subrecipients to follow the executed subrecipient agreement. As stated in the report, the application, subrecipient agreement, and IDIS stated that the funds were to be used for rehabilitation of rental properties and not home-ownership properties. Specifically,

- The application for this activity stated “To be eligible, the resident *must* be a renter of an apartment, house, or mobile home.”
- The subrecipient agreement’s scope of work specifically stated, “...subrecipient provides a Mesa Home Accessibility Program which will provide 17 home modifications for Mesa residents with significant disabilities and seniors who rent houses, apartments and/or mobile homes to improve access and safety.”
- IDIS stated that Ability360 would “provide 16 home modifications for low to moderate income residents with significant disabilities and seniors who rent houses, apartments and/or mobile homes to improve home access and safety and increase the overall number of accessible units available in Mesa.”

Comment 13 We appreciate the City’s acknowledgement that the “presumed benefit” did not adequately support the low- and moderate-income national objective and its commitment to gather additional supporting documentation. We look forward to working with HUD during audit resolution to address the support for the national objective.

Comment 14 Although we could not verify the City’s statement that each individual to whom Ability360 provided services was low or moderate income and elderly, disabled, or both, any presumption is not an adequate basis to determine whether the participant meets the low- or moderate-income criteria. As noted in the report, in at least one instance, the City did not ensure that Ability360 adequately supported that a household was low to moderate income as required by 24 CFR 570.208(a)(3).²²

²² See appendix C.

Comment 15 We appreciate that the City is working with Ability360 on a resolution to the issue of meeting contractual requirements. However, we disagree that the modality of the living arrangements and the 10 percent requirement for recipients of funds from Ability360 were irrelevant when determining compliance with HUD requirements. Such a statement again minimizes the importance and crucial role of subrecipient agreements.

- According to 24 CFR 570.503(a-b), before disbursing any CDBG funds to a subrecipient, the recipient must sign a written agreement with the subrecipient.²³ The agreement must remain in effect during any period in which the subrecipient has control over CDBG funds. The agreement must include a description of the work to be performed. These items must be in sufficient detail to provide a sound basis for the recipient to effectively monitor performance under the agreement. When the City and Ability360 executed the subrecipient agreement, the work under the agreement was required to be within the scope of work so the City could effectively monitor performance.

Although HUD requirements do not state that home modifications must be limited to only rental units or meet a 10 percent match requirement, Ability360 and the City signed a subrecipient agreement with the requirements, assisting rental properties and a 10 percent match, in the statement of work. As stated in the audit report,

- At least 8 of the 11 properties assisted were not rental properties. Additionally, Ability360 did not request or maintain documentation to support that two rehabilitated properties met the affordable rent requirement and did not have enough support to determine whether one property was a rental or homeowner property.
- Ability360 received volunteerism equivalent to the 10 percent match amount totaling \$4,293. However, the City did not ensure that Ability360 reduced its reimbursement amount to meet the subrecipient agreement requirement. In addition, residents or their family members did not provide the volunteer hours; instead, other volunteers provided the service.

Comment 16 We appreciate the City's acknowledgement that the \$228 expense related to the replacement of a kitchen faucet was not eligible and should have been the responsibility of the landlord.

²³ See appendix C.

- Comment 17 While we appreciate the City's proactive position and recognition of the need for improved internal controls, we disagree with the City's statement that the audit report's reference to ineffective internal controls implied that funds were not spent on persons that were low to moderate income. The deficiencies identified in the audit report related to Ability360, a subrecipient, clearly illustrate how the City's controls were not always effective. The findings in the audit report emphasize that the City's and its subrecipient's records did not support that funds were spent in a manner that complies with CDBG requirements. As stated in the audit report, City and subrecipient files did not include all documentation needed to support that the City's activities met CDBG or its own subrecipient agreement requirements, or the City accepted low-quality documentation from contractors and subrecipients.
- Comment 18 We disagree with the City's implication that because the location of the CCA activity was in a low to moderate income census tract, it met the required national objectives. Such a statement oversimplifies HUD's area benefit requirements. The City did not report to HUD, through IDIS, that it met the national objective using area benefit. However, even if the City did change the national objective to area benefit, it would also need to include the entire area served as required by 24 CFR 570.208(a)(1) and not just the location where the activity was located. As it stands, as stated in the report, the City reported that the project met the national objective for low to moderate income based on a limited clientele for abused children and did not provide the support necessary to show that it complied with requirements in 24 CFR 570.208(a)(2).
- Comment 19 The City incorrectly inferred that the audit report indicated that the services provided by CCA were barred. The audit scope did not include reviewing compliance for all activities provided at the CCA facility nor whether it was similar to other facilities receiving similar CDBG grants or loans throughout the Nation. With respect to CCA, the audit objective was to determine whether the City met HUD requirements concerning the funds used to purchase land for the use of a parking lot for the CCA facility. The audit report stated that the City allowed CCA to use \$300,000 in CDBG funds for its Campus Creation project to acquire property to develop a parking lot as part of a multiphase campus expansion project without supporting that (1) it met a CDBG national objective or (2) CCA needed the parking lot to increase the capacity of services offered.
- Comment 20 Ensuring that CDBG activities align with an entity's consolidated plan is an important aspect of the CDBG program. We have concerns that the CCA activity did not specifically conform to the City's consolidated plan as it claimed in its response. The City should provide any additional support, as part of recommendation 1A, during audit resolution to support its claim that the CCA activity conformed to the City's consolidated plan.

Comment 21 The City stated that it monitored CCA in accordance with HUD CDBG requirements. Although we were not provided specific support showing that the City performed an onsite monitoring review, it did conduct some type of monitoring (desk reviews) through its eligibility review, reimbursement requests, and communication with CCA. However, this was not enough to prevent the City from allowing the project to continue without adequate support showing that it met a national objective or that the activity was necessary or reasonable.

Comment 22 The City is partially correct concerning the requirements in 24 CFR 570.208(a)(2). The City reported that the CCA activity met the national objective for low to moderate income based on a limited clientele for abused children. Stating that it only had to serve a low- to moderate-income population, not a specific subset of the population, oversimplifies the requirements. Specifically, 24 CFR 570.208(a)(2) states that the limited clientele activity must meet one of the following tests:

- A. Benefit a clientele who are generally presumed to be principally low- and moderate-income persons. Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low and moderate income abused children.
- B. Require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low- and moderate-income limit.
- C. Have income eligibility requirements, which limit the activity exclusively to low- and moderate-income persons.
- D. Be of such nature and be in such location that it may be concluded that the activity's clientele will primarily be low- and moderate-income persons.²⁴

We updated the report to provide the specific requirements to support the reported national objective of low- to moderate-income limited clientele. In addition, we added the statement that the City did not provide that support due to its intent to switch the national objective to the area benefit criteria.

Comment 23 The audit report did not state that the City could not do the CCA activity or make its own determination to loan CDBG funds to CCA. Instead, the report stated that the City allowed CCA to use the funds without supporting that it needed the parking lot to increase the capacity of services offered. The City, in its role as the primary CDBG recipient, did not provide support showing that it adequately reviewed the need for the CCA activity during its eligibility review. As a result of this audit, the City had started to provide additional support to attempt to demonstrate the need for an additional parking lot at the CCA facility. However, we note that the City should have obtained and reviewed adequate support to

²⁴ See appendix C.

demonstrate the need during its eligibility review instead of gathering the support in reaction to the audit.

- Comment 24 We disagree with the City’s assertions that it needed to comply only with 24 CFR part 570 and not specifically with 2 CFR part 200. The requirement under 24 CFR 570.502(a) states that grantees and subrecipients must comply with 2 CFR part 200 and lists some exceptions. The requirement under 2 CFR 200.403, identified by the City in its response, was not listed as one of those exceptions; therefore, the City needed to comply with 2 CFR 200.403, which states except when otherwise authorized by statute, costs must meet the following general criteria to be allowable under Federal awards: be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.²⁵
- Comment 25 As stated in the audit report, we did not receive adequate supporting documentation to verify the assertion from the City that it was indisputable that the parking lot was necessary. The City should provide any supporting documentation, including any support related to city codes and first responder requirements, during audit resolution.
- Comment 26 We do not agree with the City’s statement that the new parking lot was needed, in part, to not rely on a shared parking agreement. In addition, the statement that the parking lot may benefit the church more than CCA was not based solely on the physical observation conducted by the audit team. According to the City’s Authority to Use Grant Funds, it stated, “Upon completion of the demolition, Child Crisis Arizona and First Christian Church will enter into a shared parking agreement and an additional parking area will be constructed on the site.” Because of this agreement; the location of the new lot, which was closer to the church than CCA; and the lack of supporting documentation concerning CCA’s need for additional parking, we had concerns that there was a potential for the church to benefit from the new parking lot more than CCA. As a result, we changed the wording in the audit report from “likely” to “may” when referring to the potential for the church to benefit more than CCA. The City’s statement that the use of CDBG funds allowed CCA to minimize friction with the church raises additional concerns that CCA may have used the CDBG funds to reduce friction with the church rather than to expand services.
- Comment 27 We agree that CCA should have the ability to determine how it best serves its target clientele. However, when incorporating CDBG funding, that determination must adhere to CDBG rules and regulations. In this case, the audit determined the City and CCA did not adequately demonstrate a need or necessity for a parking lot. The audit team received and reviewed documentation regarding CCA’s potential expansion of services. However, the documentation did not adequately

²⁵ See appendix C.

support the need or necessity. Any additional documentation should be provided during the audit resolution process.

- Comment 28 We performed our initial observation on June 27, 2019, at 3:00 p.m. We performed an additional observation on October 16, 2019, from approximately 7:30 a.m. to 10:30 a.m. During our second site visit, we observed many parents dropping children off and leaving, thereby not requiring a parking spot, and CCA employees generally using the parking lot. Although the second site visit also did not indicate that the parking lot was overburdened, we removed the statement that we observed 60 vacant parking spaces as it applied only to the initial site visit. The site visit observations were used as additional support that the City needed to demonstrate that the activity was necessary and reasonable and were not the sole basis of the audit finding. Because of this site visit and the lack of supporting documentation, it was not evident that CCA needed the additional parking lot.
- Comment 29 The pictures related to the City's site visit do not show when they were taken. Although the portions of the parking lot photographed do appear to be used, the photographs alone do not evidence a parking lot that is overburdened or in need of expansion.
- Comment 30 We disagree with the City's statement that the excerpts in the audit report concerning our observations did not follow any audit standards and, therefore, did not remove or revise the conclusions made in the audit report. The audit team used various corroborating evidence to support the audit report finding that the City needs to support that the CCA parking lot was necessary and reasonable. We followed Government Auditing Standards (Yellow Book). According to the 2018 Yellow Book, chapter 8.95-96, professional judgment assists auditors in determining the sufficiency and appropriateness of evidence taken as a whole. When auditors use information that audited entity officials provided as part of their evidence, auditors may find it necessary to test management's procedures to obtain assurance, perform direct testing of the information, or obtain additional corroborating evidence.
- Comment 31 The audit report did not identify any issues with how the City wrote the loan agreement; however, we disagree with the City's assertion that the CDBG allocation for CCA was in complete legal and regulatory compliance. While detailed, the City's response did not include statements or new supporting documentation to resolve the finding that the City allowed its subrecipient, CCA, to use CDBG funds for its Campus Creation project to acquire property to develop a parking lot as part of a multiphase campus expansion project without supporting that (1) it met a CDBG national objective or (2) CCA needed the parking lot to increase the capacity of services offered. Therefore, the report remains unchanged. Any additional support should be provided during audit resolution.

- Comment 32 The report did not question the eligibility of the type of activities the City completed at Eagles Park, Kleinman Park, or the Save the Family Conference Center. As stated in the report, the City did not adequately support the national objective for the three activities because it did not adequately review or support the entire area served as required by 24 CFR 570.208(a)(1).²⁶
- Comment 33 We disagree with the City’s request that the finding concerning Eagles Park should be deleted and that it supported that the activity complied with 24 CFR part 570. As stated in the report, at the time of our review,²⁷ the City did not adequately support that the Eagles Park activity met the national objective requirements in 24 CFR 570.208.²⁸ The City’s statement that Eagles Park was within a census tract identified as being at least 51 percent low to moderate income implies that it adequately supported the national objective. The City should reevaluate the area served to include the entire area served.
- Comment 34 We disagree that the census tracts used for NSP 1 had no nexus to the ones used for CDBG. As stated in the report, the City funded the Eagles Park project with various grants, including its HUD NSP 1 and CDBG. Although it was for the same park, the City used different census tracts for the NSP 1 and CDBG funds when calculating the area benefit to determine that the park was available to residents in a particular area. Regardless of the funding source, the general population served by the park would not change. The City should provide any changes made in IDIS to update the area served for the national objective or other supporting documentation during audit resolution.
- Comment 35 The City’s statement that Kleinman Park was within a census tract identified as low to moderate income implies that it adequately supported the national objective. As stated in the report, at the time of our review,²⁹ IDIS showed that the City included only the one census tract where the park was located instead of the entire area served as required by 24 CFR 570.208(a)(1).³⁰ The City should provide any changes made in IDIS to update the area served for the national objective or other supporting documentation during audit resolution.
- Comment 36 Although we appreciate the City’s acknowledgement that signage would help let the public know that the fossil find was there, it would still be unusable due to the depth at which fossils were buried in the sand and would continue to not be beneficial for the public. During an audit observation, the audit team could not locate the fossils in question and determined that a significant amount of digging would be required to do so. As an audit matter, the fossils would fall under the

²⁶ See appendix C.

²⁷ We did not review any changes made to IDIS after our review.

²⁸ See appendix C.

²⁹ We did not review any changes made to IDIS after our review.

³⁰ See appendix C.

category of waste, as funds were used for something that was not useable and, therefore, served no purpose. In this instance, the City should have provided oversight to ensure that all playground equipment was installed properly and was useable.

- Comment 37 We disagree that the findings concerning Save the Family should be removed from the report. The City's statement that Save the Family was within a census tract identified as low to moderate income implies that it adequately supported the national objective. The City's response highlights that it serves a larger clientele than just where the activity was located because it serves clientele within the City of Mesa. In addition, we did not verify that the primary clientele was low to moderate income as stated by the City. We reviewed the activity based on compliance with the national objective area benefit criteria in 24 CFR 570.208(a)(1)³¹ because that was how the City reported compliance with the national objective to HUD in IDIS. The City should provide any changes made in IDIS to the national objective or other supporting documentation during audit resolution.
- Comment 38 We disagree that there was no statutory or regulatory basis for the audit finding concerning the Save the Family Conference Center activity. The audit report did not question whether the conference center was an eligible activity or whether a community center could be used by nonprofit organizations that serve the greater City area and community at large. Rather, the audit determined that the City did not adequately review or support the entire area served. Because the community center serves the greater City area and community at large, it needs to support that it complied with the national objective requirements as discussed in comment 36. The City should provide any additional support during audit resolution.
- Comment 39 We disagree that the mention of the 2019 allocation was premature, and it was not removed from the audit report. Part of the audit was to determine whether the complaint we received had merit. The complaint specifically alleged that the City awarded the fiscal year 2019 CDBG funds to West Mesa CDC even though it submitted the application 1 day late and had not complied with CDBG rules for several years. We determined that the complaint had merit. Although the City did not enter into an agreement with West Mesa CDC for 2019 CDBG funds, recommendation 1G provides assurance that the City will not spend the funds on the West Mesa CDC activity without HUD and the City ensuring that it meets HUD requirements.
- Comment 40 We take issue with the City's inference that audits should not cite the use of CDBG funds because of the population served, in this case elderly and disabled. The report did not cite any issues with the use of funds for the reasonable accommodations of the elderly and disabled, as stated by the City. Regardless of

³¹ See appendix C.

how the City or its subrecipients used the funds, the City and its subrecipients are required to follow HUD regulations and the subrecipient agreement. As noted in the audit report, we found various instances in which the City and Ability360 did not comply. The audit report remains unchanged. The City's lack of internal controls allowed its subrecipient to perform in a manner that did not meet HUD requirements or the subrecipient agreement.

- Comment 41 We appreciate the City's acknowledgement that followup letters were not issued to Neighborhood Economic Development Corporation (NEDCO). However, we disagree that the reference to NEDCO should be removed because the draft audit report failed to cite substantive compliance violations. As explained in the audit report, the City identified deficiencies during an onsite monitoring visit to its subrecipient, NEDCO, for fiscal years 2011 and 2014 grant activities but did not draft a monitoring results letter explaining how the deficiencies were resolved. Because of the City's lack of followup and its inadequate resolution of deficiencies identified at West Mesa CDC, there was little assurance that the City had adequately resolved deficiencies it identified with its fiscal years 2011 and 2014 NEDCO activities for which it had spent \$105,688 and allocated an additional \$153,191.
- Comment 42 As it relates to the West Mesa CDC agreement discussed on page 8 of the audit report, the City included 24 CFR 85.36 as an attachment to the subrecipient agreement. As a result, it was expected that West Mesa CDC would comply with 24 CFR 85.36 on behalf of the City when procuring contracts. We cannot comment on the statement that the City has long complied with 24 CFR part 85 when applicable and part 200 currently because we did not select a sample that would allow us to project to the universe as stated in the Scope and Methodology section of the report.
- Comment 43 We appreciate the time and consideration provided by the City in responding to the audit report findings and its commitment to improving the City's internal controls. We also recognize and appreciate the City's concurrences. With respect to the City's disagreements or nonconcurrences, we reviewed the City's response and support provided and determined that the report would remain unchanged, except as previously noted in comments 3 and 22 above. We look forward to working with HUD to develop corrective actions that address the audit report findings.

Appendix C

Criteria

2 CFR 200.303 Internal Controls

The non-Federal entity must:

- a. Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

2 CFR 200.320 Methods of procurement to be followed

The non-Federal entity must use one of the following methods of procurement.

- b. Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

2 CFR 200.331 Requirements for pass-through entities

All pass through entities must:

- d. Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.
Pass-through entity monitoring of the subrecipient must include:

1. Reviewing financial and performance reports required by the pass-through entity.
2. Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

2 CFR 200.403 Factor affecting allowability of costs

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:

- a. Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.

24 CFR 85.36 Procurement (2013 Edition)³²

b. Procurement standards

9. Grantees and subgrantees will maintain records sufficient to detail the significant history of a 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.

d. Methods of procurement to be followed

1. Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. [United States Code] 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

24 CFR 570.208 Criteria for National Objectives

The following criteria shall be used to determine whether a CDBG-assisted activity complies with one or more of the national objectives:

- a. Activities benefiting low- and moderate-income persons. Activities meeting the criteria in paragraph (a) (1), (2), (3), or (4) of this section as applicable, will be considered to benefit low and moderate income persons unless there is substantial evidence to the contrary. In assessing any such evidence, the full range of direct effects of the assisted activity will be considered. (The recipient shall appropriately ensure that activities that meet these criteria do not benefit moderate income persons to the exclusion of low income persons.)
 1. Area benefit activities. (i) An activity, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low and moderate income persons. Such an area need not be coterminous with census tracts or other officially recognized boundaries but *must be the entire area served by the activity*.
 2. Limited clientele activities. (i) An activity which benefits a limited clientele, at least 51 percent of whom are low- or moderate-income persons. (The following kinds of activities may not qualify under paragraph (a) (2) of this section: activities, the benefits of which are available to all the residents of an area; activities involving the acquisition, construction or rehabilitation of property for housing; or activities where the benefit to low- and moderate-income persons to be considered is the creation or retention of jobs, except as provided in paragraph (a)(2) (iv) of this section.). To qualify under paragraph (a)(2) of this section, the activity must meet one of the following tests:
 - (A) Benefit a clientele who are generally presumed to be principally low and moderate income persons. Activities that *exclusively* serve a group of persons in any one or a combination of the

³² The applicability of these requirements is explained in Notice: CPD-16-04, which allowed the effective date of the new 2 CFR 200 requirements for procurement to be extended to June 30, 2017.

following categories may be presumed to benefit persons, 51 percent of whom are low- and moderate-income: abused children ...; or

- (B) Require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low and moderate income limit; or
 - (C) Have income eligibility requirements which limit the activity exclusively to low and moderate income persons; or
 - (D) Be of such nature and be in such location that it may be concluded that the activity's clientele will primarily be low and moderate income persons.
3. Housing activities. An eligible activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low- and moderate-income households. This would include, but not necessarily be limited to, the acquisition or rehabilitation of property by the recipient, a subrecipient, a developer, an individual homebuyer, or an individual homeowner; conversion of nonresidential structures; and new housing construction. For rental housing, occupancy by low and moderate income households must be at affordable rents to qualify under this criterion. The recipient shall adopt and make public its standards for determining “affordable rents” for this purpose.
4. Job creation or retention activities. An activity designed to create or retain permanent jobs where at least 51 percent of the jobs, computed on a full time equivalent basis, involve the employment of low- and moderate-income persons. To qualify under this paragraph, the activity must meet the following criteria:
- i. For an activity that creates jobs, the recipient must document that at least 51 percent of the jobs will be held by, or will be available to, low- and moderate-income persons.
 - b. Activities which aid in the prevention or elimination of slums or blight.
 - c. Activities designed to meet community development needs having a particular urgency.

24 CFR 570.501 Responsibility for grant administration

- b. The recipient is responsible for ensuring that CDBG funds are used in accordance with all program requirements. The use of designated public agencies, subrecipients, or contractors does not relieve the recipient of this responsibility. The recipient is also responsible for determining the adequacy of performance under subrecipient agreements and procurement contracts, and for taking appropriate action when performance problems arise, such as the actions described

24 CFR 570.502 Applicability of uniform administrative requirements

- a. Grantees and subrecipients shall comply with 2 CFR part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”, except that:
 - 1. Section 200.305 “Payment” is modified for lump sum drawdown for financing of property rehabilitation activities, in accordance with §570.513.

2. Section 200.306 “Cost sharing or matching” does not apply.
3. Section 200.307 “Program income” does not apply. Program income is governed by §570.504.
4. Section 200.308 “Revisions of budget and program plans” does not apply.
5. Section 200.311 “Real property” does not apply, except as provided in §570.200(j). Real property is governed by §570.505.
6. Section 200.313 “Equipment” applies, except that when the equipment is sold, the proceeds shall be program income. Equipment not needed by the subrecipient for CDBG activities shall be transferred to the recipient for the CDBG program or shall be retained after compensating the recipient.
7. Section 200.333 “Retention requirements for records” applies except that...
8. Section 200.343 “Closeout” applies to closeout of subrecipients.

24 CFR 570.503 Agreements with subrecipients

- a. Before disbursing any CDBG funds to a subrecipient, the recipient shall sign a written agreement with the subrecipient. The agreement shall remain in effect during any period that the subrecipient has control over CDBG funds, including program income.
- b. At a minimum, the written agreement with the subrecipient shall include provisions concerning the following items:
 1. Statement of work. The agreement shall include a description of the work to be performed, a schedule for **completing the work, and a budget. These** items shall be in sufficient detail to provide a sound basis for the recipient effectively to monitor performance under the agreement.
 2. Records and reports. The recipient shall specify in the agreement the particular records the subrecipient must maintain and the particular reports the subrecipient must submit in order to assist the recipient in meeting its recordkeeping and reporting requirements.

24 CFR 570.506 Records to be Maintained

Each recipient shall establish and maintain sufficient records to enable the Secretary to determine whether the recipient has met the requirements of this part. At a minimum, the following records are needed:

- b. Records demonstrating that each activity undertaken meets one of the criteria set forth in §570.208...
- h. Financial records, in accordance with the applicable requirements listed in §570.502, including source documentation for entities not subject to 2 CFR part 200. Grantees shall maintain evidence to support how the CDBG funds provided to such entities are expended. Such documentation must include, to the extent applicable, invoices, schedules containing comparisons of budgeted amounts and actual expenditures, construction progress schedules signed by appropriate parties (e.g., general contractor and/or a project architect), and/or other documentation appropriate to the nature of the activity. Grantee records pertaining to obligations, expenditures, and drawdowns must be able to relate financial transactions to either a specific origin year grant or to program income received during a specific program year.

HUD's CDBG Guide to National Objectives and Eligible Activities for Entitlement Communities: Microenterprise Assistance – additional considerations

Many grantees have been assisting some microenterprises as part of their CDBG economic development programs. The creation of a separate eligibility category for this class of businesses does not mean that such grantees may no longer do so. First, it should be made clear that just because a business is small enough to meet the CDBG definition of a microenterprise would not preclude its being assisted under the category of Special Economic Development. However, when the grantee provides assistance to such businesses under that category, all applicable requirements, including public benefit, will apply. In order to take advantage of the special advantages available under the Microenterprise Assistance category, the grantee would need to establish an activity for providing such assistance separate from all other business assistance it may elect to provide. This is necessary to avoid the confusion that would result from mixing assistance under two categories having differing requirements. Therefore, grantees should consider revamping their CDBG economic development programs to clearly separate microenterprise assistance from all other forms.

Notice: CPD-16-04 Additional Transition and Implementation Guidance for Recipients of Community Planning and Development (CPD) Funds for 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Procurement Standard; Procurement Exception

The Uniform Requirements provided one exception to the general effective date for the revised procurement standards. A non-federal entity (defined in 2 CFR §200.69 as “a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient”) may delay implementation of the revised procurements standards.

Rather than implementing the procurement standards in 2 CFR §§200.317 - 200.326 as described above in Section 4 of this Notice, the non-Federal entity may continue to comply with the procurement standards in 24 CFR parts 84 or 85 (2013 edition), as applicable, for two additional fiscal years. As explained by OMB in the Frequently Asked Questions (posted on <https://cfo.gov/wp-content/uploads/2015/09/9.9.15-Frequently-Asked-Questions.pdf>), “two additional fiscal years after this part [part 200] goes into effect” means the first fiscal year of the non-federal entity beginning after December 26, 2014, and the second fiscal year of the non-federal entity beginning after December 26, 2014. If a non-Federal entity chooses to use part 84 or part 85 standards for an additional two fiscal years before implementing the procurement standards in part 200, the non-Federal entity must document this decision in its internal procurement policies.”

As an example, if a grant recipient with a local fiscal year that started on July 1st and ended June 30th wanted to take advantage of this exception for the two-year period, the two additional years would cover the period July 1, 2015, through June 30, 2017, after which point it would be required to comply with the procurement standards of 2 CFR part 200. (Note that this applies to the grant recipient's fiscal year, which may be different from its Consolidated Plan program year.)