



City of Pasadena, CA

Community Development Block Grant Program



To: William G. Vasquez, Director, Office of Community Planning and Development,
Los Angeles, 9DD

//SIGNED//

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

Subject: The City of Pasadena, CA, Did Not Always Follow Community Development
Block Grant Program 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 Pasadena'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, section 8M, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 213-534-2471.



Audit Report Number: 2016-LA-1007

Date: August 17, 2016

The City of Pasadena, CA, Did Not Always Follow Community Development Block Grant Program Requirements

Highlights

What We Audited and Why

We audited the City of Pasadena's Community Development Block Grant program due to performance issues identified by the U.S. Department of Housing and Urban Development's (HUD) Los Angeles Office of Community Planning and Development. Our objective was to determine whether the City administered its program in accordance with applicable HUD rules and requirements. Specifically, we wanted to determine whether its projects complied with program requirements.

What We Found

The City did not always administer its program in accordance with HUD rules and requirements. Specifically, it did not always follow documentation requirements and did not ensure that its subrecipient followed conflict-of-interest requirements. This condition occurred because the City did not always obtain supporting documentation for program expenses. Also, City staff did not have sufficient knowledge of HUD contract requirements, nor did it have adequate policies and procedures to ensure that program-funded projects and expenses complied with HUD rules and requirements. In addition, the City did not have sufficient controls to ensure that it met conflict-of-interest requirements. As a result, it spent \$334,774 in program funds without supporting that these expenses and projects met program requirements and \$48,611 in ineligible program funds, which resulted in a potential unfair competitive advantage for a vendor.

What We Recommend

We recommend that the Director of HUD's Los Angeles Office of Community Planning and Development require the City to (1) obtain written agreements and support the eligibility of \$284,649; (2) revise or reclassify the national objective for \$38,165; (3) support the eligibility of \$11,960; (4) establish and implement written policies and procedures to ensure that all program expenses and projects comply with program rules and requirements; (5) provide training to program staff on program rules and requirements; (6) repay the program for \$48,611 in ineligible costs; (7) monitor its subrecipients and ensure that they meet program procurement requirements; and (8) establish and implement written policies and procedures to minimize instances of potential conflicts of interest that violate program rules and requirements, agreements, and the City's own procurement policies and procedures.

Table of Contents

Background and Objective.....	3
Results of Audit	4
Finding 1: The City Did Not Always Follow Program Documentation Requirements.....	4
Finding 2: The City Did Not Ensure That Its Subrecipient Followed Conflict-of-Interest Program Requirements	7
Scope and Methodology.....	9
Internal Controls.....	11
Appendixes.....	13
A. Schedule of Questioned Costs	13
B. Auditee Comments and OIG’s Evaluation.....	14
C. Criteria.....	20

Background and Objective

The City of Pasadena receives annual Community Development Block Grant (CDBG) entitlement allocation funds from the U.S. Department of Housing and Urban Development (HUD). These funds are allocated to carry out HUD's goal of developing viable communities by providing decent housing, a suitable living environment, and opportunities to expand economic opportunities, principally for low- and moderate-income persons. To achieve these goals, program-funded projects must satisfy one of three HUD national program objectives at 24 CFR (Code of Federal Regulations) 570.208 to benefit low- and moderate-income persons, prevent or eliminate slums or blight, or meet other urgent community development needs due to disasters or other emergencies.

The City's Housing and Career Services Department helps administer the program and is dedicated to providing affordable housing and community opportunities for low- and moderate-income persons and employment resources to enhance and strengthen the community. More than 50 nonprofit agencies in Pasadena receive program funds to provide vital services to the community, including tutoring, health services, small business assistance, senior services, housing rehabilitation, public facilities improvement, food assistance, and fair housing services. It received the following program funds for fiscal years 2012 to 2015.

Fiscal year	Allocated amount
2012	\$1,753,607
2013	1,775,309
2014	1,795,378
2015	1,787,619
Total	\$7,111,913

Our objective was to determine whether the City administered its program in accordance with applicable HUD rules and requirements. Specifically, we wanted to determine whether its projects complied with program requirements.

Results of Audit

Finding 1: The City Did Not Always Follow Program Documentation Requirements

The City did not always ensure that program funds were spent in accordance with HUD rules and requirements. It did not obtain documentation to support \$334,774 in program expenses and written agreements. This condition occurred because the City did not have adequate policies and procedures to ensure that it administered its program in accordance with HUD rules and requirements. Also, City staff did not have sufficient knowledge of HUD contract requirements, and the City did not have internal controls to ensure that internal department and subrecipient agreements were signed and executed before program funds were spent. As a result, the City spent \$334,774 in unsupported program funds.

The City Executed Projects Without Written Agreements

The City did not obtain written agreements for 3 of the 15 projects reviewed. It spent \$284,649 in program funds on projects that did not have executed written agreements with its internal departments and subrecipients as required by 24 CFR 570.501 and 24 CFR 570.503(a) (appendix C). Specifically, it spent more than \$107,672 on the rehabilitation of a public facility, \$133,204 on the rehabilitation of a dental clinic, and \$43,773 on the rehabilitation of a community center. It did not obtain agreements or memorandums of understanding for these projects, which were to include purpose statements and national objectives to be met. This condition occurred because the City did not have internal controls to ensure that internal department and subrecipient agreements were signed and executed before it spent program funds. Further, City staff did not have sufficient knowledge of HUD’s contract requirements. Specifically, City staff was unaware that the City was responsible for applying the same requirements that applied to its subrecipients to its internal departments carrying out program-funded projects as required by 24 CFR 570.501 (appendix C). As a result, the City was unable to support whether project expenses were eligible and whether the projects met program national objectives.

Project	Unsupported contract amount
Public facilities rehabilitation, energy efficiency & ADA* retrofit project (Jackie Robinson Center and Victory Park Center)	\$107,672
Dental clinic rehabilitation project	133,204
Community center rehabilitation project (El Centro de Accion)	43,773
Total	\$284,649

* ADA = Americans with Disabilities Act

In addition, the City executed six subrecipient agreements at least 6 months after it received services and incurred program expenses. These incurred expenses included repainting a mental health center and administering a food pantry, a family literacy program, fair housing activities, public services provided at a local public college, and a network upgrade at a library. Before disbursing program funds, a subrecipient agreement must be obtained and include a description of work to be performed with the program funds in accordance with 24 CFR 570.503 (appendix C). While the City received services and did not disburse program funds for those services until it obtained a subrecipient agreement for each of the six projects, it placed the program at risk of not meeting program requirements. The lack of agreements did not allow the City to effectively monitor the performance of work already performed or to be completed at the projects.

Project	Month first expense incurred	Agreement signed	Time elapsed between expense and agreement
Metal health center restoration project	April 2013	October 2014	19 months
Foothill Unity Center - food pantry	July 2012	May 2013	10 months
Family literacy program	July 2013	January 2014	6 months
Fair housing activities	July 2013	March 2014	8 months
Pasadena City College Foundation services	July 2013	June 2014	11 months
La Pintoresca Library network upgrade	August 2013	August 2014	12 months

A City Project Had a Questionable National Objective

The City spent \$38,165 for payroll and material costs for the installation of solar energy systems in private residences. These program funds were to benefit low- and moderate-income households by improving their housing as described in 24 CFR 570.208(a)(3) (appendix C). The City believed that the program funds were eligible as a special economic development activity at 24 CFR 570.203(b) (appendix C). However, HUD’s Basically CDBG for Entitlements guide states that the low- and moderate-income housing national objective does not qualify as a special economic development activity. As a result, the national objective used for this project raised concerns about the eligibility of this project.

The City Did Not Support Program Expenses

We reviewed more than \$1.3 million in total program expenses for 15 projects. The City spent \$11,960 for a project that it could not support in accordance with 24 CFR 85.20(b)(6), 24 CFR 570.506, and HUD Office of Community Planning and Development publication, HUD-2005-05-CPD (appendix C).

Project	Unsupported labor expenses	Unsupported materials expenses	Unsupported totals
Mental health center restoration project	\$5,160	\$6,800	\$11,960

The City incurred \$5,160 in labor expenses for painting a mental health center and did not provide documentation to support the eligibility of these expenses. Specifically, it did not maintain employee time and attendance records as required by 24 CFR 85.20(b)(6), 24 CFR 570.506, and HUD-2005-05-CPD (appendix C). It also spent \$6,800 on material used to repaint the mental health center. Specifically, it did not obtain the basis of costs incurred as support for these expenses as required by 24 CFR 85.20.b(6), 24 CFR 570.506(h), and HUD-2005-05-CPD (appendix C). Instead, it obtained only invoices as support but did not ensure that expenses were incurred.

Conclusion

The City did not always ensure that it spent program funds as required by HUD. This condition occurred because the City did not have adequate policies and procedures to ensure that it administered these funds in accordance with HUD rules and requirements. In addition, City staff did not have sufficient knowledge of HUD program requirements to ensure that the program complied with HUD rules and requirements. Specifically, City staff was unaware that its internal departments were responsible for the same contract requirements as its subrecipients. As a result, the City spent \$334,774 in unsupported program funds and raised concerns about the eligibility of program expenses and whether projects met HUD's national objectives.

Recommendations

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

- 1A. Obtain written agreements and support the eligibility of \$284,649 in unsupported costs or repay the program using non-Federal funds.
- 1B. Revise or reclassify the national objective for the \$38,165 in questioned costs used for the solar panel project or repay the program using non-Federal funds.
- 1C. Support the eligibility of \$11,960 in unsupported costs or repay the program using non-Federal funds.
- 1D. Establish and implement program-specific written policies and procedures to ensure that all program expenses and projects comply with program rules and requirements.
- 1E. Provide training to program staff on program rules and requirements.

Finding 2: The City Did Not Ensure That Its Subrecipient Followed Conflict-of-Interest Program Requirements

The City did not ensure that its subrecipient followed conflict-of-interest program requirements. Contrary to those requirements, a director of the board for the subrecipient hired his related individual's company as a subcontractor to provide program-funded work but did not disclose this relationship to the City. This condition occurred because the City did not sufficiently monitor the subrecipient's procurement process. Further, it did not have controls to minimize potential conflicts of interest in its program. As a result, the City paid the subrecipient \$48,611 in ineligible program funds for work that allowed an unfair competitive advantage to a vendor.

The City Did Not Prevent a Conflict of Interest From Occurring

The City awarded a \$56,756 program-funded contract to its subrecipient to install solar panels at its offices in Pasadena. This service would assist the subrecipient in improving its office building's energy efficiency. Due to the contract amount, the services contract was subject to procurement requirements in 24 CFR 85.36 and the City's own internal procurement procedures (appendix C). The subrecipient received three bids for the solar panel work and selected the vendor with the lowest cost. Notes in the City's project file indicated that the subrecipient did not provide a contract for review before selecting the vendor and starting the installation work. In addition, the City did not follow up on the subrecipient's vendor selection. Initially, the City monitored the subrecipient's procurement process for the work. However, it did not monitor the selection of the subcontractor.

The subcontractor selected to perform the solar panel installation work was owned by an individual related to one of the subrecipient's directors. The City's subrecipient agreement states that the subrecipient agrees not to hire or permit the hiring of any person to fill a position funded with program funds if a member of that person's immediate family is employed in an administrative capacity by the subrecipient. Regulations at 24 CFR 570.611(b) state that a conflict of interest exists when a person who is in a "position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity" (appendix C). While the subrecipient did not disclose the relationship to the City, a review of the subcontractor's contract before the subcontractor was selected for the work may have prevented this conflict of interest. This condition occurred due to the City's lack of controls to minimize potential conflicts of interest. Therefore, there was a conflict of interest between the City's subrecipient and the subcontractor selected for the installation of solar panels. The City had paid this subrecipient \$48,611 in program funds from this contract.

Conclusion

The City did not ensure that its subrecipient followed conflict-of-interest program requirements. This condition occurred because the City did not monitor its subrecipient's procurement process. In addition, it did not have controls to minimize potential conflicts of interest within its program. As a result, the City paid \$48,611 in ineligible program funds to a subrecipient with direct ties to a subcontractor that had an unfair competitive advantage over other subcontractors and raised questions as to whether the expenses were eligible and reasonable.

Recommendations

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

- 2A. Repay the program for \$48,611 in ineligible costs using non-Federal funds.
- 2B. Terminate the contract with the subrecipient and stop all remaining payments for the project.
- 2C. Establish and implement written policies and procedures and monitor its subrecipients to minimize any future instances of potential conflicts of interest that violate program rules and requirements, agreements, and the City's own procurement policies and procedures.

Scope and Methodology

We performed our audit work at the City's offices in Pasadena, CA, from February 10 to July 6, 2016. Our review covered the period October 1, 2012, to September 30, 2015, and was expanded as necessary.

To accomplish our objective, we

- Reviewed relevant background information, including prior Office of Inspector General (OIG) audit reports;
- Reviewed and analyzed the City's policies, procedures, and internal controls relating to its program;
- Reviewed applicable HUD regulations and requirements;
- Reviewed HUD monitoring reports, annual progress reports, the City's action plan, and program funding agreements;
- Reviewed the City's audited financial statements for fiscal years 2013 and 2014;
- Reviewed project files for sampled program expenses; and
- Performed site visits to projects and interviewed project staff.

We relied on data maintained by the City. Specifically, we relied on the accuracy of data taken from HUD's Integrated Disbursement and Information System¹ for the period July 1, 2012, through February 17, 2016. We performed a data reliability assessment and determined that the data were sufficiently reliable for our audit objective. Specifically, we compared the total spent program funds in the data with the City's single audit reports and consolidated annual performance and evaluation reports.

The audit universe consisted of 65 projects totaling more than \$6.2 million in expenditures for the period July 1, 2012, through February 17, 2016, and more than \$6.3 million in total project expenditures. For our review, using ACL² software's random generator, we selected 15 transactions totaling nearly \$1.3 million in project expenditures for the period and more than \$1.3 million in total project expenditures. Overall, our sample represented 21 percent of the

¹ The Integrated Disbursement and Information System provides HUD with current information regarding the program activities underway across the Nation, including funding data.

² ACL software provides data analytics and sampling of computerized information.

expenditures for the period and the total expenditures. Although this approach did not allow us to make a projection to the population, it was sufficient to meet the audit objective.

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 program operations – Implementation of policies and procedures to 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 support eligible program expenditures.
- Compliance with applicable laws and regulations – Implementation of policies and procedures to ensure that the monitoring of and expenditures for program activities comply 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's controls did not ensure that program funds were used in compliance with HUD rules and requirements (finding 1).

- The City's controls did not ensure that its subrecipient was in compliance with conflict of interest requirements (finding 2).

Appendixes

Appendix A

Schedule of Questioned Costs

Recommendation number	Ineligible 1/	Unsupported 2/
1A		\$284,649
1B		38,165
1C		11,960
2A	\$48,611	
Totals	\$48,611	\$334,774

- 1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations.
- 2/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.


Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Comment 1



OFFICE OF THE CITY MANAGER

July 29, 2016

Tanya E. Schulze, Regional Inspector General for Audit
U. S. Department of Housing and Urban Development
Office of Inspector General (OIG)
Office of Audit (Region 9)
300 N. Los Angeles St., Suite 4070
Los Angeles, California 90012

Re: City of Pasadena Response to HUD-OIG Audit Report

Dear Ms. Schulze:

This correspondence is in response to the HUD-OIG Audit Report, in which a review was conducted by your staff during the period of February 10 through July 6, 2016 of the Community Development Block Grant (CDBG) Program administered by the City of Pasadena (City). The review resulted in two findings, as described in the Report.

This letter provides the City's response to each finding, and the enclosed documentation in support of the City responses.

FINDING 1: The City Did Not Always Follow Program Documentation Requirements

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

- 1A. Obtain written agreements and support the eligibility of \$284,649 in unsupported costs or repay the program using non-Federal funds.
- 1B. Revise or reclassify the national objective for the \$38,165 in questioned costs used for the solar panel project or repay the program using non-Federal funds.
- 1C. Support the eligibility of \$11,960 in unsupported costs or repay the program using non-Federal funds.
- 1D. Establish and implement program-specific written policies and procedures to ensure that all program expenses and projects comply with program rules and requirements.
- 1E. Provide training to program staff on program rules and requirements.

*City Hall
100 N. Garfield Avenue, Room 229
Mailing Address: P.O. Box 7115 • Pasadena 91109-7215
(626) 744-6936 • Fax (626) 744-4774
smernel@cityofpasadena.net*

City Response:

- 1A. The City will execute written memorandums of understanding (MOU) for the following three (3) internal department projects funded by CDBG: 1) El Centro Community Center Rehabilitation; 2) Public Health Dental Clinic Rehabilitation; and 3) Public Facilities Rehabilitation at Jackie Robinson & Victory Park Community Centers. The MOU's will be dated as of an effective date which will cover the periods in which the projects were implemented. Additionally, the City will provide documentation supporting the eligibility of each project.
- 1B. The solar project was entered into the Integrated Disbursement Information System (IDIS) correctly as a Low/Moderate Housing national objective under activity code 14F-Energy Efficiency Improvements which qualifies under the 24 CFR 570.202(b)(4) eligibility citation. The executed agreement in place had an incorrect eligibility citation. The City will amend the agreement to reflect the correct eligibility citation.
- 1C. The City will obtain documentation to support the costs associated with the \$11,960 in question for the Mental Health Center Restoration project.
- 1D. The City is currently waiting for a response from HUD on recently submitted (6/18/16) revised written policies and procedures which ensure program expenses and projects comply with program rules and requirements.
- 1E. Recently hired City staff has attended a HUD-sponsored training for "Effective Management of CDBG Subrecipients" within the last 16 months. Transcripts from the HUD Exchange Learning center will be provided to HUD as confirmation. Additionally, the City's current policy requires that staff attend trainings on CDBG implementation every two (2) years, as they become available.

FINDING 2: The City Did Not Ensure That Its Subrecipient Followed Conflict-of-Interest Program Requirements

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

- 2A. Repay the program for \$48,611 in ineligible costs using non-Federal funds.
- 2B. Terminate the contract with the subrecipient and stop all remaining payments for the project.
- 2C. Establish and implement written policies and procedures and monitor its subrecipients to minimize any future instances of potential conflicts of interest that violate program rules and requirements, agreements, and the City's own procurement policies and procedures.

City Response: The City has suspended all remaining payments to the subrecipient pertaining to its CDBG-funded project. The City has enclosed a letter from the subrecipient to provide them an opportunity to make a statement on this finding of conflict-of-interest. The City will wait for a response from HUD on the enclosed statement.

To prevent future occurrences, the City has revised its CDBG policies and procedures to require that each client served by a CDBG-funded program, and each agency staff member/director involved with the service delivery of a CDBG-funded project sign a certification stating that conflicts-of-interest do not and will not exist during the implementation of the CDBG-funded program, and one (1) year thereafter.

Comment 2

Comment 3

City of Pasadena Response to HUD-OIG Audit
Page 3 of 3

The City welcomes the opportunity to improve our administration of the CDBG program that is provided through the HUD-OIG review process, and we look forward to working with HUD to resolve the findings above.

We also would like to extend our appreciation to your staff [REDACTED] [REDACTED] for the flexibility they provided to us in the gathering of documentation required for their review.

Sincerely,



Steve Mermell
City Manager

w/encl

cc:

[REDACTED]

Comment 4

July 18, 2016

Dear [REDACTED]



EQUIPPING HOMELESS FAMILIES
TO REBUILD THEIR LIVES

This letter is in reference to the bidding process of our Door of Hope Energy Efficiency Project. Our process was open and transparent and done without conflict of interest.

When the Door of Hope was notified of our Energy Efficiency Project being funded, we solicited bids for our project. We researched companies that do solar and started contacting them. We asked potential companies to come out to our site and to review the scope of the project.

We set a deadline for the bids to be submitted to us. It was very difficult to get responses from solar companies to submit bids and we had to extend the deadline in order to get the required minimum number bids. Many companies were unresponsive.

When we finally had our bids we analyzed each one on the basis of our requested scope and what they were proposing including the cost. It was clear to us that ESSCO was the lowest responsive bidder and had demonstrated the most comprehensive and best quality for the cost.

§570.611 Conflict of interest states in (b) "Conflicts prohibited. The general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter."

[REDACTED] did not know anything about the project and [REDACTED] was only aware that such a project was being considered. The board never voted or gave input into this project and if they would have [REDACTED] would have recused himself.

[REDACTED] has not been a "Principal Manager" or any manager of ESSCO for over 10 years. [REDACTED] and his wife and his two sons own ESSCO and have since 2012. The State of California contractor's license for ESSCO is in [REDACTED] name and this is not ESSCO Electricians Inc. which has no relationship to anyone in the family.

There are exceptions in 570.611 and the factors to be considered for exceptions include the following:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;

ESSCO was offering significant cost benefit and essential degree of expertise in this specific project and having worked with Federal funding in their previous projects.

P.O. Box 90455, Pasadena, CA 91109 • (626) 304-9130 • Fax: (626) 304-9125 • info@doorofhope.us
[Facebook.com/thedorofhope](https://www.facebook.com/thedorofhope) • www.doorofhope.us • [Instagram.com/doorofhope](https://www.instagram.com/doorofhope)

(ii) Whether an opportunity was provided for open competitive bidding or negotiation;

We had an open competitive bidding process.

(iii) Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;

██████████ did not have any responsibilities or decision making role with respect to this project.

(v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

There was no interest or benefit to ██████████ ESSCO to get this project.

(vi) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

If the Door of Hope were asked to repay this funding, it would place undue hardship on our small non-profit organization and take funds away from services for homeless families and children. It would be in the best interest of the public and most importantly to homeless families and children to not take this funding away from this critical service.

(vii) Any other relevant considerations.

In our Door of Hope agreement there is reference to "Nepotism" which refers to someone in an "administrative capacity" or "serving on the governing board." The board never decided or even reviewed the bids or any "selection, hiring, supervisory or management responsibilities." The clauses in the code for conflicts of interest refer to conflicts with the City officials.

At the July 14, 2016 Door of Hope board meeting the energy efficiency project and the facts surrounding the accusation of the conflict of interest were discussed and the board agreed that they did not see this as a conflict of interest and we are in compliance with Corporations Code 310.

We perhaps should have made a written disclosure of the relationship, but it did not occur to us because there wasn't in fact a conflict of interest. We are happy to discuss this further and include any signed statements as necessary.

Sincerely,

██████████

OIG Evaluation of Auditee Comments

- Comment 1 We appreciate and commend the City for taking corrective action to ensure that the recommendations reported in Finding 1 are addressed. We believe such actions will help the City meet program objectives.
- Comment 2 We commend the City for taking action in addressing the recommendations reported in Finding 2. The City's corrective actions will ensure it minimizes future instances of conflict-of-interest that involve entities or individuals who provide HUD-funded services.
- Comment 3 We acknowledge and commend the City's commitment in improving its administration of their CDBG program. In addition, we appreciate the City's initiative to take corrective actions to strengthen its administration of their CDBG program and ensure that all program expenses are eligible and supported. Finally, we also value the City's cooperation during our review and the courtesies extended to our staff. We redacted the names of non-manager individuals mentioned in the letter for privacy reasons.
- Comment 4 We disagree with Door of Hope's conclusion that a conflict-of-interest did not exist with its contractor, ESSCO. We agree that the father of a director of the board for Door of Hope was not the manager of ESSCO for more than 10 years. However, the current owner of ESSCO does have a relationship to the director of the board for Door of Hope in question. Regulations at 24 CFR 570.611(b) states that no person who may "gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity." Door of Hope has not provided documentation to show that a relationship did not exist to give the contractor an insider advantage against other bidders. This advantage created a conflict-of-interest that existed at the time that the nonprofit organization selected the contractor. As a result, the subcontractor had an unfair competitive advantage over other subcontractors in pricing for solar work to be performed at the nonprofit's building. We redacted individuals' names mentioned in the letter for privacy reasons.

Appendix C

Criteria

The following sections of 24 CFR Part 85, 2 CFR Part 225, 24 CFR Part 570, HUD-2005-05-CPD, and Basically CDBG for Entitlements were relevant to our audit of the City's administration of program funds.

24 CFR Part 85, Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments

.20. Standards for financial management systems

(b) The financial management systems of other grantees and subgrantees must meet the following standards:

(3) Internal control. Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that is used solely for authorized purposes.

(6) Source documentation. Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.

.36. Procurement

(b)(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his immediate family...

2 CFR Part 225, Cost Principles for State, Local, and Indian Tribal Governments (Office of Management and Budget Circular A-87)

Appendix A to Part 225 – General Principles for Determining Allowable Costs

C. Basic Guidelines

1. Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria:

j. Be adequately documented.

24 CFR Part 570, Community Development Block Grants
Subpart C – Eligible Activities

570.203. Special economic development activities.

A recipient may use CDBG funds for special economic development activities in addition to other activities authorized in this subpart that may be carried out as part of an economic development project. Guidelines for selecting activities to assist under this paragraph are provided at §570.209. The recipient must ensure that the appropriate level of public benefit will be derived pursuant to those guidelines before obligating funds under this authority. Special activities authorized under this section do not include assistance for the construction of new housing. Activities eligible under this section may include costs associated with project-specific assessment or remediation of known or suspected environmental contamination. Special economic development activities include:

(b) The provision of assistance to a private for-profit business, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any activity where the assistance is appropriate to carry out an economic development project, excluding those described as ineligible in §570.207(a). In selecting businesses to assist under this authority, the recipient shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods...

570.208. Criteria for national objectives.

(a)(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. If the structure contains two dwelling units, at least one must be so occupied, and if the structure contains more than two dwelling units, at least 51 percent of the units must be so occupied. Where two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. Where housing activities being assisted meet the requirements of paragraph §570.208 (d)(5)(ii) or (d)(6)(ii) of this section, all such housing may also be considered for this purpose as a single structure. 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.

Subpart J - Grant Administration

570.501. Responsibility for grant administration.

(a) One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of the recipient to undertake activities assisted by this part. A public agency so designated shall be subject to the same requirements as are applicable to subrecipients.

(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 in §570.910. Where a unit of general local government is participating with, or as part of, an urban county, or as part of a metropolitan city, the recipient is responsible for applying to the unit of general local government the same requirements as are applicable to subrecipients, except that the five-year period identified under §570.503(b)(8)(i) shall begin with the date that the unit of general local government is no longer considered by HUD to be a part of the metropolitan city or urban county, as applicable, instead of the date that the subrecipient agreement expires.

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.

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:

(h) Financial records, in accordance with the applicable requirements listed in section 570.502, including source documentation for entities not subject to parts 84 and 85 of this title. 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.

Subpart K – Other Program Requirements

570.611 Conflict of interest.

(b) *Conflicts prohibited.* The general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. For the UDAG program, the above restrictions shall apply to all activities that are a part of the UDAG project, and shall cover any such financial interest or benefit during, or at any time after, such person's tenure.

(c) *Persons covered.* The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part.

HUD-2005-05-CPD, Playing by the Rules – A Handbook for CDBG Subrecipients on Administrative Systems, March 2005

2.5. Source Documentation

The general standard is that all accounting records must be supported by source documentation (see 24 CFR 85.20(b)(6) and 84.21(b)(7)). Supporting documentation is necessary to show that the costs charged against CDBG funds were incurred during the effective period of the subrecipient's agreement with the grantee, were actually paid out (or properly accrued), were expended on allowable items, and had been approved by the responsible official(s) in the subrecipient organization.

The source documentation must explain the basis of the costs incurred as well as show the actual date and amount of expenditures. For example:

- With respect to payrolls, source documentation should include employment letters and all authorizations for rates of pay, benefits, and employee withholdings. Such documentation might include union agreements or minutes from board of directors' meetings where salary schedules and benefit packages are established, copies of written personnel policies, [Internal Revenue Service] W-4 forms, etc. For staff time charged to the CDBG program activity, time and attendance records should be available. If an employee's time is split between CDBG and another funding source, there must be time distribution records supporting the allocation of charges among the sources. Canceled checks from the employees, insurance provider, etc., or evidence of direct deposits will document the actual outlay of funds.

Basically CDBG for Entitlements, July 2012

Chapter 3.2.3 Low Mod Housing Activities (LMH). There are a number of activities that generally do not qualify under the LMI Housing national objective. These include code enforcement, interim assistance, microenterprise assistance, public services, and special economic development activities.