



Luzerne County, Wilkes-Barre, PA

Community Development Block Grant – Disaster Recovery Grant



To: Nadab O. Bynum, Director, Office of Community Planning and Development,
Philadelphia Regional Office, 3AD
//signed//

From: David E. Kasperowicz, Regional Inspector General for Audit, Philadelphia
Region, 3AGA

Subject: Luzerne County, PA, Did Not Always Use Disaster Funds in Accordance With
HUD and Federal 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 Luzerne County, PA's Community Development Block Grant Disaster Recovery funds.

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 215-430-6734.



Audit Report Number: 2016-PH-1004

Date: June 18, 2016

Luzerne County, PA, Did Not Always Use Disaster Funds in Accordance With HUD and Federal Requirements

Highlights

What We Audited and Why

We audited Luzerne County, PA's Community Development Block Grant Disaster Recovery grant provided through the Disaster Relief Appropriations Act of 2013. We selected the County for review because (1) it had obligated the most disaster funds of the three Pennsylvania grantees that received funds through the Act and (2) the U.S. Department of Housing and Urban Development (HUD) had disbursed approximately \$2.1 million to the County as of August 2015. Our audit objective was to determine whether the County used its disaster funds in accordance with applicable HUD and Federal requirements.

What We Found

The County did not always use its disaster funds in accordance with applicable HUD and Federal requirements. Specifically, it did not ensure that subrecipients followed procurement requirements, and it lacked documentation to support funds disbursed for a building rehabilitation project. These conditions occurred because the subrecipients were not familiar with the requirements and the County did not have sufficient controls to ensure that they followed all requirements and provided adequate supporting documentation before disbursing funds to them. As a result, HUD and the County did not have assurance that \$227,413 disbursed for contracts related to street improvements and flood drainage facilities was spent for costs that were fair and reasonable and that \$109,423 disbursed for a building rehabilitation project was used in accordance with HUD and Federal requirements.

What We Recommend

We recommend that HUD direct the County to provide documentation to show that the \$227,413 disbursed for three contracts was for costs that were fair and reasonable and provide documentation to support \$109,423 disbursed for the building rehabilitation project or repay HUD from non-Federal funds for any amount that it cannot support. Further, HUD should require the County to provide training to its subrecipients on Federal procurement and cost principle requirements and improve its controls to ensure that it obtains adequate documentation to demonstrate compliance with Federal procurement and cost principle requirements before disbursing Block Grant disaster funds to subrecipients.

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Background and Objective

In September 2011, Luzerne County, PA, witnessed historical flooding from Tropical Storm Lee. This flooding resulted in more than \$100 million in residential, commercial, and infrastructure damage. The U.S. Department of Housing and Urban Development (HUD) identified the County as one of Pennsylvania's five most impacted areas.

Through the Disaster Relief Appropriations Act of 2013,¹ Congress made available \$16 billion in Community Development Block Grant funds for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization. In accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, these disaster relief funds were to be used in the most impacted and distressed areas affected by Hurricane Sandy and other declared major disaster events that occurred during calendar years 2011, 2012, and 2013.

On May 29, 2013, HUD issued a Federal Register notice,² which advised the public of the allocation of \$514 million in Block Grant funds appropriated by the Disaster Relief Appropriations Act for the purpose of assisting recovery in the most impacted and distressed areas declared a major disaster in 2011 or 2012. HUD awarded the County \$9.7 million. On July 21, 2014, HUD approved the County's initial action plan and a grant agreement that obligated all \$9.7 million of the County's disaster funds. As of January 14, 2016, the County had budgeted more than \$8.7 million for 10 projects as shown in the following chart.

Project	Amount budgeted
West Pittston Borough (street improvements)	\$2,319,642
Shickshinny Borough (street improvements)	1,661,578
Shickshinny Borough (water-sewer improvements)	1,460,884
Luzerne County (street improvements)	1,400,000
West Pittston Borough (water-sewer improvement)	576,949
Plymouth Township (street improvements)	534,400
Hunlock Township (street improvements)	300,000
Nanticoke City (flood drainage facilities)	205,350
Wilkes-Barre City (water-sewer improvements)	191,671
Luzerne County Redevelopment Authority (building rehabilitation)	134,020
Total	\$8,784,494

¹ Public Law 113-2, dated January 29, 2013

² 78 FR 32263, dated May 29, 2013

The County consists of 4 cities, 36 boroughs, and 36 townships. It is governed by a county manager and an 11-member county council. The County is a Block Grant entitlement grantee and administers its disaster funds through its Office of Community Development located at 54 West Union Street, Wilkes-Barre, PA. While the County had awarded the majority of its funds to subrecipients for street improvements, water and sewer improvements, flood drainage facilities, and building rehabilitation, 24 CFR (Code of Federal Regulations) 85.40 states that grantees are responsible for managing the day-to-day operations of grant- and subgrant-supported activities. Further, regulations at 24 CFR 570.501 state that grantees are responsible for ensuring that funds are used in accordance with all program requirements, including when they use subrecipients.

Our audit objective was to determine whether the County used its disaster funds in accordance with applicable HUD and Federal requirements.

Results of Audit

Finding: The County Did Not Always Use Disaster Funds in Accordance With HUD and Federal Requirements

The County did not demonstrate that it used all disaster funds in accordance with applicable HUD and Federal requirements. Specifically, it did not ensure that subrecipients followed procurement requirements, and it lacked documentation to support funds disbursed for a building rehabilitation project. These conditions occurred because the subrecipients were not familiar with requirements and the County did not have sufficient controls to ensure that they followed all requirements and provided adequate supporting documentation before disbursing funds to them. As a result, HUD and the County did not have assurance that \$227,413 disbursed for contracts related to street improvements and flood drainage facilities was spent for costs that were fair and reasonable and that \$109,423 disbursed for a building rehabilitation project was used in accordance with HUD and Federal requirements.

The County Did Not Ensure That Its Subrecipients Followed Procurement Requirements

Contrary to 24 CFR 85.40(a) and 24 CFR 570.501(b), the County did not ensure that its subrecipients procured services in accordance with the procurement standards at 24 CFR 85.36. Specifically, it did not ensure that its subrecipients followed the following requirements:

- For the West Pittston Borough street improvements project, the subrecipient did not show that it negotiated a fair and reasonable compensation with the contractor it selected to provide engineering services. While 24 CFR 85.36(d)(3)(v) allowed the use of a qualifications-based method of procurement for architectural or engineering contracts, when price is not used as a selection factor, the procurement was subject to the negotiation of fair and reasonable compensation. Regulations at 24 CFR 85.36(f)(1) also required the subrecipient to perform a cost analysis for architectural or engineering services contracts. The subrecipient did not provide documentation demonstrating that it had negotiated the compensation with the selected contractor or that it had determined that the cost was fair and reasonable. Without this documentation, the \$181,838 paid for engineering services was unsupported, and HUD and the County did not have assurance that up to \$156,262 in future expenditures³ would be spent for costs that were fair and reasonable. Further, the process the subrecipient used for this procurement was unusual because it evaluated the sole proposals that it received from two separate requests for proposals. Normally, only one request for proposal is issued at a time for a procurement action. Lastly, the subrecipient improperly included language in the contract allowing the contractor to be reimbursed for cost plus a percentage of cost, which is prohibited by 24 CFR 85.36(f)(4), although it had not disbursed funds for this type of reimbursement.

³ According to the contract, the subrecipient planned to use \$338,100 in disaster funds for engineering services.

- For the Nanticoke City flood drainage facilities project, the subrecipient did not prepare a cost analysis in connection with a \$40,000 change order that increased the cost of a contract from \$89,633 to \$129,633. Regulations at 24 CFR 85.36(f)(1) stated that a cost analysis was necessary for contract modifications or change orders unless price reasonableness could be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. In this case, the contractor provided a quote with five line items for services related to sediment removal as follows:

<i>Maintenance & protection of traffic:</i>	<i>\$2,000.00</i>
<i>Soil erosion & sedimentation control:</i>	<i>\$1,000.00</i>
<i>Clearing and grubbing;</i>	<i>\$3,000.00</i>
<i>Excavation and disposal of approx. 820 c.y.:</i>	<i>\$30,000.00</i>
<i>Restoration and seeding:</i>	<i>\$4,000.00</i>
<i>Total Change Order:</i>	<i>\$40,000.00</i>

While the subrecipient stated that it had negotiated a fair price related to the change order, it did not provide documentation to show that the price was fair and reasonable. Without this documentation, the \$40,000 paid was unsupported.

- For the West Pittston Borough street improvements project, the subrecipient did not use the proper method of procurement for an administrative consulting services contract. Regulations at 24 CFR 85.36(d)(3)(v) allowed the use of a qualifications-based procurement for architectural or engineering contracts. However, the subrecipient used the qualifications-based procurement method for a contract that was not for architectural or engineering services. Instead, the scope of services included providing assistance with basic record keeping and basic project management; compliance with program guidelines and regulations; the procurement of construction activities; and the execution of necessary local, State, and Federal contracts. Because the subrecipient did not use the proper procurement method, HUD and the County did not have assurance that the contract award was the most advantageous to the program, with price and other factors considered. The effect of using an improper method of procurement for services may be illustrated by the fact that the subrecipient received only one proposal after soliciting for services twice. Further, because the subrecipient did not provide documentation showing that it had negotiated the compensation with the selected contractor as required by 24 CFR 85.36(d)(3)(v) and did not perform an independent cost estimate and cost analysis in connection with the procurement as required by 24 CFR 85.36(f)(1), HUD and the County did not have assurance that \$5,575 in disaster funds disbursed for the contract and up to \$184,425 in future expenditures were fair and reasonable.⁴

⁴ According to the contract, the subrecipient planned to use \$190,000 in disaster funds for administrative consulting services.

The County Lacked Documentation To Support Funds Disbursed for Building Rehabilitation

Contrary to 2 CFR Part 225, appendix A, paragraph C(1)(j), the County did not have documentation to show how \$109,423 in disaster funds was used for a building rehabilitation project at its Redevelopment Authority. The Authority provided documentation showing it paid more than \$800,000 for the building rehabilitation project, including funds from HUD, the Federal Emergency Management Agency (FEMA), and insurance companies. However, the documentation did not show which costs related to the \$109,423 in Block Grant Disaster Recovery funds. Without this documentation, the \$109,423 in Block Grant Disaster Recovery funds paid for the building rehabilitation project was unsupported. For example, if the funds were used toward a contract, the subrecipient needed to document compliance with Federal procurement requirements and the Davis-Bacon Act. The documentation provided by the subrecipient did not show that it met these requirements.

The Subrecipients Were Not Familiar With Requirements and the County Did Not Have Sufficient Controls

The issues described above occurred because the subrecipients were not familiar with requirements and the County did not have sufficient controls to prevent or detect the issues identified. For example, the cooperation agreements with the subrecipients stated that the County reserved the right to monitor activity to ensure compliance with applicable Federal and State regulations, and the job description for the County's municipal projects manager stated that he was responsible for overseeing all bidding documents, requests for proposals, and other documents to ensure that subrecipients complied with procurement requirements. However, the County's files did not demonstrate involvement with its subrecipients' procurement processes or monitoring of the subrecipients related to HUD procurement requirements. Further, the County did not have adequate controls to ensure that it had obtained adequate supporting documentation to demonstrate compliance with Federal procurement and cost principle requirements before disbursing funds to its subrecipients. The County did not devote significant resources to manage the day-to-day operations of the \$9.7 million in disaster funds it was awarded through the Disaster Relief Appropriations Act of 2013. As of April 2016, it had used less than \$52,000 for planning and administration, and it had recently reduced the amount of funds budgeted for planning and administration from \$976,300 to \$102,813.⁵

Conclusion

The County did not always disburse its disaster funds in accordance with HUD and Federal requirements. This condition occurred because its subrecipients were not familiar with the requirements and the County did not have sufficient controls to ensure that they followed all requirements and provided adequate supporting documentation before disbursing funds to them.

⁵ The County initially budgeted \$488,150 for planning and \$488,150 for administration. During our audit, it reduced the budgeted amounts to \$21,132 for planning and \$81,681 for administration.

As a result, HUD and the County did not have assurance that \$227,413 disbursed⁶ for contracts was spent for costs that were fair and reasonable and that \$109,423 disbursed for a building rehabilitation project was used in accordance with HUD and Federal requirements.

Recommendations

We recommend that the Director of HUD's Philadelphia Office of Community Planning and Development direct the County to

- 1A. Provide documentation to show that the \$227,413 disbursed for three contracts was for costs that were fair and reasonable or repay HUD from non-Federal funds for any amount that it cannot support.
- 1B. Provide documentation to show that the contract prices for the engineering services and administrative consulting services related to the West Pittston Borough street improvements project were fair and reasonable and if not, implement controls to ensure that it does not use Block Grant Disaster Recovery funds to pay for any amounts that are not fair and reasonable.
- 1C. Implement controls to ensure that it does not use Block Grant Disaster Recovery funds to pay for engineering costs related to the West Pittston Borough street improvements project billed as reimbursement of cost plus a percentage of cost.
- 1D. Provide documentation to support \$109,423 disbursed for the building rehabilitation project or repay HUD from non-Federal funds for any amount that it cannot support.
- 1E. Provide training to its subrecipients on Federal procurement and cost principle requirements.
- 1F. Improve its controls to ensure that it obtains adequate documentation to demonstrate compliance with Federal procurement and cost principle requirements before disbursing Block Grant Disaster Recovery funds to subrecipients.

⁶ The \$227,413 included \$181,838 disbursed for an engineering contract on the West Pittston Borough street improvements project, \$40,000 disbursed for the change order on the Nanticoke City flood drainage facilities project, and \$5,575 disbursed for the administrative services contract on the West Pittston Borough street improvements project. The \$227,413 does not include up to \$156,262 and \$184,425 in possible future expenditures for the contracts.

Scope and Methodology

We conducted the audit from September 2015 through March 2016 at the County's office located at 54 West Union Street, Wilkes-Barre, PA, and at our office located in Philadelphia, PA. The audit covered the period May 2013 through January 2016.

To achieve our audit objective, we reviewed

- Relevant background information;
- Applicable regulations, HUD notices, and the County's policies and procedures;
- The Disaster Relief Appropriations Act, Public Law 113-2;
- The County's Block Grant Disaster Recovery action plan as approved by HUD on July 21, 2014, along with approved action plan amendments;
- The funding agreement between HUD and the County, dated July 21, 2014;
- Cooperation agreements between the County and its subrecipients; and
- A HUD management review report, dated July 13, 2015.

We interviewed responsible employees of the County and HUD staff located in Philadelphia, PA.

As of January 14, 2016, the County had budgeted more than \$8.7 million for 10 projects, and HUD had disbursed more than \$2.9 million to the County for 9 of the projects.

Project	Total budgeted	Total disbursed	Percentage disbursed
West Pittston Borough (street improvements)*	\$2,319,642	\$187,474	8
Shickshinny Borough (street improvements)	1,661,578	141,877	9
Shickshinny Borough (water-sewer improvements)	1,460,884	156,382	11
Luzerne County (street improvements)*	1,400,000	1,400,000	100
West Pittston Borough (water-sewer improvement)	576,949	55,037	10
Plymouth Township (street improvements)*	534,400	405,674	70
Hunlock Township (street improvements)*	300,000	300,000	100
Nanticoke City (flood drainage facilities)*	205,350	129,647	63
Wilkes-Barre City (water-sewer improvements)	191,671	0	0
Luzerne County Redevelopment Authority (building rehabilitation)*	134,020	134,020	100
Totals	\$8,784,494	\$2,910,111	

* Projects selected for review

During the initial phase of our review, we selected the three projects with the highest percentage of budgeted funds disbursed as of August 31, 2015. However, during the audit phase, we expanded this number to include the five projects with the highest percentage of budgeted funds disbursed as of January 14, 2016, along with the West Pittston Borough project because it had the largest amount budgeted. We used a nonstatistical sample design because it allowed us to select projects that represented the highest risk to HUD based on the amounts budgeted and disbursed. Although this approach did not allow us to make a projection to the entire population, the 6 projects selected represented more than 55 percent of the funds the County had budgeted for the 10 projects and 87 percent of the funds that HUD had disbursed to the County for the 9 projects. We reviewed files for the six projects to determine whether the County had used disaster funds in accordance with applicable HUD and Federal requirements. We also performed site visits to three of the six projects selected for review, including the Luzerne County street improvements project, the Plymouth Township street improvements project, and the Luzerne County Redevelopment Authority building rehabilitation project.

To achieve our audit objective, we relied in part on computer-processed data contained in HUD's Disaster Recovery Grant Reporting system⁷ and provided by the County. We used the data to select projects for review and to review the disbursements for those projects. Although we did not perform a detailed assessment of the reliability of the data, we performed a minimal level of testing and found the data to be adequate for our purpose.

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.

⁷ The Disaster Recovery Grant Reporting system was developed by HUD's Office of Community Planning and Development for the Block Grant Disaster Recovery funds and other special appropriations. Grantees use the system to submit action plans, drawdown funds, report program income, and submit quarterly performance reports. Data from the system are used by HUD staff to review activities funded under these programs and for required quarterly reports to Congress.

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:

- Program operations – Policies and procedures that management had implemented to reasonably ensure that a program meets its objectives, while considering cost effectiveness and efficiency.
- Compliance with laws and regulations – Policies and procedures that management has implemented to reasonably ensure that program implementation is consistent with laws and regulations.

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 Deficiency

Based on our review, we believe that the following item is a significant deficiency:

- The County did not establish and implement procedures to ensure that it complied with all applicable procurement and cost principle requirements.

Appendixes

Appendix A

Schedule of Questioned Costs

Recommendation number	Unsupported 1/
1A	\$227,413
1D	109,423
Totals	\$336,836

- 1/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

C. DAVID PEDRI, ESQ.
County Manager

ANDREW D. REILLY
Executive Director

E-MAIL:
luzccood@luzernecounty.org

COUNTY COUNCIL
LINDA MCCLOSKEY HORACE, CHAIRMAN
TIM MCENLEY, VICE CHAIRMAN
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JANE WALSH WAITKUS
RICK WILLIAMS



COUNTY of LUZERNE
PENNSYLVANIA
ESTABLISHED 1786

OFFICE OF COMMUNITY DEVELOPMENT
54 WEST UNION STREET, WILKES-BARRE, PA 18701
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May 12, 2016

Mr. David Kasperowicz, Regional Inspector General for Audit
U. S. Department of Housing and Urban Development, Office of Inspector General
The Wanamaker Building
100 Penn Square East, Suite 10205
Philadelphia, PA 19107-3380

RE: Discussion Draft Report Response – Luzerne County CDBG-DR

Dear Mr. Kasperowicz:

The County has received the Office of Inspector General's (OIG) draft results of the review of Luzerne County's Community Development Block Grant Disaster recovery funds. The following represents the County's written response to the finding:

Finding: The County Did Not Always Use Disaster Funds in Accordance With HUD and Federal Requirements

Procurement

- The West Pittston engineering contract was fair and reasonable as will be demonstrated by the independent cost estimate secured by the County. Additionally, West Pittston received two proposal submissions on their second advertisement. The County will provide both the cost estimate and a timeline demonstrating that two proposals were received, to HUD, through subsequent correspondence.
- The Nanticoke City flood project independent cost estimate is forthcoming and will be provided to HUD through subsequent correspondence.
- While there was no comparable price in the West Pittston consulting services contract due to their being only one response, when doing a cost analysis the County found that the rates charged by the consulting firm were fair and reasonable compared to other consulting firms for similar services. A cost analysis will be provided to HUD.

Comments 1
and 2

Comment 3

Comment 4

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Comment 5

Comment 6

Comment 6

Comment 5

Documentation Lacking For Building Rehabilitation

The reimbursement portion of assistance \$109,423.40 is not subject to federal procurement nor Davis Bacon requirements. These expenses were incurred prior to the award of CDBG-DR. Therefore documentation that shows how expenses were allocated among different funding sources is not required for the reimbursement portion of the CDBG-DR assistance.

The Redevelopment Authority of Luzerne County had no expectation of receiving CDBG-DR as a source of funds for the rehabilitation work September 2011 through December 2012.

The Redevelopment Authority did perform its own cost reasonable process as part of its own due diligence, during September 2011 through December 2012. However, it did not conduct cost reasonable evaluation in the manner as defined by the federal requirements, because it had no expectation that CDBG-DR funds would become available.

Insurance proceeds and FEMA Public Assistance do not require Davis-Bacon wage standards or procurement, thus the Redevelopment Authority did not conduct these activities.

However, all source proceeds and use payments documentation were provided to the County, and a detailed review of all expenses was conducted to ensure that duplication of costs and duplication of benefit did not occur. The expenses are eligible and allowable activities.

The sum total of disaster assistance proceeds (Insurance and FEMA-PA) were reviewed and verified as received \$709,258.72. The sum of total expenses for rehabilitation costs were reviewed and verified as work completed \$818,692.12. A line of credit was used to pay for rehabilitation that exceeded proceeds from insurance and FEMA-PA.

Expenses subject to reimbursement were incurred October 1, 2011 through December 19, 2012.

The Redevelopment Authority applied for \$134,020 on December 31, 2012.

Notice of Recommended Awards: June 28, 2013
CDBG-DR Contract Executed: September 17, 2013

Request for reimbursement:	\$109,423.40
Request for future rehabilitation:	<u>\$24,596.60</u>
Total CDBG-DR Assistance	\$134,020.00

Costs incurred prior to application are eligible for reimbursement.
March 5, 2013 (78 FR 14342): "18. *Reimbursement of disaster recovery expenses.* The provisions of 24 CFR 570.489(b) are applied to permit a State to reimburse itself for otherwise allowable costs incurred by itself or its recipients subgrantees or subrecipients (including public housing authorities) on or after the incident date of the covered disaster."

The Redevelopment Authority had stopped construction prior to the time of application and properly procured contractors for the remaining future rehabilitation work. Further, the Redevelopment Authority submitted documentation in a sources and uses statement model for the future rehabilitation costs incurred after CDBG application, in conformance with CDBG requirements.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Comment 6

The remaining amount of assistance, \$24,596.60 is subject to procurement and Davis Bacon requirements. Both of these requirements have been met and are not subject to or in question of this Office of Inspector General Report.

The Redevelopment Authority relevant Dates and Amounts

Expenses for rehabilitation, prior to CDBG-DR Award:	\$818,692.12	(Sept 2011 – Dec 2012)
First Date payment of expense:	10/1/2011	
Last Date payment of expense:	12/19/2012	

Funds Received Prior to CDBG-DR Award

Insurance proceeds:	\$375,632.28	
FEMA Public Assistance:	<u>\$333,636.44</u>	
Total Funds Received, other sources:	\$709,268.72	(Sept 2011-Dec 2012)

CDBG-DR Assistance Request:

Request for reimbursement, CDBG:	\$109,423.40	(Sept 2011 – Dec 2012)
Request for rehabilitation, CDBG:	<u>\$24,596.60</u>	<u>(Sept 2013 - present)</u>
Total CDBG-DR Award:	\$134,020.00	

Presidential Declaration Hurricane Irene (DR-4025-PA): September 3, 2011

Presidential Declaration Tropical Storm Lee (DR-4030-PA): September 6, 2011

Dates of reimbursement work conducted: September 6, 2011 – December 19, 2012

Redevelopment Authority Application Date for CDBG-DR: December 31, 2012

Recommendation of CDBG-DR awards to committee: June, 28, 2013

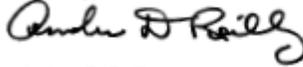
Redevelopment Authority Contract with Luzerne County: September 17, 2013

Subrecipients Not Familiar With Requirements and Insufficient County Controls

All subrecipients are familiar with the process and are given documentation that explains the procurement standards. The Projects Manager often communicates with subrecipients verbally, in person and over the phone, and not through letters or email. Therefore, the County does acknowledge that all files were not documented as thoroughly as possible. Throughout the CDBG-DR process HUD has offered technical assistance and the County will be formally requesting assistance with procurement standards and internal controls to better strengthen our procedures.

Should you have any questions concerning this, please feel free to contact this office.

Sincerely,



Andrew D. Reilly

Comment 7

OIG Evaluation of Auditee Comments

- Comment 1 The County contended that an independent cost estimate will show that the price for the engineering contract for the West Pittston Borough street improvements project was fair and reasonable. During the audit, the subrecipient did not provide documentation demonstrating that it had negotiated the compensation with the selected contractor or that it had determined that the cost was fair and reasonable. As part of the normal audit resolution process, HUD will need to assess any documentation the County has obtained to determine whether it shows that the \$181,838 disbursed for this contract was for costs that were fair and reasonable, and if not, direct the County to repay HUD from non-Federal funds any amount that it cannot support.
- Comment 2 The County contended that West Pittston Borough received two proposals in response to its second advertisement for the engineering services contract. During the audit, we requested all documentation related to the procurement of the engineering services contract, including all requests for proposal and proposal submissions. In November 2013, West Pittston Borough issued a request for qualifications with a due date of November 25, 2013. It received one response, dated November 22, 2013. In December 2013, West Pittston Borough issued another request with a due date of December 26, 2013. It received one response, dated December 26, 2013. As noted in the audit report, West Pittston Borough evaluated the sole proposals that it received from two separate requests for proposal. The County and the subrecipient did not provide any additional documentation to show that it had received two submissions from the December 2013 request. As part of the normal audit resolution process, HUD will need to assess any documentation the County has obtained to determine whether it shows that the \$181,838 disbursed for this contract was for costs that were fair and reasonable, and if not, direct the County to repay HUD from non-Federal funds any amount that it cannot support.
- Comment 3 The County indicated that an independent cost estimate was forthcoming for the Nanticoke City flood drainage project. HUD will need to assess the independent cost estimate and any other documentation provided after the audit to determine whether it shows that the \$40,000 disbursed for the change order was for costs that were fair and reasonable, or direct the County to repay HUD from non-Federal funds any amount that it cannot support.
- Comment 4 The County indicated that it had performed a cost analysis for the West Pittston Borough consulting services contract and found that the rates charged were fair and reasonable when compared to other consulting firms for similar services. As noted in the audit report, because the subrecipient did not use the proper procurement method, HUD and the County did not have assurance that the contract award was the most advantageous to the program, with price and other

factors considered. Further, the subrecipient did not provide documentation showing that it had negotiated the compensation with the selected contractor as required by 24 CFR 85.36(d)(3)(v) and had performed an independent cost estimate and cost analysis in connection with the procurement as required by 24 CFR 85.36(f)(1). As part of the normal audit resolution process, HUD will need to assess the cost analysis described by the County and any other documentation provided after the audit to determine whether it shows that the contract price, and the \$5,575 disbursed for the consulting services contract was for costs that were fair and reasonable, or direct the County to repay HUD from non-Federal funds any amount that it cannot support. Further, if the contract price was not fair and reasonable, HUD should require the County to implement controls to ensure that it does not use Block Grant Disaster Recovery funds to pay for any amounts that are not fair and reasonable.

Comment 5 The County contended that the \$109,423 it disbursed for a building rehabilitation project was not subject to Federal procurement and Davis-Bacon requirements because the payment was a reimbursement to the subrecipient for expenses that were incurred prior to the award of the Block Grant Disaster Recovery funds. We disagree. In a March 5, 2013, Federal Register notice (78 FR 14342), HUD indicated that the provisions of 24 CFR 570.489(b) are applied to permit a State to reimburse itself for otherwise allowable costs incurred by itself or its recipients subgrantees or subrecipients on or after the incident date of the covered disaster. A November 18, 2013, Federal Register notice (78 FR 69109) indicated that in addition to the March notice, grantees are subject to CPD Notice 2013-05 which permitted grantees and subrecipients to reimburse themselves for allowable costs. A July 11, 2014, Federal Register notice (79 FR 40134) further clarified that the information about reimbursement of costs contained in the March notice applied to the County. While the County could disburse funds for pre-award costs, the guidance required the costs to be allowable and did not exempt the County from following other requirements, such as Federal procurement and Davis-Bacon requirements. Further, while the County indicated that the subrecipient incurred all \$818,692 of costs in 2011 and 2012, we found that 12 invoices valued at approximately \$70,000 were dated in 2013 and were for work performed in 2013. Lastly, while the County indicated that the subrecipient had paid all \$818,692 in 2011 and 2012, the information provided showed that only \$725,211 had been paid during that period. The remaining \$93,481, which included the \$70,000 discussed above plus retainage from earlier invoices, was paid between April 2013 and August 2013.

Comment 6 The County contended that it was not required to maintain documentation showing how more than \$818,692 the subrecipient paid for rehabilitation work through December 2012 was allocated between HUD, FEMA, and insurance funding sources. Both the grant agreement between HUD and the County dated July 21, 2014, and CPD Notice 2013-05 required the County to comply with requirements at 2 CFR Part 225, appendix A, paragraph C(1)(j) and document

costs adequately. The subrecipient provided documentation showing it paid \$818,692 for the building rehabilitation project, using funds from HUD, FEMA, and insurance companies. Because the subrecipient used multiple funding sources, each of which may have had different requirements applicable to it, it was important that the County identify the specific costs for which it used \$109,423 in Block Grant Disaster Recovery funds. Without this documentation, HUD cannot determine whether the costs met applicable HUD and Federal requirements.

Comment 7 The County acknowledged that files were not documented as thoroughly as possible and indicated that it would be formally requesting technical assistance from HUD to better strengthen its processes related to procurement standards and internal controls. We commend the County for its plan to request technical assistance. Regulations at 24 CFR 570.501 state that grantees are responsible for ensuring that funds are used in accordance with all program requirements, including when they use subrecipients. Therefore, it is important that the County provide adequate guidance to subrecipients, and that it implements controls to ensure that it obtains adequate documentation to demonstrate compliance with Federal procurement and cost principle requirements before disbursing Block Grant Disaster Recovery funds to subrecipients.