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Audit Report Number 2008-BO-1001
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TO: Robert Paquin, Director, Office of Community Planning and Development,  
Boston Regional Office, 1AD  
Henry S. Czauski, Deputy Director, Departmental Enforcement Center, CV

FROM: John A. Dvorak, Regional Inspector General for Audit, 1AGA

SUBJECT: The City of Chicopee, Massachusetts, Did Not Properly Administer More Than  
\$4.3 Million in Community Development Block Grant Funds

## **HIGHLIGHTS**

### **What We Audited and Why**

We audited the City of Chicopee, Massachusetts (City), Office of Community Development's administration of its Community Development Block Grant (CDBG) program as part of our fiscal year 2007 annual audit plan. The objectives of the audit were to evaluate the City's administration of its public facilities and improvement activities funded through the CDBG program and its oversight and monitoring of CDBG funds it provided to the City's Parks and Recreation Department and Department of Public Works for various public facilities and improvement activities.

### **What We Found**

The City's Office of Community Development did not properly administer more than \$4.3 million in public facilities and improvement activities funded through its CDBG program. Specifically, conflict-of-interest regulations were violated,

which resulted in ineligible projects being funded and the improper use of more than \$1.1 million in CDBG funds. The Office of Community Development also did not properly support that more than \$4.3 million<sup>1</sup> in CDBG-funded public facilities and improvement activities met the low-to-moderate-income benefit requirements. Further, it did not adequately monitor or provide oversight of CDBG funds provided to the City's Parks and Recreation Department and Department of Public Works for public works and facilities activities. As a result,

- Contracts funded with CDBG funds included more than \$628,000 in prohibited or unsupported maintenance and repair activities,
- Federal requirements for procurement and contracting were not always followed,
- Federal provisions for financial management were not always followed, and
- Davis-Bacon requirements for labor compliance were not always met.

## What We Recommend

We recommend that the Director of the U.S. Department of Housing and Urban Development's (HUD) Boston Office of Community Planning and Development require the City to repay the \$1.1 million in ineligible costs from nonfederal sources. We recommend that the Deputy Director of the Departmental Enforcement Center pursue all applicable administrative sanctions against the City, including debaring individuals involved in the decision to expend these funds. We also recommend that the Director of HUD Boston Office of Community Planning and Development (1) ensure that the City provides supporting documentation for the unsupported costs, including adequately documenting the service area, or take administrative action requiring repayment of amounts not adequately supported or determined to be ineligible; (2) require the Office of Community Development to establish written oversight policies and procedures that meet HUD requirements for awarding, administering, and monitoring CDBG program funds; and (3) require the City to repay from nonfederal funds CDBG program funds spent on prohibited or unsupported maintenance and repair activities.

For each recommendation in the body of the report without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please also furnish us copies of any correspondence or directives issued because of the audit.

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<sup>1</sup> This amount includes the improper use of the \$1.1 million for neighborhood improvements.

## **Auditee's Response**

We provided City officials with a draft audit report on September 17, 2007, and requested a response by September 28, 2007. We held an exit conference with City officials on September 24, 2007, to discuss the draft report, and we received their written comments on October 9, 2007. The City generally disagreed with Finding 1 and 2 and generally agreed with Finding 3, with the exception of repairs and maintenance items.

The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix B of this report. We did not include all attachments to the auditee's response due to the voluminous nature of the attachments but the attachments are available upon request.

# TABLE OF CONTENTS

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Background and Objectives	5
Results of Audit	
Finding 1: Conflict-of-Interest Regulations Were Violated Resulting in the Improper Use of More Than \$1.1 Million for Ineligible projects	7
Finding 2: The City Did Not Accurately Determine the Actual Service Areas Related to Its Various Public Improvement Projects	16
Finding 3: The City’s Office of Community Development Did Not Fulfill Its Oversight and Monitoring Responsibilities	20
Scope and Methodology	27
Internal Controls	28
Appendixes	
A. Schedule of Questioned Costs and Funds to Be Put to Better Use	29
B. Auditee Comments and OIG’s Evaluation	30
C Applicable Criteria and Violations	63

## BACKGROUND AND OBJECTIVES

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The City of Chicopee, Massachusetts (City), receives annual Community Development Block Grant (CDBG) program funds on a formula basis from the U.S. Department of Housing and Urban Development's (HUD) Office of Community Planning and Development. The CDBG program is a flexible program that provides communities with resources to address a wide range of unique community development needs.

The City's Office of Community Development administered the CDBG program. During our audit period from July 1, 2002, through December 31, 2006, it was responsible for administering 25 public facilities and improvement activities or projects funded with more than \$5.8 million in CDBG funds. Our audit looked at four park-related activities and eight street and sidewalk activities totaling more than \$4.32 million<sup>2</sup> during the audit period. Additionally, we looked at plans to fund \$62,975 for a gazebo project.<sup>3</sup>

The Office of Community Development awarded CDBG funds through a request for proposal process to the City's Parks and Recreation Department (Parks and Recreation) and the Department of Public Works (Public Works) for various public facilities and improvement projects that were generally located in "target areas."<sup>4</sup> The Office of Community Development based the eligibility of these activities, in part, on whether the activities were located in these target areas. Parks and Recreation and Public Works entered into interdepartmental agreements with the Office of Community Development to obtain CDBG funds for various public facilities and improvement projects. The scope of work in the agreements only gave a general description of the work to be completed. The Office of Community Development required these departments to submit payment requests to it to receive the CDBG funds. Once these departments received payment from the Office of Community Development, they paid the contractors and/or vendors for services rendered. Based on the interdepartmental agreements, the Office of Community Development was responsible for monitoring and overseeing these two departments to ensure that federal requirements were met.

On November 1, 2005, former Mayor Richard Goyette, formerly of 51 Providence Street, Chicopee, Massachusetts, was arrested on extortion charges related to accepting illegal cash campaign contributions. In return for the money (illegal campaign contributions), he promised a developer he would intercede on his behalf with the Office of Community Development on a project. He pled guilty to a two-count indictment charging him with use of his position under color of official right to extort two illegal campaign contributions, each in the amount of \$5,000.

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<sup>2</sup> The review of awards and disbursements for the street and sidewalk improvements included contracts that were funded in whole or in part with CDBG funds. Of the more than \$3.5 million in CDBG activities reviewed, more than \$6.5 million was paid on these contracts, but the expenses for CDBG and non-CDBG funds were not always recorded separately.

<sup>3</sup> We reviewed this additional project separately because the gazebo was part of an activity that we selected for review and was later removed and rebid by the City as a separate project.

<sup>4</sup> Target areas are areas designated by the City's Office of Community Development as low-to-moderate-income areas of the city, based on census tract data provided by HUD.

We audited the City's Office of Community Development's administration of the CDBG program, specifically to evaluate whether

1. Public facilities and improvement activities funded with CDBG funds were eligible activities of the CDBG program,
2. CDBG funds were properly awarded and disbursed, and
3. The City's Office of Community Development provided adequate oversight and monitoring of CDBG funds it provided to Public Works and Parks and Recreation for public facilities and improvement activities.

The issues identified in our report deal with administrative and internal control activities that we believe must be brought to the attention of City officials. Other matters regarding the City's management may remain of interest to our office as well as other federal agencies. Release of this report does not immunize any individual or entity from future civil, criminal, or administrative liability or claim resulting from future action by the HUD and/or other federal agencies.

## RESULTS OF AUDIT

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### Finding 1: Conflict-of-Interest Regulations Were Violated Resulting in the Improper Use of More Than \$1.1 Million for Ineligible Projects

The City's Office of Community Development improperly used more than \$1.1 million in CDBG funds for four ineligible projects in the City's more affluent<sup>5</sup> Aldenville neighborhood where the then former mayor's family resided. This violation occurred because the former mayor intervened in the City's normal decision-making process to have these projects included on the City's fiscal year 2005 annual action plan.<sup>6</sup> Despite the presence of an apparent conflict of interest, the City also permitted the former mayor to influence decisions to accomplish these projects. However, the decision to use CDBG funds can not be supported. The projects are ineligible because the neighborhood was inappropriately classified as a CDBG "target area," and its inclusion in the annual action plan was based on inaccurate information. Also, the public process for citizen participation was not followed, and significant deficiencies were found in procurement actions related to one project. As a result, the City breached its fiduciary responsibilities and incurred more than \$1.1 million in ineligible CDBG costs.<sup>7</sup> Also, these funds were not available to address neighborhoods with much greater needs<sup>8</sup> that the program was meant to serve.

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#### **CDBG-Funded Projects Influenced by Former Mayor**

The former mayor took an active role in influencing changes to Public Works and Parks and Recreation fiscal year 2005 CDBG funding proposals. There were four projects in the Aldenville neighborhood where the former mayor resided that received more than \$1.1 million in CDBG funding. They included Aldenville Common, Aldenville streets, Aldenville sidewalks, and tree planting projects. These projects were not proposed by Parks and Recreation and Public Works during the City's fiscal year 2005 annual CDBG planning process. These projects were proposed by the former Mayor; however, the Mayor did not submit a written proposal. According to the Office of Community Development, it is not uncommon for mayors to submit proposals, although no mayor has ever submitted a written proposal.

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<sup>5</sup> Based on the 2000 census data, the Aldenville neighborhood had the second highest median income in the City.

<sup>6</sup> This plan identified the use of CDBG funding for the period July 1, 2004 to June 30, 2005.

<sup>7</sup> According to CDBG program regulations, determination of eligibility includes 5 provisions including that costs incurred must conform to OBM Circular A-87, "Costs Principles for State, Local and Indian Tribal Governments." The City can not document that all costs were necessary and reasonable.

<sup>8</sup> According to the December 3, 2003 minutes of the Community Development Citizen Advisory Committee, the Office of Community Development advised the public and committee that "the City continues to focus its funding assistance on where the needs are greatest."

During the annual CDBG planning process, Parks and Recreation and Public Works submitted internal proposals for CDBG-funded improvement activities. Parks and Recreation's proposal included improvements to Sarah Jane Sherman Park and Nash Park. As a result of the former mayor's intervention, the Parks and Recreation's proposal was rejected and instead the Aldenville Common, an area located at the end of the former mayor's street, was funded. Also, the Public Works' proposal included the statement, "as many projects as possible in the CDBG target areas," but it did not include the project work funded in the fiscal year 2005 annual action plan for the Aldenville neighborhood. The Public Works' proposal was also rejected and instead projects for the former mayor's street and the adjacent streets were funded. According to Public Works staff, they did not select the Aldenville streets for the CDBG-funded improvements. Public Works stated that the former mayor and the director of the Office of Community Development asked for additional road and sidewalk estimates for a more expansive Aldenville neighborhood project. The revised CDBG project was documented in a February 17, 2004, fax from Public Works to the former mayor and copied to the Office of Community Development. This revised CDBG project included full-depth road reconstruction and new concrete sidewalks for six streets in the Aldenville neighborhood, including the former mayor's street and the adjacent streets.

The necessity or reasonableness of approving the Aldenville Common project, which was estimated to cost more than \$450,000<sup>9</sup> and was only 7,600-square-feet in size is questionable (see pictures below). According to a January 14, 2004, park maintenance memorandum, Parks and Recreation's primary objective for Aldenville Common was to install a new park sign and replace the outdated flagpole.



Previous Aldenville Common pavilion, walkways, and benches in 2004

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<sup>9</sup> For the project, \$363,261 was spent without the gazebo being completed. The gazebo will potentially add another \$62,975 to the project costs, and landscape plantings that are on hold are estimated to cost more than \$35,000.





View of Aldenville Common as of July 2007

In addition, the necessity of the street maintenance work and tree planting totaling \$799,240 is questionable since Public Works was unable to provide documentation showing a need for the work or the necessity of the reconstruction work on the streets in the Aldenville neighborhood. Public Works also did not have any documentation showing the basis for selecting the specific Aldenville area streets,<sup>10</sup> including the former mayor's street, or documentation showing that a full-depth reconstruction of all the streets and total replacement of sidewalks was warranted. Further, a preconstruction video did not show the necessity of sidewalk work on the former mayor's street.

### **Aldenville Neighborhood Projects Were Not Eligible and Inappropriately Classified**

The Aldenville neighborhood projects were ineligible because the neighborhood was inappropriately classified as a CDBG "target area," and did not qualify under the criteria for national objectives as a CDBG assisted activity. Also, inclusion in the fiscal year 2005 annual action plan included inaccurate statements concerning this area. A housing study used by the Office of Community Development (issued in September 2003 and again in April 2004) included an analysis that showed the Aldenville neighborhood typically ranked high and outperformed the city benchmark in various socioeconomic and housing indicators such as income, owner-occupied housing, and median home values. The study stated that the City was comprised of 12 census tracts, which formed the basis for six neighborhoods. Aldenville was identified in the study as Neighborhood C and was made up of census tracts 8110 and 8112. The study presented a statistical and comparative overview of each neighborhood relative to the city as follows:

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<sup>10</sup> With the exception of Mary Street and Olea Street, which were included in the Public Works' proposal and for which required work was documented.

**Table 7 - City of Chicopee, MA and Neighborhood Comparison: Selected Socioeconomic Data**

	Chicopee	A	B	C	D	E	F
Total Population - 2000	54,653	9,837	6,285	9,564	11,149	10,985	6,886
% Change since 1990	-3.5%	-3.9%	-1.9%	-18.2%	14.6%	-6.4%	0.8%
% Minority (2000)	10.2%	7.2%	13.3%	4.0%	20.6%	9.2%	4.9%
% Hispanic (2000)	5.0%	6.3%	13.6%	2.8%	21.2%	4.7%	2.5%
Total Households - 2000	23,117	4,388	2,728	4,012	4,352	4,717	2,922
% Owner-Occupancy - 2000	59.3%	50.5%	42.7%	73.6%	46.6%	69.3%	71.3%
% Owner Householders 65+ Years	33.5%	42.2%	40.9%	39.7%	30.5%	32.0%	26.1%
Median Household Income - 2000	\$35,672	\$31,883	\$29,197	\$40,221	\$31,703	\$39,093	\$44,795
Med. Selling \$ - Single Family - 2002	\$121,350	\$120,000	\$115,000	\$124,000	\$109,000	\$128,250	\$126,400
Median Rent - 2002	\$575	\$572	\$507	\$584	\$567	\$687	\$582
Total Acreage (1)	12,318	1,015	492	1,327	814	1,711	2,297
Per Acre Residential Density	4.55	6.15	8.56	4.24	6.51	3.66	2.87

**Note (1)** : Approximately 4,862 acres not classified to specific neighborhoods.  
**Source**: US Census, City of Chicopee and RKG Associates, Inc.

Excerpt taken from the April 2004 RKG Housing Market Study for Chicopee, Massachusetts

Since this study was completed during the fiscal year 2005 annual action plan planning process and within months of the July 1, 2004, annual action plan submission, the Office of Community Development should have taken the study analysis and recommendations into account when deciding how to best allocate its fiscal year 2005 (July 1, 2004) CDBG funds. Instead, the Office of Community Development targeted the CDBG funds to the Aldenville neighborhood.

Although census data showed an overall 42 percent low-to-moderate-income population in the Aldenville neighborhood, the City stated in its fiscal year 2005 annual action plan that “most activities will take place in Census Tracts 8107, 8108, 8109.01, 8109.02, 8110, and 8112.”<sup>11</sup> It went on to explain that “The rationale for allocating funds to these areas is that these are older, poorer areas of the City where the infusion of federal funds can make the most impact.” The City contends that the Aldenville neighborhood was showing signs of decline and that they wanted to take a proactive approach. However, the City could not show that the area was showing signs of decline.

Most activities (57 percent<sup>12</sup>) in the fiscal year 2005 action plan took place in the Aldenville neighborhood. However, based on the statistical data provided in the September 2003 and April 2004 housing studies, the Aldenville neighborhood was not a poorer area of the city. Also, according to the study, the Aldenville neighborhood had one of the City’s “more modern housing supply.” Further, the Aldenville neighborhood had the second highest median income of the six neighborhoods in the city.

<sup>11</sup> The Aldenville neighborhood’s two tracts are identified as 8110 and 8112.

<sup>12</sup> Excluding amounts allocated to planning, administration, and contingency, the percentage allocated to Aldenville increases to 78 percent.

## **Public Process Not Followed**

During the audit, the City was unable to produce records to show that the public process in place was in fact followed prior to selection of the Aldenville neighborhood projects. The City could not show that it permitted public examination and appraisal of the Aldenville projects. According to the City's Citizen Participation Plan as provided in the annual action plan submitted to HUD, the Community Development Advisory Committee (CDAC) is the primary vehicle for citizen participation in Chicopee. The CDAC members are appointed by the mayor and their duties include reviewing CDBG program proposals and recommending to the Mayor those which meet funding objectives. In addition, public meetings are held to go over the various proposals and minutes are recorded of these meetings.

Although requested several times, the Office of Community Development could not provide CDAC minutes for the period prior to selection of the Aldenville neighborhood projects or when the Aldenville projects were awarded. Further, the City Clerk's office advised us that they did not have a record of the CDAC minutes for this time period. Without these official records, the City cannot show that the public process in place was followed.

Other records included in the Office of Community Development's files included notes from meetings of the CDAC through March 16, 2004. These meeting notes show that on February 18, 2004, Public Works and Parks and Recreation presented their original proposals, and not the Aldenville projects, to the CDAC. The CDAC meeting notes included in the Office of Community Development files did not show Parks and Recreation or Public Works presenting the Aldenville projects. However, the Aldenville projects' award letters, dated April 7, 2007, indicate that the Mayor and the CDAC had made their final decisions for funding and selected projects in the Aldenville target area.

Further, the neighborhood hearings (June 2004 and September 2004) were held after the decision was made and the inclusion of the project in the annual action plan was submitted to HUD (May 2004) for the improvements to Aldenville Commons.

## **Apparent Conflict of Interest**

In addition to proposing the Aldenville projects, the former mayor had hands-on involvement in planning the details of the Aldenville neighborhood projects. The former mayor approved and signed the related annual action plans and had a hands-on role in the design of the Aldenville Common project and the selection of various amenities. Also, the former Mayor approved and signed construction and architect contracts and change

orders related to the Aldenville Common project and Aldenville road and sidewalk improvement projects. The former mayor selected which streets would be included in the projects, and he was involved in the decision to rebid the Aldenville Common project and revise the project's plans and specifications. In addition, the former mayor's wife became a Park and Recreation Commission board member<sup>13</sup> just before June 2005 when the Aldenville Common project was initially advertised.

The former mayor's involvement in the details of the Aldenville Common project included selection of the gazebo, the curved benches on the first bid, and various other proprietary items that were included in the bid specifications. According to Parks and Recreation officials and the architect, the former mayor was personally involved with this project, to include selecting the specific amenities such as lights, benches, and trash receptacles.

Since the former mayor and his wife resided in a home they owned in the area targeted and would have benefited from the CDBG improvement activities, the City was required to request a conflict-of-interest exception from HUD. In requesting this exception, the City would have been required to provide HUD with the following:

- A disclosure of the nature of the conflict, accompanied by an assurance that there had been public disclosure of the conflict and a description of how the public disclosure was made and
- An opinion from the City's attorney that the interest for which the exception was sought would not violate state or local law requirements.

HUD regulations do not provide anyone or any entity with a right to an exception, but HUD may grant exceptions in conflict-of-interest situations on a case-by-case basis. However, HUD regulations provide that an exception should not be granted if the person did not remove himself/herself from all deliberations surrounding the decision which resulted in personal gain. We found no evidence that the City either requested this exception or provided public disclosure of the conflict of interest involved in this situation.

### **Procurement Actions for Aldenville Common Activities Deficient**

In addition to the conflict-of-interest violation, public participation process not being followed, and the inappropriate decision to target funds for the Aldenville area, the Aldenville Common procurement history was not adequately documented. Also, there

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<sup>13</sup> The mayor's wife became a member of the Park Commission, which is a policy-making board that reviews and approves projects and payments and has hiring and firing authority for Parks and Recreation.

were substantial and significant deficiencies in the award and procurement actions for the project. The procurement actions for the Aldenville Common activity did not include adequate documentation to demonstrate the necessity and reason for rejecting bids. Additionally, the procurement actions did not promote fair and open competition to the maximum extent possible.

The necessity of the work at Aldenville Common was not adequately documented or justified in the City's procurement records. Although pictures of the park show that the park needed some minor maintenance and landscape repair work and some amenities<sup>14</sup> in the park could be replaced or upgraded to be more appealing, the pictures (see page 8) do not show that a 7,600-square-foot common needed comprehensive renovation of more than \$450,000.<sup>15</sup> From the pictures, we question the necessity of replacing the concrete walkways already in place and the pavilion that had been erected by students from a Chicopee school 13 years earlier. We also question the necessity for the amount of landscape work that was performed and consider the nature of much of the work to be maintenance and repair work.

According to City officials, the bids came in too high for the initial invitation for bid that was advertised in June 2005 for the Aldenville Common project, but the City did not document the reason for rejecting the initial bids that came in July 2005. However, we noted that the independent cost estimate completed by the architect before the invitation for bids was advertised showed a cost of approximately \$447,000. The low bidder submitted a bid for \$483,000, which is not significantly more than the cost estimate. At the time the City advertised the invitation for bid, the Office of Community Development had committed to Parks and Recreation approximately \$175,000 for the actual construction work for this project. The invitation for bid should not have gone out at that time with the lack of funding available to do the project and when the City already knew this project would cost almost \$447,000.

The procurement actions taken by the City for the Aldenville Common project did not promote fair and open competition to the maximum extent possible. For instance,

- The written specifications for both the initial invitation for bid and the rebid of the project included work previously performed by Public Works, specifically, demolition work including removal of the pavilion, benches, trees, fountains, and concrete. One bidder for the initial invitation for bid indicated that its bid was based on the written specifications and drawings and it had not performed an on-site visit before submitting a bid. In this case, the bid unnecessarily included demolition costs.
- City officials advised that the project was rebid with the gazebo taken out, but it is unclear from the written specifications that this work was removed. There were

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<sup>14</sup> Benches, lights, trash receptacles, and drinking fountains.

<sup>15</sup> A total of \$363,261 has been paid on this project, and another \$62,975 in CDBG funds has been committed for the gazebo. Landscape plantings are estimated to cost another \$35,000. This work has not yet been planned and/or approved.

only two bidders that bid on the rebid of the project; however, the higher bidder could not recall whether his bid included the gazebo. He stated that based on the specifications that we showed him for the rebid, he would think that the gazebo was part of the invitation for bid. City officials, contractors, and the winning bidder also agreed that written specifications appeared to include the gazebo as part of the rebid. Discussions with City staff and the architect disclosed that the City planned to do a change order for the gazebo but later learned that it could not do so based on state procurement regulations. In addition, when we asked the winning bidder how he learned that the gazebo was not part of the rebid, he stated that the information was provided at a prebid meeting. However, the written specifications do not indicate a prebid meeting date and time, and City records and the architect's records do not document notification of this prebid meeting with contractors that altered the written specifications. Therefore, the winning contractor had an unfair advantage.

- The City issued an addendum requiring Division of Capital Asset Management (DCAM) certification for the installation of the gazebo for the first invitation for bid on the project. DCAM certification is required for public works projects over \$100,000 that include renovation of a building or erecting a building. Discussions with the Massachusetts Attorney General's Office indicated that a gazebo would not be considered a building unless it was extravagant.<sup>16</sup> The office also advised us that the City's chief procurement officer would be responsible for making the DCAM certification determination based on the project's scope of work.
- The City added \$81,175 in additional construction work without going out to bid. Instead, it added this work as a change order. The City initially included these two items as alternates 1 and 2 in the rebid, but instead of accepting them with the base bid, it improperly added the work two months after the initial contract was executed. Further, the winning bidder's price was significantly higher than the independent cost estimates for the work added. For example, the architect estimated concrete paving to cost \$25,110, but the contractor gave a price of \$56,875 for this item. The irrigation system was estimated as \$18,000, but the contractor gave a price of \$24,300.
- The City included proprietary specifications for a significant amount of amenities without documenting or having a justification for doing so. Although the City did include an "or equal" clause in some cases and/or listed two different types, it did not conform to state requirements, which require three items to be listed and documentation justifying the need for proprietary specifications. Parks and Recreation staff indicated that they did not have a justification for the proprietary items and that it was not their decision to include proprietary items.

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<sup>16</sup> Examples provided to us were that the gazebo would need to have a significant amount of lighting, plumbing, etc., for DCAM certification to be required. The gazebo selected for this project was not extravagant and would not meet these criteria.

## Conclusion:

The City, through its Office of Community Development, did not act in a prudent manner in its decision to award more than \$1.1 million in CDBG funds for ineligible projects in the former mayor's neighborhood. Given the circumstances noted in this finding the Office of Community Development's responsibilities to address neighborhoods with the greatest need, it breached the City's fiduciary responsibilities and did not meet the reasonableness cost principles criteria<sup>17</sup> for the projects, resulting in the City incurring more than \$1.1 million in ineligible CDBG costs. Its decision not to follow the public process, to invest scarce resources in the former mayor's neighborhood, which a recent housing study showed as ranking higher and outperforming other areas of the city, and to allow the mayor to influence this decision was neither prudent nor responsible. Further, the Office of Community Development did not meet its responsibilities for the proper administration of federal funds. The integrity of the CDBG program is diminished when it appears that persons in a position of authority are using the program for personal gain.

The Office of Community Development committed another \$62,975 in CDBG funds in May 2007 to finish the Aldenville Common project. The installation of the gazebo was underway in September 2007. Given the circumstances surrounding the Aldenville Common project, we question the decision to spend another \$62,975 on the Aldenville Common project using CDBG funds.

## Recommendations

We recommend that the Director of HUD's Boston Office of Community Planning and Development

- 1A. Require the City to repay the \$1,162,501 plus interest from nonfederal funds.
- 1B. Require the City to institute internal controls for real and apparent conflict-of-interest situations involving CDBG funds.
- 1C. Require the City to use non-CDBG funds for the \$62,975 planned gazebo project.

We also recommend the Deputy Director, Departmental Enforcement Center

- 1D. Pursue all applicable administrative sanctions against the City, including but not limited to debarment of individuals who allowed the former mayor to influence these projects when there was a conflict of interest present.

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<sup>17</sup> Office of Management and Budget Circular A-87 states that federal cost principles require funds to be spent on cost deemed reasonable, and provides that in determining reasonableness of a given cost, consideration shall be given to whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the governmental unit, its employees, the public, and the federal government.

## RESULTS OF AUDIT

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### Finding 2: The City Did Not Accurately Determine the Actual Service Areas Related to Its Various Public Improvement Projects

The City did not accurately determine or document the actual service areas for more than \$4.3 million in CDBG-funded public improvement activities. This condition occurred because the City used census tract/block numbering boundaries data based solely on the location of the public improvement to support the service area and did not consider all of the users of the activity as required. The method generally resulted in service areas being either too small or too large. The City also prematurely purged records that supported the low-to-moderate-income area national objective for the Sheridan Street Mini Park. It mistakenly believed that enough time had passed to allow it to purge the Sheridan Street Mini Park records. Without an accurate service area determination or surveys, HUD has limited assurances that the activities principally benefited low- and moderate-income residents and that more than \$4.3 million in CDBG funds invested was eligible or that moderate-income households did not benefit to the exclusion of low-income households.

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#### Service Areas Identified Based on Park and Street Location

The service areas were not properly defined for parks and street improvement activities totaling more than \$4.3 million and included projects for the (1) Rivers and Sarah Jane Sherman Parks and Sheridan Street Mini Park; (2) Aldenville Common;<sup>18</sup> and (3) various street improvements throughout the city. Specifically, the City incorrectly used the activities' location alone and not the area served as the basis for supporting the low-to-moderate-income area national objective. The location of the activities alone would not demonstrate an area benefit. Also, the use of block numbering areas to identify a service area can either produce an area too small or too large. For example,

- The City used an entire block numbering area to support the low-to-moderate-income area national objective for side streets improvements. These street improvements on residential streets could reasonably be said to only benefit the residents of the immediately adjacent area, not the entire block numbering area.
- The City used a calculation for the standard service area for a neighborhood park, which is a radius of one-fourth mile distance, to support the low-to-moderate-income area national objective. These parks are large, and their

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<sup>18</sup> The service area for Aldenville Common (see finding 1) was not properly defined for the park improvements made totaling more than \$1.1 million.



various facilities serve a citywide service area. However, the City had not adequately documented the service area for the CDBG-funded improvements.

HUD regulations indicate that the location of an activity alone does not demonstrate an area benefit. HUD guidance provides that the “mere location of an activity in a low and moderate income area, while generally a primary consideration, does not conclusively demonstrate that the activity benefits low and moderate income persons.” In addition 24 CFR [*Code of Federal Regulations*] 570.208(a) provides that “[The] area need not be coterminous with census tracts or other officially recognized boundaries but must be the entire area served by the activity.”

### **Use of Block Numbering Areas Not Accurate**

For side streets improvements, the service area comprised only a small portion of the block numbering area. Specifically, street improvements on a side street principally benefit those residents who reside on that side street and the immediately adjacent area. The City’s use of block numbering area percentages was not accurate since the street improvements did not always include all, or even a majority, of the streets within the block numbering area. The City only paved certain streets within the block numbering areas. Census data for the block groups showed that in some instances, the percentage of persons making above \$35,000 could be up to 50 percent and the percentage of persons making above \$50,000 was, in some instances, above 20 percent.

For the major arterial streets, the service area was more properly defined as citywide if not greater. Major arterial streets are presumed to be used principally by citywide residents as well as other nonresidents from surrounding communities. Since these streets are considered major arterial streets, it may not be practical or even possible to determine the correct service area.

While Rivers Park and Sarah Jane Sherman Park are located in an area considered a low-to-moderate-income area, there is evidence that these parks as a whole may not “principally benefit” low-to-moderate-income persons. Rivers Park and Sarah Jane Sherman Park are both large parks and based on information provided by Parks and Recreation, the service area for these parks as a whole is broader than currently defined in the projects’ eligibility documentation maintained by the Office of Community Development. For example, Rivers Park and Sarah Jane Sherman Park were used on a regular basis by the Chicopee Public Schools’ high school (i.e., citywide) athletic departments for soccer, football, softball, and baseball team practices and games with other cities’ and towns’ various athletic teams. These two parks were also used by other local athletic organizations throughout the city and other areas.<sup>19</sup> Parks and

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<sup>19</sup> During the audit, we concluded that \$36,086 in CDBG funds for the Sarah Jane project served a low-to-moderate income area and that the activities for Rivers Park served a low-to-moderate income area.

Recreation staff acknowledged that Rivers Park, Sarah Jane Sherman Park, and the area known as Aldenville Common served a citywide area. Aldenville Common was primarily used to hold the city's summer concerts and was also used by teenagers as a place to socialize after school.

### **Records Prematurely Purged for One Park**

The City did not have support to show that the service areas were properly defined for parks improvement activities for the Sheridan Street Mini Park. City officials stated that it was the residents of the Sheridan Street Housing Cooperative who requested the City to install the Sheridan Street Mini Park. However, since the Sheridan Street Mini Park was not located in a low-to-moderate-income area, the City indicated that it used surveys of residents from the nearby Sheridan Street Housing Cooperative, as well as a nearby side street, to show a low-to-moderate-income service area. Also, these surveys were purged less than three years from closeout of the grant and, thus, were unavailable for review. In addition, it is not clear how the City justified using the incomes from the Sheridan Street Housing Cooperative residents to support the service area of a park located outside the housing cooperative and further down the street since the Sheridan Street Housing Cooperative already had a park located within the housing cooperative.

### **Determination of Actual Area Served by Activities Needed**

The Office of Community Development needs to determine the actual service area for its public improvement activities that receive CDBG funding. The determination of the area served by an activity is critical to the area benefit subcategory. The inclusion or exclusion of a particular portion of a community's jurisdiction can make the difference between whether the percentage of low-to-moderate-income residents in the service area is high enough to qualify under the low-to-moderate-income area benefit national objective. Without an accurate service area determination for the Rivers and Sarah Jane Sherman Parks, Aldenville Common parks, or the surveys for the Sheridan Street Mini Park, HUD has limited assurance that the activities principally benefited low- and moderate-income households and that more than \$4.3 million in CDBG funds invested by the City was eligible or that moderate-income households did not benefit to the exclusion of low-income households.

## Conclusion

The City's Office of Community Development did not adequately determine the actual service area for its public improvement activities that received CDBG funding. Without an accurate service area determination or the surveys, HUD has limited assurances that the activities principally benefited low- and moderate-income residents and that more than \$4.3 million in CDBG funds invested was eligible or that moderate-income households did not benefit to the exclusion of low-income households.

## Recommendations

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

- 2A. Determine the actual service area for \$2,787,800<sup>20</sup> in activities and repay any funds spent on activities that do not meet the national objective.
- 2B. Implement policies and procedures to document the basis for the determination of an activity's actual service area and not rely on the location alone.
- 2C. Maintain records, including supporting documentation, for at least three years from the closeout of the CDBG program grant.

We recommend that the Director of HUD's Boston Office of Community Planning and Development

- 2D. Evaluate and confirm the actual service area for \$104,927<sup>20</sup> in activities for which the City provided support to determine whether the activities meet a national objective.

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<sup>20</sup> Of the \$4,320,387 discussed, the City should support the area served for \$2,787,800. This amount excludes \$1,162,501 cited in finding 1 as ineligible and \$265,159 cited in finding 3 as ineligible or unsupported. This amount further excludes \$104,927 for park activities, the service areas of which, at the time of the audit, were not adequately documented but after additional information was provided, after the field work to determine whether it served a low-to-moderate-income area.

## RESULTS OF AUDIT

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### Finding 3: The City's Office of Community Development Did Not Fulfill Its Oversight and Monitoring Responsibilities

The City's Office of Community Development did not provide adequate oversight and monitoring of CDBG funds provided to Public Works and Parks and Recreation to ensure that funds were used in accordance with CDBG program requirements. Specifically, the Office of Community Development did not ensure that

- Contracts using CDBG funds included only eligible program costs,
- Federal procurement and contracting requirements were followed,
- Federal financial management provisions were followed, and
- Davis-Bacon labor compliance requirements were met.

These deficiencies occurred in part because the Office of Community Development did not have adequate policies and procedures in place for monitoring and overseeing contracts awarded by other departments. In addition, for the most part, the City followed state requirements for these procurements but not federal and CDBG procurement requirements. As a result, the City incurred more than \$628,000 in ineligible or unsupported costs, and HUD has limited assurances that CDBG funds were properly administered in accordance with federal and CDBG requirements.

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#### **Ineligible Costs Included in CDBG Contracts**

The Office of Community Development did not ensure that payments to Public Works and Parks and Recreation for various street and park improvements included only eligible CDBG costs. CDBG regulations provide that costs associated with the maintenance and repair of publicly owned streets, parks, playgrounds, and water and sewer facilities are not eligible CDBG costs. The general rule is that any expense associated with repairing, operating, or maintaining public facilities, improvements, and services is ineligible. However, the City paid \$628,000 in ineligible or unsupported maintenance and repairs of existing public improvements and facilities and for a study of the City's North Industrial Park under the Public Works and Parks and Recreation contracts.

The questioned and ineligible CDBG costs for maintenance and repairs or study included the following:

- The City expended \$184,159 in CDBG funds for unsupported maintenance and repair improvements at Rivers Park. The \$184,159 represents work related to the pool rehabilitation involving sandblasting the pool, caulking, concrete repair, and repainting the pool. The work also included rehabilitation of the pool building including new toilets, wash sinks, grab bars, toilet partitions, shower improvements, new windows, doors, and access and egress into the building, as well as electrical upgrades and the repainting of the building's interior.
- The City expended \$51,000 in CDBG funds for ineligible sewer-related maintenance and repairs. Specifically, the City paid \$25,000 for sewer repairs and \$26,000 in maintenance costs related to sewer cleaning.
- The City expended \$363,261 in CDBG funds for improvements at Aldenville Common that were partly maintenance in nature and ineligible. These items included the washing of the fountain and replacement of various amenities including park benches, water fountain, flagpole, and trash receptacles. In addition, the City used CDBG funds for landscaping work such as removing trees and replacement of trees and mulch, which are generally maintenance in nature. This project and its costs are discussed in detail in finding 1.
- A public works and facilities contract between the Office of Community Development and Public Works included \$30,000 to pay a consultant to study traffic issues at the City's North Chicopee Industrial Park. A study is not an eligible public facilities and improvement activity. The City agreed to remove this expense from the public works and facilities eligibility category and reclassify it under planning.

### **Federal Procurement and Contracting Requirements Not Followed**

The City's Office of Community Development did not ensure that \$5 million in procurements and contracts awarded by other City departments, in whole or in part using CDBG funds, always followed federal procurement and contract procedures as required. Specifically, the City

- Did not always adequately document the history of procurements paid for with CDBG funds. For the Aldenville neighborhood improvements project, the need for all of the materials and services included in the \$1.1 million award was not sufficiently documented. The reason for rejecting the initial bids on the Aldenville Common activity was also not documented (see finding 1).

- Did not always prepare independent cost estimates before going out to bid and did not always complete cost analyses when necessary. A review of the contract records found that independent cost estimates were not always done. In one example, the City paid \$1.3 million for a street work unit-price contract, funded in part with CDBG funds, without conducting the required cost analysis. It also approved using a contractor for a new gazebo to finish the Aldenville Common project without performing a cost analysis. There was only one bidder for each of these procurement actions, and, therefore, a cost analysis was required.
- The procurement records did not support the method of procurement used and contract type selected. Specifically, the City used the sealed bids method of procurement for its Public Works unit-price contracts. This was not in accordance with federal requirements because the City did not have a complete, adequate, and realistic specification of the work to be completed as required. Since 2004, Public Works has been issuing an invitation for bid for specific CDBG public improvement projects in which the streets and sidewalks are known and a more realistic estimate can be determined.
- Did not always ensure that competition was fair and open to the maximum extent possible.
  - For the Aldenville Common project, the City did not have clear project specifications; the written specifications included a gazebo that was not included in the drawings when the City rebid the project. The City also required DCAM certification for the Aldenville Common project, when such certification was not necessary, and did not document its basis for this decision. The Aldenville Common project also had other significant procurement deficiencies as noted in finding 1.
  - The quantity estimates in the City's invitation for bid for unit-price contracts sometimes remained unchanged year after year and were incomplete, inadequate, and unrealistic estimates of the expected work. Bid documents submitted by contractors indicated prior experience with the City and that they had won bids for this work almost every year for the past 10 years. For the contracts awarded, the winning bidders had an idea of actual work to be performed each year because they had prior experience and, therefore, knew that they could provide a lower cost bid. Since these contractors were aware that the quantities listed in the invitations for bid were not a realistic expectation of the work, they had an unfair advantage over other bidders.
  - The architectural services were not competitively procured for Rivers Park and Aldenville Common as required by federal regulations.
- The City improperly added \$121,968 in additional construction work for Aldenville Common (\$81,175) and Rivers Park (\$40,793) without going out for

bid. The City instead added this work as change orders after the bid award, which did not promote fair and open competition.

- Did not always ensure that federal contract provisions were included in contractor agreements.

### **Federal Financial Requirements Not Followed**

The Office of Community Development did not ensure that CDBG funds administered by other City departments followed federal financial management requirements. Specifically, the City's two-tier payment system did not have a clear audit trail from source to expenditure, ineffective controls allowed ineligible costs or duplicate invoices to be paid, and community development scope of work and budgets varied from actual accomplishments.

- Under the two-tier payment system, accounting records did not adequately identify the source and application of funds provided for the CDBG improvement activities. Until recently, the City used a two-tier payment system for CDBG-funded public works and park improvement activities, whereby various invoices from contractors and vendors were submitted to Public Works or Parks and Recreation, which would, in turn, request payment from the Office of Community Development for these expenses under the interdepartmental agreement contract number. The Office of Community Development would then process a payment to the requesting departments (i.e., Parks and Recreation or Public Works). The departments would then make payments to the contractors and vendors. The City's financial system (MUNIS) referenced the payments from the Office of Community Development to Public Works and Parks and Recreation by the specific contract numbers between Public Works and the Office of Community Development. However, when Public Works or Parks and Recreation made the actual payment to the various contractors and vendors, the system did not cross-reference the Office of Community Development and Public Works contract number. We were able to trace payments made by the Office of Community Development to Public Works and Parks and Recreation, but we could not trace the expenses to the actual payee using the financial system.<sup>21</sup> However, the City indicated that it recently implemented a new system, whereby the payments to the actual contractors and vendors are made directly by the Office of Community Development. The review did not include projects under this new system and, thus, no audit conclusions can be made on the new system.

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<sup>21</sup> Although we could not trace payments made by Public Works and Parks and Recreation to contractors and vendors in the financial system, a detailed review of disbursement records (warrants, invoices, etc.) did not show any misappropriated payments.

- The City did not have effective control and accountability to assure that CDBG funds were only used for authorized purposes (including maintenance and repairs and paying negative numbered invoices). The City's control system did not ensure that CDBG funds were only used for authorized purposes; contract cost details were either not reviewed or their nature not properly considered. As a result, it paid more than \$628,000 for ineligible or unsupported maintenance and repair of existing public improvements and facilities and for a study of the City's North Industrial Park under the Public Works and Parks and Recreation contracts. Additionally, although there were controls in place to prevent duplicate invoices from being paid, City personnel were able to override this control by entering a space, hyphen, or other character before or after the invoice.
- The City did not compare its actual expenditures with budgeted amounts within its contracts (i.e., parks contracts or interdepartmental agreements between the Office of Community Development and Parks and Recreation). The review found instances in which work as specified in the interdepartmental agreement scopes and budgets differed from actual accomplishments. For example, although the Rivers Park contract called for the complete reconstruction of the tennis courts with a budget of \$38,000 and a Water Spray Park with a budget of \$40,000, these items were not accomplished. Instead, Parks and Recreation actually spent more money on the pool and pool house work and installed a basketball court.

### **Davis-Bacon Labor Compliance Requirements Not Met**

The Office of Community Development did not ensure that Parks and Recreation and Public Works complied with federal labor requirements for procurements funded using CDBG funds. Parks and Recreation and Public Works did not always perform employee interviews or perform an adequate amount of employee interviews, obtain all certified payroll reports, or document and adequately review certified payroll reports, including following up with contractors when documentation was missing or discrepancies were identified such as not including federal prevailing wage rates in bid documents. For example,

- A review of certified payrolls for the primary contractor for the Aldenville Common project and correspondence in Parks and Recreation's files showed that for masonry work performed by the contractor's employees, the payroll reports did not classify the employees as masons, but as laborers. The contractor inappropriately applied the laborer rate instead of the masonry rate for these employees, and these workers were not paid the correct wages.



- Public Works did not follow up and verify that the contractor paid the correct rate to its employees, although an employee interview disclosed that a lower rate was paid than that shown in the contractor's certified payroll. Public Works should have verified the rate paid by the contractor by obtaining a payroll stub from the employee or payroll records from the contractor.

In discussions with Public Works and Parks and Recreation staff, they indicated that they were not fully aware of all the federal labor compliance requirements applicable to the procurements using CDBG funds. The director of the Office of Community Development believed that the certification signed by the contractor was instead the signature of the person in these departments that reviewed the certified payroll reports. Public Works believed that since the contractor certified that the payrolls were correct, no further review was required. The City acknowledged that its staff needs more training in federal labor compliance requirements.

### **Policies and Procedures for Monitoring and Oversight of Other Departments Inadequate**

The Office of Community Development did not have adequate policies and procedures for monitoring other City departments provided CDBG funding. This deficiency resulted in ineligible activities and costs being funded. The City also did not ensure that employees were properly trained in federal procurement and contracting, financial management, and labor compliance requirements or perform a labor compliance review of contractors and ensure that all federal labor requirements had been met. In addition, the Office of Community Development did not carefully review contracts and payment requests submitted by contractors to identify costs specifically prohibited by CDBG regulations, such as maintenance and repair items.

Our first audit report<sup>22</sup> issued March 21, 2007 for the City of Chicopee's housing rehabilitation contracts included many of the same deficiencies cited in this finding. The City is working with HUD to address the recommendations from the first audit, including developing policies and procedures for awarding, administering, and monitoring CDBG and HOME program funds.

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<sup>22</sup> OIG Audit Report 2007-BO-1003, "The Office of Community Development, City of Chicopee, Massachusetts, Did Not Properly Award and Administer Community Development Block Grant and HOME Funds Used for its Housing Activities"

## Recommendations

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

- 3A. Develop and implement policies and procedures for monitoring and oversight of other City departments that receive CDBG funds through the Office of Community Development.
- 3B. Provide adequate training to appropriate City staff to ensure compliance with federal procurement and contracting, financial management, and labor compliance requirements.
- 3C. Repay from nonfederal sources the \$51,000 in CDBG funds used for ineligible maintenance and repair items, based on a HUD determination, and repay the remaining \$184,159 in unsupported maintenance and repair costs if deemed ineligible.<sup>23</sup>
- 3D. Determine whether the \$30,000 in costs for the North Industrial Park study is eligible under planning and if so, reclassify these costs and, if not eligible, require repayment from nonfederal sources.
- 3E. Perform a labor compliance review of certified payrolls for Public Works and Parks and Recreation and require the contractors to pay their employees for any wage underpayments.

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<sup>23</sup> We excluded the repayment amount of \$363,261 in this recommendation as it is questioned in finding 1.

## SCOPE AND METHODOLOGY

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To achieve our audit objectives, we reviewed program requirements, including

- Federal laws, regulations, HUD guidebooks, and notices for the CDBG program;
- Office of Management and Budget circulars; and
- Massachusetts general laws over procurement.

We also obtained an understanding of the City's policies and procedures over procurement and public facilities and improvement activities through interviews with City officials from the Office of Community Development, Purchasing Department, Auditing Department, Office of Treasurer, Public Works, and Parks and Recreation.

We interviewed the Community Development Advisory Committee (CDAC) regarding the Aldenville proposals.

We contacted the Massachusetts's Attorney General's Office and the Division of Capital Asset Management to clarify state requirements.

Using information contained in HUD's Integrated Disbursements and Information System, we identified that during our audit period of July 1, 2002, through December 31, 2006, there were 25 activities funded with more than \$5.8 million in CDBG funds. From this universe, we selected a sample of four parks activities and eight road and sidewalk activities funded with CDBG funds totaling more than \$4.32 million. We also expanded our universe scope to include one activity totaling \$62,975 outside our scope because this project was originally part of a larger park project in our sample that was broken out into two separate procurement actions.

We examined project records and supporting documentation maintained by the Office of Community Development, Public Works, Parks and Recreation, and the Purchasing Department. We used various financial information and conducted interviews to obtain clarification or additional information from the various activities' participants, including Office of Community Development, Public Works, and Parks and Recreation staff; architects; and contractors. We performed on-site inspections of park and street and sidewalk improvement projects, and determined whether the public process was followed for the Aldenville Common and Aldenville area street improvement activities included in the July 1, 2004 annual action plan.

Our fieldwork was performed between March and August 2007. We conducted the majority of our fieldwork at Parks and Recreation and Public Works, located, respectively, at 687 Front Street and 115 Baskin Drive, Chicopee, Massachusetts. Our audit covered the period July 1, 2002, through December 31, 2006, but was expanded to include other periods when necessary.

We performed our audit in accordance with generally accepted government auditing standards.

# INTERNAL CONTROLS

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Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved:

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

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## Relevant Internal Controls

We determined the following internal controls were relevant to our audit objectives:

- Controls to ensure that laws and regulations are followed for CDBG-related activities.
- Controls to ensure eligibility of CDBG projects.
- Controls over awards and disbursements of CDBG funds.
- Controls over monitoring and oversight of CDBG funds provided to other departments for public facilities and improvement activities.

A significant weakness exists if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

## Significant Weaknesses

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

- Controls to ensure that laws, regulations, and statutes are followed for CDBG-related activities (see finding 1).
- Controls to ensure eligibility of CDBG projects (see finding 2).
- Controls over awards and disbursements of CDBG funds (see findings 1 and 3).
- Controls over monitoring and oversight of CDBG funds provided to other departments for public facilities and improvement activities (see finding 3).

## APPENDIXES

### Appendix A

#### SCHEDULE OF QUESTIONED COSTS AND FUNDS TO BE PUT TO BETTER USE

Recommendation number	Ineligible <u>1/</u>	Unsupported <u>2/</u>	Funds to be put to better use <u>3/</u>	TOTAL
1B	\$1,162,501			\$1,162,501
1C			\$62,975	\$62,975
2A		\$2,787,800		\$2,787,800
2D		\$104,927		\$104,927
3C	\$51,000	\$184,159		\$235,159
3D		\$30,000		\$30,000
				\$4,383,362

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 polices 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 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.

3/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. This includes reductions in outlays, deobligation of funds, withdrawal of interest subsidy costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings which are specifically identified. In this case, the OIG recommendation will result in \$62,975 in costs not incurred for a gazebo in an improperly targeted area of the city.

## Appendix B

# AUDITEE COMMENTS AND OIG'S EVALUATION

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### Ref to OIG Evaluation

### Auditee Comments

***City of Chicopee***  
***Office of Community Development***  
*Jeanne M. Kidwell, Director*

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38 Center Street, P.O. Box 149, Chicopee, MA 01014-0149  
Telephone (413) 594-1490 ~ Fax (413) 594-1495

October 9, 2007

Mr. John Dvorak, Regional Inspector General for Audit  
U.S. Department of Housing and Urban Development  
Office of Inspector General for Audit, Region 1  
Thomas P. O'Neill Federal Building  
10 Causeway Street, Room 370  
Boston, MA 02222-1092

Dear Mr. Dvorak:

Enclosed, please find the City of Chicopee's formal comments to the Office of Inspector General's draft audit report dated September, 2007.

As we have stressed throughout the audit process, the City of Chicopee's Office of Community Development shares the overall goals of the U.S. Department of Housing and Urban Development (HUD) and will strive to find mutually agreeable means and methods to achieve these ends. And, to accomplish this, the City's Office of Community Development will work with HUD's Office of Community Planning and Development and other entities to establish appropriate policies and procedures that are required.

However, as has also been discussed throughout the audit period, we object to the inflammatory headlines and captions, innuendo and imprecise and vague language used in the audit report. This was most vividly illustrated in the draft outline where \$63,000 was disallowed until it was pointed out that the expenditure was for the necessary preparation (\$25,000) and the acquisition and installation (\$38,000) of the "cleanout vault" and not to "clean out" the vault.

The City's Office of Community Development stands ready to work cooperatively with you and all other agencies to implement those measures which will ensure that both the taxpayers and the beneficiaries of the programs are well served.

In closing, the City appreciates this opportunity to share additional information regarding the draft audit and will work diligently to resolve the issues raised. Thank you for consideration of these matters.

Sincerely,

  
Jeanne M. Kidwell  
Director

Enclosure

# AUDITEE COMMENTS AND OIG'S EVALUATION

## Ref to OIG Evaluation

## Auditee Comments

### Comment 1

#### GENERAL COMMENTS

The City of Chicopee appreciates the opportunity to respond to the U.S. Department of Housing and Urban Development Office of Inspector General's draft audit dated September, 2007. And, although the City encourages oversight and examination of all of its activities to ensure that both taxpayers and program recipients receive everything they deserve, it must respectfully question the necessity of the Office of Inspector General's use of innuendo, inflammatory headlines and captions, and imprecise and misleading language in its report. To this end, the City asks that all inflammatory language and insinuations, all unfounded and undocumented allegations be deleted, all dollar amounts where no monetary costs are being sought be eliminated, and that references to irrelevant activities be removed.

In accordance with your request in the letter dated September 17, 2007, we have organized our comments indicating agreement or disagreement, corrections or clarifications, and corrective actions with each specific issue and recommendation.

#### Comments on Background and Objectives:

**STATEMENT:** *The CDBG program is a flexible program that provides communities with the resources to address a wide range of unique community development needs.*

**AGREE:** The City agrees with the statement and its importance to the City in how it runs its Community Development program and in its response to the issues raised by the audit.

**STATEMENT:** *The Office of Community Development based the eligibility of these activities (public works/facilities) on whether the activities were located in these target areas.*

**CLARIFICATION:** Beyond the eligibility of the block groups or "target areas" as described in the audit, the City follows the steps recommended in HUD's *Community Development Block Grant Program: Guide to National Objectives and Eligible Activities for Entitlement Communities* by determining: 1) if the activity is eligible; 2) if the proposed activity does not fall within an ineligible activity such as assisting "buildings for the general conduct of government;" 3) if the proposed activity meets a national objective; 4) if funding the activity will meet the requirement that 70% of CDBG expenditures benefit low-to-moderate income residents; 5) if costs are necessary and reasonable and conform to the applicable OMB Circulars; and 6) if the environmental review and clearance status are complete. In addition to the standard steps, the City emphasizes the need for a comprehensive rather than piecemeal approach to neighborhood revitalization and consistency with consolidated plan goals and objectives. CDBG-funded projects must complement each other and work towards the betterment of the neighborhood.

### Comment 2

### Comment 3

### Comment 4

**STATEMENT:** *Once the departments (DPW and Parks) received payment from the Office of Community Development, they paid the contractors and/or vendors for services rendered.*

**CLARIFICATION:** The two-tiered payment process described is no longer used. As acknowledged in later sections of the draft audit, the Office of Community Development now pays the contractors and vendors directly. This new system was instituted prior to the start of the first audit in July of 2006.

### Comment 5

**STATEMENT:** *In return for the money (illegal campaign contributions), he (the former mayor) promised a developer he would intercede on his behalf in a planned project funded through the Office of Community Development.*

**CORRECTION:** The audit incorrectly described the background. Former Mayor Richard Goyette has been convicted and sentenced for extorting funds. However, the audit erroneously states that the former mayor promised to intercede on a *planned* CDBG project. The project in question was an old CDBG brownfields project that had been *closed out* in 1998 and was being disposed of by the City Treasurer as a

# AUDITEE COMMENTS AND OIG'S EVALUATION

## Ref to OIG Evaluation

## Auditee Comments

tax-foreclosure property through a Request for Proposals process. The CDBG file information for this project is at the Office of Inspector General.

**DISAGREE:** The City can only conclude that the inclusion of the background material on former Mayor Goyette in the draft audit is intended to suggest that because the then Mayor was extorting funds that the rest of the City may be tainted or guilty by association. The City objects to the audit's use of innuendo to make a case for the findings.

### **FINDING #1: ALDENVILLE NEIGHBORHOOD**

#### **General Comments:**

Beginning with the finding caption and through to the recommendations, the City takes exception not only to the content and rationale, but to the tone of this section of the audit, and will, using the same material examined in the audit, categorically refute each draft finding.

### **Comment 6**

The assertion that the Aldenville neighborhood typically ranked high and out-performed city benchmarks and should not have been classified as a CBDG target area appears to be based on either a superficial reading of the report *Technical Addendum to Housing Market Study & Commercial District and Economic Development Strategy for the City of Chicopee, MA* dated September 2003 or the exclusion of more pertinent and germane information found therein.

### **Comment 7**

While no one disputes that Aldenville historically has been a strong neighborhood, the audit fails to note the classic urban demographic indicators that show Aldenville is a "neighborhood in the middle" starting to decline. Some examples where the Aldenville neighborhood performed below the citywide average include: changes in population including total population, number of households, household size, married family households, families with children, family households, non-family households, changes in racial/ethnic composition, changes in age cohorts (all cohorts except for age 65+), and housing indicators including number of housing units, median rent, occupancy rates, housing values \$150,000 or more, householders 65 years and over, householders under 35, householders at risk due to housing burden, and householders 65 years or older at risk due to housing burden.

### **Comment 7**

Based on this information and the fact that Aldenville was eligible for CDBG funding for the first time (HUD Summarized Data of Low/Moderate Income Block Groups released in 2003), the City embarked upon a proactive program to address issues prior to their becoming intractable problems – to initiate community development efforts while there were neighborhood strengths to build on and not wait until the demographics showed that the neighborhood had failed.

### **Comment 8**

In 1998, the City adopted a policy of targeting CDBG funds to one eligible neighborhood at a time rather than attempting to evenly distribute work throughout all eligible areas, thus providing a comprehensive approach to neighborhood redevelopment. See attached *Willimansett Accomplishments*. By undertaking road, sidewalk, park, community facilities, and infrastructure work in conjunction with other municipal and state projects, the City was able to achieve a greater impact and cost savings. This action was taken in the Willimansett neighborhood in conjunction with the State's work done on Chicopee Street; the Chicopee Falls neighborhood with Front Street and the Deady Bridge Reconstruction work; and the Aldenville neighborhood with Grattan Street, all major state-funded projects.

This strategy is advocated by HUD itself: "*Choosing to concentrate resources in one neighborhood, or a limited number of neighborhoods, can be a difficult decision because of competing opportunities that will not be realized as a result of this concentrated investment of resources. However, comprehensive*



# AUDITEE COMMENTS AND OIG'S EVALUATION

## Ref to OIG Evaluation

## Auditee Comments

revitalization may be the only feasible option to turn around a declining neighborhood." (April 2004 edition of *Home and Neighborhoods: A Guide to Comprehensive Revitalization Techniques*, page 9).

The HUD booklet goes on to emphasize the importance of infrastructure to the neighborhood: "While an eye-catching new housing development or shopping center may dominate local headlines, the components of a neighborhood's infrastructure – roads, street lights, utilities, communications networks – lay the foundation for growth and improvement in a neighborhood. Far from being a peripheral consideration, infrastructure is central to every step of a neighborhood's revitalization plan..." (Chapter 5: *Infrastructure: The Foundation of a Community*, page 55). Excerpts of this report are attached.

Further, in the HUD publication *Homeownership for All Americans* released in March of this year, HUD advocates public improvements as a means of encouraging private developers to invest in neighborhoods, as well as to build housing: "Activities that support the involvement of Private Development... The construction or reconstruction of publicly owned streets, bridges, and alleys are neighborhood improvements that may encourage private developers to invest in the neighborhood. 24 CFR 570.201(c), HCDA Section 105(a)(2)... Construction of or improvements to parks, neighborhood facilities, and recreation centers are further enhancements to an area that encourage private developers to build housing." 24 CFR 570.201 (c), HCDA Section 105(a)(2). (page 3). Excerpts of this report are attached.

### Specific Comments on Introductory Paragraph:

**STATEMENT:** *The City's Office of Community Development improperly used more than \$1.1 million in CDBG funds for four projects in the City's more affluent Aldenville neighborhood where the then former mayor's family resided. This violation...*

**DISAGREE:** City properly used CDBG funds for Aldenville. This is not a violation because:

1) All work was determined to be for eligible activities: *Public Improvements – Reconstruction – 24 CFR 570.201(c)*. 2) No ineligible activities were included such as operating or maintenance costs; purchasing of construction equipment; furnishing or other personal items. 3) The activities met the national objective of *benefiting low and moderate income persons in an area*. The areas met HUD's definition of low and moderate income with more than 51% of the residents making less than 80% of the area median income (Road and Sidewalk improvements undertaken in Block Group 1 in U.S. Census Tract: 8110 with 53.1% L/M and the service area for the park included Block Groups 1 and 2 in Census Tract 8110 and Block Groups 2 and 3 in Census Tract 8112 with 53.3% L/M). 4) Funding the activities did not contribute to the percentage of CDBG funds falling below the 70% requirement. 5) Projects were put out to public bid in conformance with the City's understanding of the applicable federal and state requirements and the proposed project costs were reviewed and approved by assigned project personnel and determined to be reasonable and appropriate. 6) The City completed an environmental review and the appropriate clearance procedures.

Comment 9

Comment 10

**STATEMENT:** *The former mayor intervened in the City's normal decision-making process...*

**DISAGREE:** Former Mayor Goyette did not affect the decision-making process any more than previous mayors. There was a public process in place and there were sound community development reasons for doing work in Aldenville. In addition to the Community Development Advisory Committee's public hearings, two neighborhood hearings were held regarding improvements to the Aldenville Common: June 24, 2004 and September 22, 2004, both in the evening at the Council on Aging Senior Center and widely publicized.

# AUDITEE COMMENTS AND OIG'S EVALUATION

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**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 11**

**STATEMENT:** *Despite the presence of an apparent conflict of interest, the City also permitted the former mayor to influence decisions ....*

**DISAGREE:** The City did not perceive a *conflict of interest* nor an *apparent conflict of interest* in the former Mayor's involvement in the decision-making process. He was the Chief Elected Official of the City at the time.

**Comment 12**

**STATEMENT:** *The decision to use CDBG funds for the projects is further questionable because the neighborhood or area was inappropriately classified as a CDBG "target area," its inclusion in the annual action plan was based on inaccurate information ...*

**DISAGREE:** The City correctly classified Aldenville as an eligible neighborhood and correctly used the data prepared by RKG Associates. Aldenville was eligible for CDBG funding in Census Tract 8110, Block Group 1 and Census Tract 8112, Block Group 2 with 53.1% and 64.1% low and moderate income residents respectively according to HUD's own calculations of the 2000 U.S. Census data. Please note that current HUD data (2007) shows an increase in the percentage of low and moderate income residents and the number of eligible block groups in Aldenville:

TRACT	BLK GRP	LOW MOD UNIV	LOW MOD	LOW MOD PCT	OLD LOW MOD	OLD LMOD PCT
811000	1	926	554	59.8	492	53.1
811000	2	694	369	53.2	291	41.9
811000	3	958	331	34.6	244	25.5
811000	4	1145	589	51.4	520	45.4
811000	5	1025	338	33.0	262	25.6
811200	1	1638	635	38.8	594	36.3
811200	2	1063	716	67.4	681	64.1
811200	3	1016	569	56.0	507	49.9
811200	4	1039	472	45.4	394	37.9

Sandy Hill Census Tract #8110.00  
Aldenville Census Tract #8112.00

See attached 2007 HUD figures for the City of Chicopee.

**Comment 13**

**STATEMENT:** *Also, these funds were not available to address neighborhoods with much greater needs that the program was meant to serve.*

**DISAGREE:** Adequate funds have been made available to address other neighborhoods. More than \$10 million dollars in public funds have been spent in Willimansett since 1998. See the attached list of *Willimansett Accomplishments*.

**Comments on CDBG –Funded Projects Influenced by Former Mayor:**

**Comment 14**

**STATEMENT:** *The former mayor took an active role in influencing changes to Public Works and Parks and Recreation fiscal year 2005 CDBG funding proposals.*

**AGREE:** The former mayor did take an active role in decision-making process for CDBG projects. All mayors have taken an active role in the formulation of the Community Development Annual Plan. That is the job of the Chief Elected Official for the City. There were sound community development reasons for doing work in Aldenville and there was a public process in place. In addition to the Community

# AUDITEE COMMENTS AND OIG'S EVALUATION

---

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 15**

Development Advisory Committee hearings, two additional neighborhood public hearings were held on the Aldenville Common improvements.

**STATEMENT:** *There were four projects in the Aldenville neighborhood and the former mayor resided that received more than \$1.1 million in CDBG funding.*

**AGREE:** And the work was done in eligible low and moderate income block groups and service areas and met HUD's criteria for eligible and fundable projects.

**Comment 16**

**STATEMENT:** *These projects were not originally proposed during the City's fiscal year 2005 annual CDBG planning process.*

**DISAGREE:** The Aldenville work was proposed in the annual action plan submitted in May of 2004. It is not uncommon for mayors to propose projects in addition to the submittals from other municipal agencies. CDBG is a "mayor's program" and the City's Office of Community Development has never received a written proposal from any mayor. Coincidentally, HUD issued its list of eligible block groups in 2003 and two of the Aldenville block groups met the CDBG eligibility standard for the first time. Other municipal departments may or may not have been aware of the changes when proposing projects for 2004. In the past, the Department of Public Works and the Parks and Recreation Department have submitted "laundry lists" of possible improvement projects in known CDBG eligible areas.

**Comment 17**

**STATEMENT:** *The necessity or reasonableness of approving an almost half-million dollar Aldenville Common project on a 7,600 square foot common area is questionable.*

**DISAGREE:** Aldenville Commons is a central neighborhood park. Typically, passive recreation areas have more expensive features because more attention is paid to the quality of the detailing. In 1985, the City undertook an even smaller commons project (5,200 square feet) with far fewer amenities than the Aldenville Common in Chicopee Center and the costs were \$113,425 and would have cost \$202,636 in 2005 when adjusted for inflation.

Bullens Park - 1985	Aldenville Commons - 2005
<ul style="list-style-type: none"> <li>• Architect - \$7,019</li> <li>• Statue/Memorial - \$19,687</li> <li>• Site Improvements/Landscaping - \$81,955</li> <li>• Replacement Benches - \$2,464</li> <li>• Replacement Receptacles - \$740</li> <li>• ADA Drinking Fountain - \$1,560</li> </ul>	<ul style="list-style-type: none"> <li>• Architect - \$35,587</li> <li>• General Conditions - \$11,415</li> <li>• Demolition &amp; Site Preparation - \$19,700</li> <li>• Masonry - \$52,610</li> <li>• Planting/Seeding - \$29,775</li> <li>• Site Improvements - \$31,750</li> <li>• Utilities - \$79,500</li> <li>• Concrete Flatwork - \$56,875</li> <li>• Irrigation - \$24,300</li> <li>• Vault - \$20,149</li> <li>• Water Line Excavation &amp; Backfill - \$822</li> <li>• Fountain Timer Installation - \$776.14</li> </ul>

According to the Community Development Regulations 24 CFR 570.201(c), the *reconstruction and rehabilitation* of a public facilities and improvements are eligible activities with the exceptions cited in 570.207(a). In addition the regulations further allow the *"execution of architectural design features, and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving CDBG assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art."*

# AUDITEE COMMENTS AND OIG'S EVALUATION

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**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 18**

**STATEMENT:** *...Public Works was unable to provide documentation showing a need for the work or the necessity of the reconstruction work on the streets in the Aldenville neighborhood...also did not have documentation showing the basis for selecting the specific Aldenville area streets...*

**CLARIFICATION:** DPW does not have a comprehensive database or inventory of any of its streets nor does it have a pavement management system in place. Typically, DPW will do an on-the-spot visual assessment of roads at the request of the Mayor, Aldermen or residents. Cracks indicate the deterioration of pavement. More heavily used roadways such as Providence Street leading to the Chicopee Council on Aging Senior Center would show evidence of greater use hence greater deterioration. *There is no priority list of roadway improvements for the City of Chicopee.*

**Comments on Apparent Conflict of Interest:**

**STATEMENT:** *...the former mayor had hands-on involvement in planning the details of the Aldenville neighborhood projects.*

**AGREE:** The former mayor did take a hands-on approach to the neighborhood projects. All previous mayors have been involved in the process and have taken a hands-on approach to neighborhood projects including input on design and selection of amenities, color schemes, etc..

**Comment 19**

**STATEMENT:** *In addition, the former mayor's wife became a Park Commissioner board member just before June 2005 when the Aldenville Common project was initially advertised.*

**DISAGREE:** The Aldenville Commons project was approved prior to the former mayor's wife becoming a Park Commissioner in June of 2005. The project was included in the prior year's annual action plan submitted to Holyoke for inclusion in the HOME Consortium's consolidated plan to HUD in May of 2004.

**Comment 20**

**STATEMENT:** *The former mayor's involvement in the details of the Aldenville Common project included selection of the gazebo, the curved benches on the first bid, and various other brand-name items that were included in the bid specifications.*

**DISAGREE:** To our knowledge, the former mayor did not dictate specific brand-name items. He may have selected various features from the options presented by the Park Superintendent and the Project Landscape Architect. No one disputes that he was personally involved in the project. In addition, two public hearings were held at the Council on Aging Senior Center to solicit feedback from the residents on the design (June 24, 2004 and September 22, 2004) and as stated previously.

**Comment 21**

**STATEMENT:** *We noted that a typical trash receptacle found in Rivers Park and Sarah Jane Sherman Park was much different than those in Aldenville Common.*

**DISAGREE:** Trash receptacles at Rivers Park and Sarah Jane Sherman Park may be different from those in Aldenville Common, but for a reason. The Rivers Park trash receptacle shown in the audit photo is a temporary barrel used for the summer lunch program for low income children, run by the local community action program. This is not a fair comparison. It would have been more appropriate to photograph the decorative trash receptacles at the passive recreation areas of Bullens, Ray Ash, Williams, Mandalay, and Sheridan parks which are more comparable in function to Aldenville Common. In fact, there are more decorative trash receptacles at Rivers Park itself. See attached photos.

**Comment 22**

**STATEMENT:** *Since the former mayor and his wife resided in a home they owned in the area targeted and would have benefited from the CDBG improvement activities, the City was required to request a conflict-of-interest exception from HUD.*

**DISAGREE:** The City is required to request a conflict of interest exception from HUD when it perceives a conflict-of-interest. The City did not perceive a conflict nor an apparent conflict. The former mayor did not benefit any more than any one else. The City has requested waivers in the past when there is a financial interest or benefit. In a prior case, the City requested a waiver for a low income board member of a non-

# AUDITEE COMMENTS AND OIG'S EVALUATION

## Ref to OIG Evaluation

## Auditee Comments

### Comment 23

profit agency to apply for a HOME assisted rental unit. In another case, the City requested a waiver on a City employee applying for homebuyer assistance funded with HOME funds.

#### **Comments on Aldenville Neighborhood Inappropriately Classified as a "Target Area":**

**STATEMENT:** *The Aldenville neighborhood was inappropriately classified as a CDBG "target area" and its inclusion in the fiscal year 2005 annual action plan included inaccurate statements concerning this area.*

**DISAGREE:** Aldenville was appropriately classified as a CDBG target area. The audit used selective data to make a point and failed to recognize that Aldenville had:

- o The highest decline in population, 18.2% compared to 3.5% city-wide;
- o The highest change in racial/ethnic composition/decline in white population, 20.6% decrease to 9.2% citywide;
- o The second highest increase in Black population, 146% compared to 19.9% citywide and increase in Asian population 207.1% to 62.4% citywide;
- o The largest loss in total households, 15.4% in CT 8112 compared to gain of 2.2% citywide;
- o The largest decrease in household size 7.4% compared to 4.9% citywide;
- o The sharpest decline in number of married couples in CT 8112 at 26.2% and 24.5% in Aldenville as a whole compared to 14.6% citywide;
- o A marked drop in families with children at 22.1% compared with citywide decrease of 2.9%;
- o An increase in family poverty in CT 8112 of 50% compared to 10.7% citywide;
- o A decrease in the number of housing units of 15.4% for CT 8112 and 11.7% for Aldenville as a whole compared to an increase of 3.1% citywide;
- o The greatest decrease in occupied units, 11.6% compared to increase of 2.2% citywide;
- o The largest percentage of elderly homeowners (65 yrs+) at risk 29.3 %;
- o The highest percentage of owners at risk with a housing burden of 24.8 % for CT 8112 (CT 8112 was one of five city census tracts with a high percentage of owners at risk with a housing burden (24.8%) and Aldenville as a whole also had a high percentage of homeowners at risk (23%). Citywide there were four census tracts that had rates between 12-17% of elderly owners at risk including two Aldenville census tracts); and
- o A smaller increase in median rent of 11.1% compared to a 17.3 % citywide.

For the first time the Aldenville neighborhood was eligible for Community Development Block Grant funds based on HUD calculations for low and moderate income census block groups released in 2003. The City took advantage of this opportunity and embarked upon a proactive program to address issues prior to their becoming intractable problems - to start community development efforts while there were neighborhood strengths to build on and not wait until the demographics showed that the neighborhood had failed.

#### **Comments on Procurement Actions for Aldenville Common Activities:**

**STATEMENT:** *.....the Aldenville Commons procurement history was not adequately documented, and there were substantial and significant deficiencies in the award and procurement actions for the project.*

**CORRECTIVE ACTION:** Based on the recommendations contained within the first audit, the City has revised its procurement policies and procedures to correct those deficiencies cited within both audits and to guaranteed full compliance with 24 CFR Part 85 and the OMB Circulars A-87 and A-110. See attached and recently revised procurement and labor compliance documents, submitted to HUD's CPD for addressing the deficiencies cited in the first audit.

# AUDITEE COMMENTS AND OIG'S EVALUATION

## Ref to OIG Evaluation

## Auditee Comments

### Comment 24

**DISAGREE:** The rejection of the Aldenville bids was documented in accordance with state and federal regulations and as always promoted fair and open competition to the fullest. The statements in the draft audit are opinions and not facts. Please see the attached letters from the Project Landscape Architect and the City's Purchasing Agent on the bidding process.

### Comment 25

**STATEMENT:** *The necessity of the work at Aldenville Common was not adequately documented or justified in the City's procurement records...*

**DISAGREE:** Aldenville Commons was originally constructed by volunteer labor with donated materials more than 30 years ago and was in need of upgrading. The audit acknowledges the need for repair work and upgrading of some amenities such as benches, lights, trash receptacles and drinking fountains while questioning the project costs. In 1985, the City undertook a similar but smaller and simpler town commons project and the total project costs exceeded \$113,425. Adjusted for inflation, that work would have cost \$202,636 in 2005. Please see above for further details.

### Comment 26

**STATEMENT:** *From the pictures, we question the necessity of replacing the concrete walkways already in place and the pavilion that had been erected by students from a Chicopee school 13 years earlier. We also question the necessity for the amount of landscape work that was performed and consider the nature of much of the work to be maintenance and repair work.*

**DISAGREE:** HUD in its publication *Homeownership for All Americans* released in March of this year advocates improvements to parks and public facilities as a means of encouraging private developers to invest in neighborhoods. "Construction of or improvements to parks, neighborhood facilities, and recreation centers are further enhancements to an area that encourage private developers to build housing. 24 CFR 570.201 (c), HCDA Section 105(a)(2)." (page 3). In addition public hearings were held to solicit public input on the park design on June 24, 2004 and September 22, 2004 at the Council on Aging Senior Center.

According to the Community Development Regulations 24 CFR 570.201(c), the *reconstruction and rehabilitation* of a public facilities and improvements are eligible activities with the exceptions cited in 570.207(a). In addition the regulations further allow the "execution of architectural design features, and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving CDBG assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art."

### Comment 27

**STATEMENT:** *The invitation to bid should not have gone out at that time with the lack of funding available to do the project...*

**DISAGREE:** Aldenville is not the only project to go out to bid without all the funding firmly in place. The City has the ability to appropriate additional funds. Once again, see Landscape Architect and City Purchasing Agent letters explaining the bidding process.

#### Comments on City's Fiduciary Responsibilities:

### Comment 28

**STATEMENT:** *Given the circumstances noted in this finding and considering the Office of Community Development's responsibilities to address neighborhoods in the greatest need, it breached the City's fiduciary responsibilities...*

**DISAGREE:** The City, through its Community Development Office, has acted prudently in its award of CDBG funds to the Aldenville project. It is not a CDBG requirement to only address needs in the lowest income neighborhood. Needs are determined locally. The City had spent nearly \$10 million in Willimansett since 1998 and was moving on to other neighborhoods to address their needs. See attached *Willimansett Accomplishments*.

# AUDITEE COMMENTS AND OIG'S EVALUATION

## Ref to OIG Evaluation

## Auditee Comments

### Comment 28 continued

**STATEMENT:** ...and did not meet the reasonableness cost principles criteria for the projects.

**DISAGREE:** The City has complied with the reasonable cost principles as outlined in OMB Circular A-87 and that the nature and amount of the improvements for the Aldenville projects in their nature and amount did not exceed costs incurred in similar circumstances. Further, 1) cost of the improvements were a recognizable and necessary part of the neighborhood improvement plan and, therefore, part of an acceptable community development neighborhood strategy; 2) the City was following sound business practices and the applicable federal and state laws and regulations; 3) the City was obtaining market prices through a competitive sealed bid process that followed applicable state and federal regulations; 4) the individuals involved acted prudently; and finally, 5) there were no significant deviations from the established practices of the municipality. Once again, please see the letters from the Landscape Architect and the City's Purchasing Agent. In addition, see the attached response from the City's DPW Superintendent and the further discussion in draft Finding #3.

**STATEMENT:** Further, the Office of Community Development did not meet its responsibilities for the proper administration of federal funds.

**DISAGREE:** The Office of Community Development has met its responsibilities for the proper administration of federal funds.

#### **Comments on Conclusions: DISAGREE IN ITS ENTIRETY**

The City has met its responsibilities in administering its CDBG funds.

### Comment 29

The City did not perceive a conflict-of-interest on the part of the former mayor and the use of CDBG funds in Aldenville. This is not the first time that there have been CDBG expenditures in a mayor's neighborhood. All mayors have decision-making powers in regards to the CDBG program. This is a "mayor's program".

Funds were properly expended in Aldenville and the City has not breached its fiduciary responsibilities. There is no CDBG requirement that funds be only expended in the lowest income areas. From its inception, the CDBG program has allowed communities to determine their own local needs and priorities. The former mayor did not personally gain from the CDBG program any more than other residents of the area.

The City believes that all the expenditures of CDBG funds for Aldenville Common were correct and saw no reason to question the funding for the gazebo.

#### **Comments on Recommendations:**

**RECOMMENDATION:** Require the city to repay the \$1,192,337 plus interest from nonfederal funds.

**DISAGREE:** The City does not agree to repayment of CDBG funds. The expenditures in Aldenville were for eligible and fundable activities.

### Comment 30

**RECOMMENDATION:** Require the City to institute internal controls for real and apparent conflict-of-interest situations involving CDBG funds.

**AGREE:** The City agrees to review and institute internal controls where deemed necessary for conflict of interest situations involving federal funds. The City has always supported improvements to the administration of its programs and will pursue those changes needed.

# AUDITEE COMMENTS AND OIG'S EVALUATION

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**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 30  
continued**

**RECOMMENDATION:** *Require the City to use non-CDBG funds for the \$62,975 planned gazebo project.*

**DISAGREE:** The City does not agree to use non-CDBG funds for the gazebo because it contends that the Aldenville Commons project was eligible and fundable.

**Comment 31**

**RECOMMENDATION:** *Pursue all applicable administrative sanctions against the City, including but not limited to debarment of individuals who allowed the former mayor to influence these projects when there was a conflict of interest present.*

**DISAGREE:** The City has not violated federal regulations and any errors made do not justify sanctions.

**FINDING #2: DETERMINING SERVICE AREAS**

**General Comments:**

**Comment 32**

In determining the service area for the City's neighborhood parks, OCD consulted with the Parks Superintendent and used the National Recreation and Parks Association standards to determine park service areas. The U.S. Census block groups that best described the service areas were then used.

**Comment 33**

Since 1998, the City's community development strategy has emphasized revitalizing neighborhoods through improvements to the public infrastructure. Quality roads, sidewalks, parks and community facilities attract quality residents to neighborhoods and reflect the City's overall support for quality neighborhoods. Catastrophic events such as the collapse of the bridge in Minneapolis generate national and international headlines, but failing to address the more mundane problems while they are solvable can have a more pernicious, long-term effect on the lives of the people who live in neglected neighborhoods.

**Comments on Service Areas Based on Location:**

**Comment 34**

**STATEMENT:** *The City used an entire block numbering area to support the low-to-moderate income area national objective for side street improvements. These street improvements on residential streets could reasonably be said to only benefit the residents of the immediately adjacent area, not the entire block numbering area.*

**DISAGREE:** During the more than 30 years that the City has been administering CDBG funds, the City has used HUD's calculations based on the U.S. Census block group data for income to determine eligibility for the expenditure of CDBG funds for public works projects. Most residents are reluctant to share sensitive income data, especially with public agencies, and attempts to collect income data through surveys have been a failure.

**Comment 35**

**STATEMENT:** *The City used a calculation for the standard service area for a neighborhood park, which is a radius of one-fourth mile distance, to support the low-to-moderate income area national objective. This park is large, and its various facilities serve a citywide service area. However, the City had not adequately documented the service area for the CDBG-funded improvements.*

**DISAGREE:** In determining the service area for neighborhood parks, OCD consulted with the Park Superintendent and used the National Recreation and Parks Association standards to determine park service areas. Excerpts from the Association's *Recreation, Park and Open Space Standards and Guidelines* are attached. The U.S. Census block groups that best described the service areas were then used. This is an accepted industry standard and practice.

Location alone does not demonstrate area benefit. The City has described the park service areas correctly based on 20 years experience. Attached is a letter from the Parks Superintendent regarding Rivers Park as a neighborhood park. Also attached is a listing of the City's parks, showing neighborhood parks located



# AUDITEE COMMENTS AND OIG'S EVALUATION

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**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 36**

throughout the City. In addition, the service areas for Rivers and Sarah Jane Sherman parks were reviewed and approved by Scott Cleveland from the HUD Office of Community Planning and Development during his October of 2003 monitoring visit. The City made changes to its review and documentation at that time. Attached are the eligibility determinations for Rivers and Sarah Jane Sherman parks, the Aldenville street and sidewalk improvements and the Aldenville Common.

**Comment 37**

The City considers all the parks cited in the audit as neighborhood parks. The City has 29 parks and there are few reasons for residents to travel outside of their neighborhood for park use. Sarah Jane Sherman Park is within 1,300 feet of 448 units of public housing and an additional 290 units of privately owned subsidized housing. These lower income residents use Rivers and Sarah Jane parks extensively. Attached is listing of the City's parks. Please note that each city neighborhood has a park with athletic facilities and particularly ball fields. The presence of ball fields and/or parking lots does not necessarily indicate that a park's use is city-wide.

**Comment 38**

Looking at attendance sheets for Rivers Pool or Sarah Jane Sherman Wading/Spray Pool, demonstrates conclusively that these facilities "principally benefit" low/moderate income persons. Both parks are also the sites for the free lunch program which serve needy children during the summer months when they are unable to receive school lunches. The majority of those who use Rivers and Sarah Jane Sherman Parks are from the area which is the lowest income neighborhood in the City. In addition, Sarah Jane Sherman Park is the home field for the Chicopee Boys and Girls Club and is used extensively for its programming. Please see the use figures included below.

**Comment 39**

Aldenville Common is strictly a small neighborhood park. According to the recommended classification system of the National Recreation and Park Association, the Common could be classified as a "mini-park" by virtue of its size. However, its central location and high visibility in the heart of Aldenville increases its importance to the neighborhood's identify and public image.

In general, people from other neighborhoods do not use passive parks such as Aldenville Commons on a regular basis. Concerts held once a week in the summer may attract some residents from outside the area, but attendance is limited physically by the size of the Common itself (7,600 square feet), amount of parking and traffic congestion in the area.

**Comments on Use of Block Groups:**

**Comment 40**

**STATEMENT:** *Census data for the block groups showed that in some instances, the percentage of persons making above \$35,000 could be up to 50 percent and the percentage of persons making above \$50,000 was, in some instances, above 20 percent. With such a disparity between incomes by persons residing in a single block numbering area, a survey of the service area residents would have been the most appropriate way to determine whether the service area qualified under the low-to-moderate income area benefit criterion.*

**DISAGREE:** During the more than 30 years that the City has been administering CDBG funds, the OCD has used HUD's calculations based on the U.S. Census block group data to determine eligibility for the expenditure of CDBG funds for public works projects. There is no practical way to do it otherwise. Most residents are reluctant to share sensitive income data, especially with public agencies, and attempts at collecting income data through the use of surveys usually has been a failure.

**Comment 41**

The implication in the audit is that the housing on the streets paved was for higher income households. Enclosed are photos of the houses. These are modest, but well-maintained homes, not high-end housing. To question the validity of using block group data may be interesting to some but begs the question as to what other practical ways there are to determine eligible areas for public improvements.

# AUDITEE COMMENTS AND OIG'S EVALUATION

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**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 42**

**CLARIFICATION:** No major arterial streets were improved using CDBG.

**STATEMENT:** *While Rivers Park and Sarah Jane Sherman Park are located in an area considered a low-to-moderate income area, there is evidence that these parks as a whole may not "principally benefit" low to moderate income persons.*

**DISAGREE:** The audit looked only at the athletic teams' uses of the parks and failed to look at the activities actually funded by CDBG. Note that no improvements to the ball fields were funded with CDBG funds. Other park uses benefiting low-to-moderate income residents include the following:

**SARAH JANE SHERMAN & RIVERS PARKS**  
**ADDITIONAL USAGE CHART**

**SARAH JANE SHERMAN PARK**

AGENCY	PROGRAM	DATES OF USAGE	# OF USERS
Boys & Girls Club of Chicopee	After School Program	September – June	1,920
Boys & Girls Club of Chicopee	Summer Camp	July – August	1,620
Boys & Girls Club of Chicopee	National Night Out	July (1 evening/annually)	300
Boys & Girls Club of Chicopee	A Place Called Ours	January – December	1,020
Valley Opportunity Council	Summer Lunch Program 2007	July 1-27	1,789
Valley Opportunity Council	Summer Lunch Program 2006	July – August	1,812
Parks & Recreation Dept.	Spray Pool 2007	June 3 – July 21	137
Parks & Recreation Dept.	Wading Pool 2006	July 3 – August 18	274

**RIVERS PARK**

AGENCY	PROGRAM	DATES OF USAGE	# OF USERS
Valley Opportunity Council	Summer Lunch Program 2007	July 1-27	1,546
Valley Opportunity Council	Summer Lunch Program 2006	July – August	2,435
Parks & Recreation Dept.	Pool 2007 (pool closed until 7/19)	July 19-July 22	53
Parks & Recreation Dept.	Pool 2006	July 3 – August 18	1,821

**Comment 43**

Rivers and Sarah Jane Sherman parks principally benefit low and moderate income persons and in the service areas as originally described. Please note that the service areas for Rivers and Sarah Jane Sherman parks were reviewed and approved by Scott Cleveland, the City's CPD representative, during his October of 2003 monitoring visit. The monitoring review specifically addressed determination of the service areas.

**Comment 44**

**CLARIFICATION:** The City is currently building a new Chicopee Comprehensive High School (CCHS). The new school has been constructed in the location of CCHS' existing playing fields so as to maintain the current high school building while the new one is being constructed thus avoiding costly relocation expenses. Although Rivers Park is the home field for some CCHS varsity sports, the construction of the new high school necessitated an increase use of the playing fields during the construction of the new school, demolition of the old school, and the building of new playing fields. Please see the attached letter from the Chicopee School Department clarifying its use of Rivers Park.

**Comments on Records for Sheridan Street Mini Park:**

**Comment 45**

**AGREE:** The City inadvertently purged the files with the actual survey forms but retained the worksheet showing the calculations for the low to moderate income benefit. The project was substantially completed in 2002, but the final billing was not submitted until February of 2003.

**Comments on Determination of Service Areas by Activities:**

# AUDITEE COMMENTS AND OIG'S EVALUATION

## Ref to OIG Evaluation

## Auditee Comments

**Comment 46**

**STATEMENT:** *The Office of Community Development needs to determine the actual service area for its public improvement activities that receive CDBG funding.*

**DISAGREE:** Once again, the City has accurately determined the service areas for what are true neighborhood parks based on industry standards and practice, the applicable HUD regulations and guidance materials, and local knowledge of the park users.

**Comments on Conclusions:**

**Comment 47**

**DISAGREE:** The City has adequately and accurately determined the actual services areas for the public improvements cited in the audit.

**Comments on Recommendations:**

**RECOMMENDATION:** *Determine the actual service area for \$2,720,964 in activities and repay any funds spent on activities that do not meet the national objective.*

**DISAGREE:** The City has determined the actual services areas for the public improvement projects  
**AGREES TO:** The City agrees to work with the Director of HUD's Boston Office of Community Planning and Development to resolve any outstanding issues with the service area determination, justification, and documentation for our neighborhood parks in keeping with the HUD regulations and national industry standards and practice.

**RECOMMENDATION:** *Implement policies and procedures to document the basis for the determination of an activity's actual service area and not rely on the location alone.*

**DISAGREE:** The City does not rely on location alone to determine actual service area but uses industry standards and follows the HUD guidance on determination of service areas.

**AGREES TO:** The City will implement those additional revisions that Director of HUD's Boston Office of Community Planning and Development deems necessary for documenting the determination of service areas.

**RECOMMENDATION:** *Maintain records, including supporting documentation, for at least three years from the closeout of the CDBG program grant.*

**AGREES TO:** The City's policy is to maintain records for at least three years from the closeout of the CDBG program grant. Sheridan Street mini park files may have been inadvertently purged prior to the end of the contract, but the files were kept for three years from the substantial work completion.

**FINDING #3: COMMUNITY DEVELOPMENT OVERSIGHT AND MONITORING:**

**General Comments:**

**Comment 48**

Many of the issues addressed in the draft audit for Finding #3 are redundant and only rehash findings and recommendations from the first audit, specifically those relating to procurement and labor compliance. In response to the first audit, the City has drafted the attached policies, procedures, and forms to address administrative issues. These deficiencies are being corrected.

Regarding repayment of maintenance repair items, please see the City's earlier letter on the Rivers Park pool. Once again, this is a repetition of earlier findings and recommendations.

The City challenges the narrative regarding disbursements. The City had already taken steps to improve its financial procedures prior to the start of the first audit. During the audit, time was spent reviewing

# AUDITEE COMMENTS AND OIG'S EVALUATION

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## Ref to OIG Evaluation

## Auditee Comments

procedures that had already been changed. Attached is a letter from the City Auditor Sharyn Reilly explaining the changes to the City's financial procedures.

The draft recommendation regarding "breaking out work within contract to determine eligibility" is also unnecessary, once again, because of changes made by the City prior to the start of the audit. Attached is a typical scope of services.

Attached, also, are a letter from the Landscape Architect for the Aldenville Common project and a memorandum from the City Purchasing Agent explaining the bidding process. No laws nor regulations were violated with the rejection of bids and bidding the project without identifying all project funding sources.

The City follows the state's procurement requirements which are usually more stringent than those of the federal government. There are, of course, exceptions and the draft audit identifies those exceptions including the acceptance of single bids and the hiring of the landscape architect for Rivers Park. Both, however, are compliant with the State's bidding requirements.

The Department of Public Works comments have been included in their entirety with this response, which substantiates the City's efforts to meet both the spirit and the letter of the law.

**CORRECTIVE ACTION:** The City is assessing the value of establishing a federal compliance officer within the municipal Law Department or returning compliance responsibilities into Community Development either through a staff position or contracting with a third party. The City acknowledges the need to strengthen its responsibilities for federal compliance and is actively taking steps to do so.

There is a person assigned to the labor compliance function in the Office of Community Development and has been for the last four years. Before that, the City contracted with a third party to do the labor compliance monitoring.

After thirty-three years and hundreds of community development projects reviewed and approved by HUD, to have one or two projects questioned certainly does not indicate a pattern or practice of funding ineligible CDBG activities. If mistakes were made, they have been or will be corrected.

### Comments on Cost Eligibility:

**STATEMENT:** *The City expended \$184,159 in CDBG funds for unsupported maintenance and repair improvements at Rivers Park. The \$184,159 represents work related to the pool rehabilitation involving sandblasting the pool, caulking, concrete repair, and repainting the pool.*

**DISAGREE:** The regulations regarding the ineligibility of CDBG funds for routine maintenance and repair expenses were correctly interpreted and complied with particularly in the case of the Rivers Park pool reconstruction project.

The Rivers Park pool reconstruction was an extensive restoration project which included sandblasting, masonry work, and finished surface sealing. The City put the project out to bid and contracted with a professional company to do the work. The cost of the project was a significant expenditure of more than \$65,000. The work was neither routine nor a result of deferred maintenance. Attached is a letter from the Project Architect regarding the nature and extent of the work. The City of Cherokee prides itself on maintaining all of its parks and pools. In accordance with the OMB Circular A-87, the work clearly added to the permanent value of the property and prolonged the intended life of the pool. Excerpts from the specifications describing the pool work have been included in order to demonstrate the extent of the work

**Comment 49**

# AUDITEE COMMENTS AND OIG'S EVALUATION

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**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 50**

performed. A cursory reading of these specifications should indicate to even a person with no understanding of construction that the work performed was time consuming, requiring specialized equipment, materials and skills.

**AGREE/DISAGREE:** The \$25,000 for sewer siphon repair at Front/Depot Streets was a pipeline repair. This work was packaged in the bid with other sewer improvements in the area (new sewers) in order to receive the best possible price for this work. The repair work would have cost substantially more if it had been bid separately. Although this was a repair, it did benefit a large low/mod area downtown to prevent sewer backups and overflows.

**Comment 51**

**STATEMENT:** *The City expended \$88,000 in CDBG funds for ineligible sewer-related maintenance and repairs. Specifically, the City paid \$25,000 for sewer repairs and \$63,000 in maintenance costs related to sewer cleaning.*

**AGREE/DISAGREE:** Regarding Warner Brothers siphon installation and repair project for \$63,000, attached is a breakout of the contractor's schedule of values which could be used if it were necessary to breakout cleaning costs for this project. However, these costs should not be separated from this overall project. The project was bid as a lump sum project because all the prices for the work were inextricably tied to one another. One could not clean without the new manhole, vault, and valve pit work, and one could not do the new installation work without some measure of cleaning for the installation and testing of the new improvements. Washing, sanding and patching a wall prior to painting would be an analogous situation. The project realistically must be looked at as a whole, not as separate distinct pieces of work. Without this project, the area residents could have been severely impacted with loss of sewer service.

On two separate occasions, DPW had tried to do a separate cleaning project for this siphon, and neither project was successful in achieving the goal of restoring the siphon to proper service. Hence, the Warner Bros. project to make improvements to the sewer siphon were designed, bid and constructed to make sure the DPW succeeded in its efforts to improve the sewer service to the downtown area. Trying to do parts of the Warner Bros. project would have failed as the previous attempts had.

**Comment 52**

**STATEMENT:** *The City expended \$363,261 in CDBG funds for improvements at Aldenville Common that were partly maintenance in nature and ineligible.*

**DISAGREE:** This is a repetition of Finding #1 regarding Aldenville Common and as stated in the response to Finding #1, the City expended funds for Aldenville as eligible costs for a fundable activity. When substantially renovating an existing park, the cost for removal and replacement are eligible and not done as maintenance.

**Comment 53**

**STATEMENT:** *A public works and facilities contract between the Office of Community Development and Public Works included \$30,000 to pay a consultant to study traffic issues at the City's North Chicopee (Street) Industrial Park.*

**CORRECTIVE ACTION:** City will take corrective action regarding the study of North Chicopee Street, a public way. The study was undertaken as part of the Willimansett Comprehensive Neighborhood Improvements. The City agrees to transfer this expense from public facilities to planning. Please see the attached list of *Willimansett Accomplishments*. There is no North Chicopee Industrial Park.

**Comments on Federal Procurement and Contracting Requirements:**

# AUDITEE COMMENTS AND OIG'S EVALUATION

## Ref to OIG Evaluation

## Auditee Comments

Comment 54

**DISAGREE:** This is a repetition of Finding #1 regarding Aldenville neighborhood improvements and as stated in Finding #1, the City believes that the activities were fundable and costs were eligible. Please see the Project Landscape Architect's and the City's Purchasing Agents letters.

**STATEMENT:** *Did not always prepare independent cost estimates before going out to bid and did not always complete cost analyses when necessary.*

**DISAGREE:** In reviewing 24 CFR Part 85, the City sees no requirement for an *independent* cost estimate nor the need for a cost analysis even with the single bid received for the Aldenville gazebo. According to the *Quick Guide to Cost and Price Analysis for HUD Grantees and Funding Recipients*, you perform a cost analysis when, "After soliciting competitive sealed bid, you receive only one bid, **and it differs substantially from your independent estimate of the contract price.**" The bid received for the gazebo did not differ substantially from the independent estimate received from the Project Landscape Architect.

Comment 55

Using the lowest overall bid and lowest unit prices is an acceptable basis for awarding a bid. When seeking the lowest unit prices, one does not necessarily have to do a preliminary cost estimate. The bid provides the required information. In the City's case, DPW checks the prices against recent bidding and Massachusetts Highway average bid prices to make sure bids are reasonable. This review is not formalized into a document, but prior to awarding a bid for street paving or other public works, a cost analysis is done. Bids are always checked for reasonableness to make sure they are in line with current market conditions, are within the budget parameters, and are comparable to other bids received. Having the lowest bid prices available and then using those prices to calculate the value of the proposed street improvements is a valid industry means of determining project cost.

The prices used were the most economical available. Although not formalized into a document, prices were reviewed against recent bids, market conditions, Massachusetts Highway average bid prices, and an engineering knowledge of what the work was worth.

Some contractors have won consecutive contracts with the City. Contracts were bid properly. These contractors submitted the low bids and the bids were reasonable. Local contractors want to do business locally. So generally their bid prices are lower on a consistent basis.

Contract values increased over initial bid values. The City was able to hold unit bid prices for two option years on these unit price contracts. Normally, prices go up every year. If a contractor was willing to hold last year's prices when it was known a new bid would result in higher prices, the City can and does legally extend the contract for the option years.

Sealed bids and unit prices are neither improper nor illegal.

It should be noted that sometimes competition may have been lacking because many contractors simply do not want to deal with the federal requirements for these projects. In point of fact, one of the largest local contractors has stopped bidding on all government work to concentrate on private work. In this case, government regulations/requirements are the reason for stifled competition. The contractor indicated that he could not compete given all the administrative and wage requirements.

Finally, and, as noted in the audit, since 2004 the DPW has been issuing an invitation to bid for specific CDBG public works projects.

### Comments on Federal Financial Requirements:

16

# AUDITEE COMMENTS AND OIG'S EVALUATION

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## Ref to OIG Evaluation

## Auditee Comments

### Comment 56

**STATEMENT:** *...the City's two-tier payment system did not have a clear audit trail from source to expenditure, ineffective controls allowed ineligible costs or duplicate invoices to be paid, and community development scope of works and budgets varied from actual accomplishments.*

**DISAGREE:** The City had already taken steps to improve its financial procedures prior to the start of the first audit. The audit reviewed procedures that had already been changed. Attached is a letter from the City Auditor explaining the changes to the City's financial procedures.

In addition, all payments for CDBG work were made in accordance with City procedures and with oversight by City Auditing Department. The payment procedure was proper and there was multiple payment oversight along the way. Payments were checked by Engineering staff, certified by City Engineer, checked by Superintendent of Public Works, checked by OCD staff, and then finally reviewed by the City Auditing Department.

As stated by the OIG auditors, a detailed review of the disbursement records including warrants and invoices did not show any misappropriated payments. The above statement should be the foundation for any discussions relative to CDBG work done and payments made. Once again, payments were proper and there was multiple payment oversight.

#### Comments on Davis-Bacon Labor Compliance Requirements:

**CORRECTIVE ACTION:** The City agrees that if mistakes have been made regarding labor compliance documentation that they will be corrected. The City is assessing the value of establishing a federal compliance officer in the Law Department or bringing back compliance responsibilities into Community Development either through a staff position or contracting with a third party. The City acknowledges the need to strengthen its responsibilities for federal compliance and is actively taking steps to do so. There is a person assigned to the labor compliance function in the Office of Community Development and has been for the last four years. Previously, the City contracted with a third party for labor compliance monitoring. Attached are the revised policies and procedures for labor compliance, as submitted to CPD for review and approval in addressing the deficiencies identified in the first audit.

#### Comments on Policies and Procedures for Monitoring and Oversight:

**CORRECTIVE ACTION:** Issues addressed in the draft audit for Finding #3 duplicate findings and recommendations in the first audit, specifically those relating to procurement and labor compliance. In response to the first audit, the City has drafted the attached policies, procedures, and forms to address the administrative issues. The City believes that these deficiencies are well on the way to being corrected without prolonging the issue with additional audit findings and recommendations.

**CORRECTIVE ACTION:** The City is weighing the value of establishing a federal compliance officer in the Law Department or bringing back compliance responsibilities into Community Development either through a staff position or contracting with a third party. The City acknowledges the need to strengthen its responsibilities for federal compliance and is actively taking steps to do so.

#### Comments on Recommendations:

# AUDITEE COMMENTS AND OIG'S EVALUATION

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## Ref to OIG Evaluation

## Auditee Comments

**RECOMMENDATION:** *Develop and implement policies and procedures for monitoring and oversight of other City departments that receive CDBG funds through the Office of Community Development.*

**CORRECTIVE ACTION:** Issues addressed in the second audit duplicate findings and recommendations in the first audit, specifically those relating to monitoring, procurement, and labor compliance. In response to the first audit, the City has drafted the attached policies, procedures, and forms to address the administrative issues. These deficiencies are well on the way to being corrected without prolonging the issue with additional audit findings and recommendations.

**AGREE:** The City agrees to work with the Director of HUD's Boston Office of Community Planning and Development to revise policies and procedures where deemed necessary.

**RECOMMENDATION:** *Provide adequate training to appropriate city staff to ensure compliance with federal procurement and contracting, financial management, and labor compliance requirements.*

**CORRECTIVE ACTION:** As part of the City's response to the first audit, training is being provided to appropriate City staff on labor compliance requirements.

**AGREE:** The City agrees to provide additional and on-going training to appropriate City staff to ensure compliance with all federal requirements with the assistance of the appropriate divisions of HUD's Boston Office of Community Planning and Development.

**RECOMMENDATION:** *Repay from nonfederal sources the \$88,000 in CDBG funds used for ineligible maintenance and repair items, based on a HUD determination, and repay the remaining \$184,159 in unsupported maintenance and repair costs if deemed ineligible.*

**AGREE:** The City agrees to follow HUD's CPD's recommendations regarding repayment of costs for alleged repair and maintenance items.

**RECOMMENDATION:** *Determine whether the \$30,000 in costs for the North (Chicopee Street) Industrial Park study is eligible under planning and if so, reclassify these costs and, if not eligible, require repayment from nonfederal sources.*

**AGREE:** The City agrees to work with HUD's Boston Office of Community Planning and Development to classify the costs for the North Chicopee Street study.

**RECOMMENDATION:** *Perform a labor compliance review of certified payrolls for Public Works and Parks and Recreation and require the contractors to pay their employees for any wage underpayments.*

**AGREE:** The City agrees to perform labor compliance review of certified payrolls for Public Works and Parks and Recreation and to require the contractors to pay their employees for any wage underpayments.



# AUDITEE COMMENTS AND OIG'S EVALUATION

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## Ref to OIG Evaluation

## Auditee Comments

### AUDIT #2 ATTACHMENTS

- Willimansett Accomplishment
- Park Descriptions
- Use of Rivers Park from Joan Boratis, Chicopee Public Schools dated 8-8-07
- Letter from City Auditor Sharyn Riley dated 8-8-07
- Warner Brothers Letter regarding Syphon Cleaning dated 11-1-02
- Sarah Jane Sherman Park Improvements – Attachment B/Budget
- Front Street Area Road & Sidewalk Reconstruction and Tree Removal/Replacement project – Attachment B/Budget
- Letter from Stanley Walczak, Parks Superintendent on Rivers Park Status as Neighborhood Park dated 8-9-07
- Newspaper article dated 7/31/2002 on Sheridan Street Mini Park
- Caolo & Bieniek Associates letter regarding Rivers Park Renovations Project (pool) dated 8-20-07
- Email dated 7/31/07 from Jeffrey Squire of Berkshire Design regarding Aldenville Common
- Email dated 9/26/07 from Brian Salamon, City Purchasing Agent regarding Aldenville Common
- Email dated 8/1/07 from Stanley Walczak, Parks Superintendent, regarding Rivers Park and Aldenville Commons
- *Home and Neighborhoods: A Guide to Comprehensive Revitalization Techniques*
- *Homeownership For All Americans – How CDBG Funds Can be used to Increase Homeownership in Your Community*
- Chicopee Parks & Recreation Renovations at Rivers Park
- Chicopee Census Tract & Block Group Data
- Park Trash Receptacles (photographs)
- Aldenville Streets – Houses (photographs)
- *Recreation, Park and Open Space Standards and Guidelines – A Recommended Classification System for Local and Regional Recreation Open Space*
- CDBG Eligibility Determinations
- Chicopee EEO Poster
- Chicopee Federal Contractor Reporting Requirements
- Chicopee Invitation for Bids Federal Reqs. Insert
- Labor Contracting Process Checklist
- Preconstruction – Chicopee Labor Standards Instructions
- Procurement Policy

### **OIG Evaluation of Auditee Comments**

- Comment 1 The audit conclusions are supported and documented and have been independently verified in accordance with our quality control process. The information presented is factual and there is no misleading information in the report, however, some of the language and tone was addressed and we have clarified other information and revised the report, as deemed necessary. The information included in the report was deemed relevant.
- Comment 2 The statement was revised accordingly.
- Comment 3 The City was unable to demonstrate that the targeting of Aldenville was in accordance with its own policies of emphasizing “the need for a comprehensive rather than piecemeal approach to neighborhood revitalization” and "targeting CDBG funds to one eligible neighborhood at a time."
- The Aldenville neighborhood only had a 42% low-to-moderate population, which is below the CDBG 51% low-to-moderate income population requirement. As only two of the Aldenville neighborhood’s nine block groups were over 51%, it would not be possible for the City to provide a comprehensive approach to neighborhood redevelopment in Aldenville, even if one was needed.
- Comment 4 - This new system was not instituted prior to the start of our first audit in June 2006. During the first audit, we were advised by the Office of Community Development that they were in discussions with the Auditing Department regarding changing the two-tier payment system. Further, City financial records show that in October 2006 the Office of Community Development paid the Parks and Recreation for the Aldenville Common project and the Parks and Recreation paid the contractor for this payment in January 2007. If the City had instituted the new process before the audit, then the Office of Community Development would have made the payment to the contractor.
- Comment 5 The information presented in the background provides history related to the City’s administration of the CDBG funds for the findings presented. However, the statement was revised accordingly based on information taken from a press release issued by the US Department of Justice dated June 13, 2007. This information was relevant to Finding 1, and therefore included as background.
- Comment 6 The conclusions regarding the Aldenville neighborhood as described in the report directly reflected the assertions noted in a consultant’s study and report (RKG Housing Market Study) issued in September 2003 and April 2004. In this study, performed at the request of the Office of Community Development, it was found that “Neighborhoods C (Aldenville), E and F typically rank high and out-perform the city benchmark [socioeconomic indicators i.e. owner occupancy, median income, median selling price, and median rent]. Similarly, with respect to these

indicators, Neighborhoods A, B and D typically underperformed relative to the city averages.” This Housing Market Study further found that “In summary, and similar to the patterns identified in the comparison of socioeconomic indicators, Neighborhoods C, E and F generally out-perform the city average with respect to housing indicators, such as owner- occupancy rates and lower vacancy rates.”

Our evaluation of the Housing Market Study and the Technical Addendum included was extensive and considered the pertinent and germane information contained therein. Our evaluation is further supported by the findings and recommendations as concluded by the City’s own consultant in the Housing Market Study. Additionally, during a December 2, 2004 CDAC meeting, Office of Community Development cited the RKG Housing Market Study, and indicated that Aldenville was stable.

Comment 7 The City did not provide any documents to support its claim that the Aldenville neighborhood was starting to decline. The assertion contained in the city’s response appears to be based on inappropriate and misguided statistics drawn from the Technical Addendum.

As noted previously, the Housing Market Study concluded that Aldenville “typically rank(ed) high and out-perform(ed) the city benchmarks (socioeconomic and housing). This study also showed that the Aldenville neighborhood had:

- The highest percentage of owner-occupied housing at 73.6%, well above the citywide average of 59.3%.
- Relatively high median household income at \$40,221 (2nd highest in city), above the citywide average of \$35,672.
- One of the highest median home values (selling prices in 2002) in Chicopee at \$124,000 (3rd highest in City), above the citywide average of \$121,350.
- One of the highest percentages of housing stock as single family residences (2nd highest at 68.7% - the highest was 69%), well above the 54.2% citywide average.
- The 2nd lowest concentration of multifamily (31.3%) and Chapter 40-B housing (1%) both well below the citywide average for these indicators at 45.8% and 9.7% respectively.
- A more modern (post 1940) housing stock. Only 22.1% was built prior to 1940, compared to the citywide average of 30.7%.
- The lowest vacancy rate (tied with neighborhood F) in the City at 3.4%, compared to the citywide average 5.4%. Neighborhoods B and E had the highest vacancy rates at 7%.

We also noted that the City, in its response, used racial descriptions of populations in particular neighborhoods. These descriptions are not appropriate and the Office of Inspector General disavows such characterizations.

- Comment 8 The City was unable to demonstrate that the targeting of Aldenville was in accordance with its own policies (See Comment 3).
- Comment 9 The City improperly used CDBG funds for Aldenville because Aldenville neighborhood projects were not eligible for funding and the City did not follow its own selection or public process for these projects (See Comment 10). The City's former mayor intervened in the City's normal decision-making process to have the Aldenville projects included in the City's fiscal year 2005 annual action plan. Despite the presence of an apparent conflict of interest, the City permitted the former mayor to influence decisions regarding the accomplishment of these projects. The decision to use CDBG funds for the projects is also improper because (1) the neighborhood was inappropriately classified as a CDBG "target area" and therefore ineligible, (2) its inclusion in the annual action plan was based on inaccurate information and without the required public participation, (3) significant deficiencies were found in procurement actions related to the projects, and (4) the city could not provide documentation showing or support that the work was necessary (See Report Finding 1).
- Comment 10 During the audit, the City was unable to produce records to show that the public process in place was in fact followed or that there were sound community development reasons for doing work in Aldenville (See Comments 7 and 23) .

The primary vehicle for citizen participation in Chicopee is the Community Development Advisory Committee (CDAC), according to the City's Citizen Participation Plan, included as part of the annual action plan submitted to HUD. CDAC members are appointed by the mayor, and their duties include reviewing CDBG program proposals and recommending to the Mayor those proposals which meet funding objectives. The CDAC holds public meetings to review the various proposals and the minutes of these meetings must be recorded. Although requested by OIG Audit on several occasions, the Office of Community Development could not provide the minutes of CDAC meetings for the period when the Aldenville projects were awarded. The City clerk advised they had no such records. Without these official records, the City cannot demonstrate that the public process in place was followed.

During the audit, we reviewed records on file in the Office of Community Development that included written notations from meetings of the CDAC through March 16, 2004. These records showed that on February 18, 2004, the City's Public Works and Parks and Recreation presented their original proposals to the CDAC. The Aldenville projects were not included as part of this presentation. The CDAC written meeting notes also indicated that the Aldenville projects were never presented to the CDAC by the Public Works or the Parks and Recreation. Despite this, the April 7, 2004, award letters for the Aldenville projects indicate that the Mayor and the CDAC had made their final decisions for funding and had selected projects in the Aldenville target area. However, one CDAC member did

not remember the Aldenville projects being proposed whatsoever, and the other member could not specifically recall whether these projects were proposed by Public Works and Parks and Recreation.

Neighborhood hearings on the projects were held after the Consolidated Plan development process and the selection of the Aldenville neighborhood projects were completed. The Aldenville activities were submitted in May 2004 to HUD as part of the annual action plan. The 1st public hearing was held in June 2004 and the 2nd was held in September 2004. Any resident input obtained at the June 2004 hearing was not documented, and the resident input obtained at the September 2004 hearing was based on items already determined.

- Comment 11 The conflict was a result of the mayor's "decision-making" involving projects where he played a direct role, such as proposing and designing the projects, involving the specific neighborhood in the city where he and his family resided. The former mayor benefited from the CDBG activity.
- Comment 12 The City did not provide any documents to support the claim that it correctly classified Aldenville as an eligible neighborhood and correctly used the data prepared by RKG Associates (See Comments 3,6,7, and 23).
- Comment 13 The audit did not evaluate whether adequate funds had been made available to address other neighborhoods. The RKG Housing Market Study, however, included recommendations that identified several other lower-performing neighborhoods that the City could have considered for CDBG funding.
- Comment 14 Although the Mayor serves as the City's administrator, funding received from the federal government is directed to the City, for the City and not the Mayor. The City and HUD have procedures in place to identify and select eligible project candidates; however, in this case these procedures were ignored because of the Mayor's direct involvement. The City also could not provide documentation that the public was given an opportunity to participate in the selection of the Aldenville neighborhood projects (See Comments 7, 10, 11, and 23). In addition, the project did not meet HUD eligibility criteria for selection.
- Comment 15 The work did not meet HUD's criteria for eligible and fundable projects (See Comment 9). In addition, the City did not adequately determine and document the actual service area for Aldenville Common (See finding 2). We also noted that the City, in its response, used racial descriptions of populations in particular neighborhoods. These descriptions are not appropriate and the Office of Inspector General disavows such characterizations.
- Comment 16 We clarified this statement to say "These projects were not originally proposed by Parks and Recreation and Public Works during the City's fiscal year 2005 annual CDBG planning process."

The City's process is flawed if, in fact, proposals by mayors are provided and are undocumented. CDAC members are then appointed by the mayor, and these members recommend projects to the mayor, who in turn acts as the decision maker (See Comment 10). One CDAC member did not remember the Aldenville projects being proposed whatsoever, and the other member could not specifically recall whether these projects were proposed by Public Works and Parks and Recreation.

Public Works was aware that the block groups showed 51% low/moderate income area for 2 block groups as it included two streets in the Aldenville block group 8110 in its original proposal.

Comment 17 We cannot comment on a 22 year old project that we have not reviewed, and the internal control procedures applicable during that time period were far outside the period of our review. We note, however, that although regulations allow architectural design features, the park already had concrete walkways and a fountain in place. Further, the City used a low-to-moderate income area benefit; however, this "central neighborhood park" would benefit the "Aldenville neighborhood," which had a 42% low to moderate income population. The City has stated that the summer concerts in the park attracted residents from the Aldenville neighborhood and residents from other areas of the city as well.

Comment 18 OMB Circular A-87 and 24 CFR 85.36 requires the project work to be necessary and reasonable. The City could not provide documentation showing the necessity of the work. Further, the City's response states that the Public Works does not maintain a database or inventory of street project work, and does not have a priority list of roadway improvements for the City. Based on this response, the City cannot show that it can document the need for any street or roadway work by the Public Works, and therefore, the City is not in compliance with Federal regulations.

The City's response also contradicts what Public Works personnel told audit team members during the audit. Previous and subsequent Public Works street work proposals to the Office of Community Development included a summary of the conditions for each proposed street, sidewalk, sewer, etc. Neither the Office of Community Development nor the Public Works could produce such a summary of conditions, or any other documentation, to show the "necessity" of the other Aldenville street improvements.

Comment 19 The former mayor's wife also benefited from the activity, as did the mayor. The mere presence of the mayor's wife on the Parks and Recreation Commission adds to the appearance of a conflict of interest, and as one of the Commissioners, the mayor's wife had decision making authority. All appearances of a conflict of interest should be avoided.

- Comment 20 Based on interviews with Parks and Recreation staff, the former mayor did select which items would be used in the park. The City could not provide documentation showing a justification for including proprietary specifications. The architect also stated that they had obtained an extremely detailed amount of input from the former mayor, and that the former mayor was very “hands-on” in regards to the project.
- Comment 21 In its response, the City suggested that it “would have been more appropriate to photograph the decorative trash receptacles at ...Sheridan...and Rivers Park(s).” We did not find any decorative trash receptacles at the time of our inspection at Sarah Jane Sherman Park or Rivers Park. However, the photographs of the trash receptacles from the Sarah Jane Sherman Park and Aldenville Common were removed from the report.
- Comment 22 The former mayor and his wife benefited from the work done on their street and at the park across the street, and therefore, the appearance of a conflict of interest should have been considered by city officials, including the Office of Community Development. The conflict was a result of the mayor’s “decision-making” involving projects in which he played an active and direct role such as proposing and designing the work. These projects also involved the specific area in the city where he and his family resided.
- Comment 23 The conclusions regarding the Aldenville neighborhood as described in the report directly reflected the assertions noted in a consultant’s study and report (RKG Housing Market Study) issued in September 2003 and April 2004 (See Comments 6 and 7).

The statistics, in part, used by the City to subsequently justify its assertion that Aldenville was declining were inappropriate and misguided (See Comment 15). Also, the Aldenville neighborhood is made up of two census tracts; 8110 and 8112. The street improvements, took place in 8110 not 8112. According to the Technical Addendum, census tract 8110 experienced a significant percentage decline in family poverty. Further, the improvements would more than likely increase property values and therefore increase the homeowners at risk.

We also noted that the City, in its response, used racial descriptions of populations in particular neighborhoods. These descriptions are not appropriate and the Office of Inspector General disavows such characterizations.

- Comment 24 Federal procurement regulations require a sound documented reason for rejecting bids. The letter provided by the Parks and Recreation to the Procurement Officer did not cite the reason for rejecting the bids. Further, rejecting the bids because the city did not have enough money available at the time is not a sufficient reason considering that the city should not have put the work out to bid, as it was designed. The independent cost estimate showed that the project would cost over

\$446,000 for construction, and the Parks and Recreation only had \$210,000 available at the time, of which \$34,300 was for the architect.

The finding illustrates our reasons for determining that the City did not promote full and open competition to the maximum extent possible.

- Comment 25 The project costs are in question because of several factors, one of which was the necessity of the project not being adequately documented. Further, repairs and maintenance work are ineligible costs of the CDBG program. Lastly, it is the responsibility of Parks and Recreation to maintain the City's parks, which includes upgrading and replacing items as needed. As noted previously, we cannot comment on a 22 year old project, which we did not review.
- Comment 26 The Aldenville neighborhood was not a low-to-moderate income area and therefore the project did not meet the national objective. Further, according to the City, the park was a "neighborhood park." The neighborhood had a 42% low-to-moderate income population, and also, as stated by the City, residents from all over the City attended the summer concerts.
- Comment 27 If the City had the ability to appropriate another \$250,000 for the park, then it should have done so when it received the bids. Instead the city rejected the bids due to the high costs. Once the Aldenville project is complete with landscape plantings, the actual costs for this project will be more than \$450,000, which is within the range of the cost estimated by the architect (\$446, 855) at the time the city rejected the bids in 2005.
- Comment 28 The City did not act prudently in the award of funds and can not support the reasonableness of the project costs (See Comments 3, 6, 7, 9, 10 and 22).
- The City hired a consultant, who provided several recommendations for addressing needs in the City's various neighborhoods. These recommendations, many of them for the City's poorer and needier neighborhoods, were changed and applied, instead, to the Aldenville neighborhood. In the consultant's report, the Aldenville neighborhood only had two recommendations. This is not a prudent use of the consultant's recommendations or of the CDBG funding.
- Comment 29 Although the Mayor serves as the City's administrator, funding received from the federal government is directed to the City, for the City and not the Mayor. The City and HUD have procedures in place to identify and select eligible project candidates; however, in this case these procedures and eligibility requirements were ignored because of the Mayor's direct involvement. The Aldenville neighborhood projects were not eligible because they do not meet the federal national objective requirements (See Comments 10 and 11 and Audit Finding 1). The City plans to change the funding source for the gazebo to non-federal funds.



- Comment 30 As noted in communications we received from the current mayor, we were advised that the City is planning to change the funding sources (from CDBG) to pay for the gazebo. To date, the City has not changed its position that it does not agree to repay the remaining \$1,162,501 (the project cost less the cost of the gazebo).
- Comment 31 Federal regulations were violated. (See Comments 9 and 10 and Audit Finding 1).
- Comment 32 The City did not provide any documents to support its claim that it 1) consulted with the Parks and Recreation Superintendent on service areas, or that 2) the use of the National Recreation and Parks Association standards to determine park service areas was appropriate. During the audit, the Parks and Recreation Superintendent advised that project eligibility is determined by the Office of Community Development. The use of National Recreation and Parks Association standards to determine park service areas may not produce an area served in accordance with CDBG program requirements. The determination of the area served by an activity is critical to the area benefit subcategory. The CDBG program requires that the nature and location of the activity, accessibility issues, and the availability of comparable activities, be considered in making the determination of the area served. The City's records did not show that the above factors were considered.
- Comment 33 The City was unable to demonstrate that the targeting of Aldenville was the need for a comprehensive rather than piecemeal approach to neighborhood revitalization (See Comments 3).
- Comment 34 HUD regulations indicate that the location of an activity alone does not demonstrate an area benefit. HUD guidance provides that the "mere location of an activity in a low and moderate income area, while generally a primary consideration, does not conclusively demonstrate that the activity benefits low and moderate income persons." In addition 24 CFR [Code of Federal Regulations] 570.208(a) provides that "[The] area need not be coterminous with census tracts or other officially recognized boundaries but must be the entire area served by the activity" (See Comment 32).
- Comment 35 The use of National Recreation and Parks Association standards to determine park service areas may not produce an area served in accordance with CDBG program requirements (See Comment 32).
- Comment 36 An audit includes the extensive examination of information and records, and exceeds what is performed during a HUD monitoring review. In its review, HUD interviewed officials of the Office of Community Development and reviewed file records (some of which were not accurate). HUD did not review records of the Parks and Recreation or its board minutes. In addition, we noted that file documents in the Office of Community Development showed that the activity for

Rivers Park was for playground equipment, not pool repairs and pool house renovations.

Comment 37 While Rivers Park and Sarah Jane Sherman Park are located in an area considered as a low-to-moderate-income area, there is evidence that these parks as a whole may not “principally benefit” low-to-moderate-income persons. Rivers Park and Sarah Jane Sherman Park are both large in size and, based on information provided by Parks and Recreation, the service area for these parks is broader than currently defined in the projects’ eligibility documentation maintained by the Office of Community Development. For example, Rivers Park and Sarah Jane Sherman Park were used on a regular basis by the Chicopee Public Schools’ high school (i.e., citywide) athletic departments for soccer, football, softball, and baseball team practices and games with other cities’ and towns’ various athletic teams. These two parks were also used by other local athletic organizations throughout the city and other areas. Parks and Recreation staff acknowledged that Rivers Park, Sarah Jane Sherman Park, and the area known as Aldenville Common served a citywide area.

According to the request for funding submitted by Parks and Recreation to the Office of Community Development, the parking lot improvements at Sarah Jane Sherman Park were proposed to improve ball field accessibility.

Comment 38 We agree that based on attendance sheets for Rivers Pool it is demonstrated that the pool and pool house facilities “principally benefit” low-to-moderate income persons. This additional information was provided subsequent to the presentation of our finding outlines to the City. The finding’s recommendation (2A) takes this fact into consideration in regards to determining the actual service areas (See Comment 37).

Comment 39 In its response, the City noted that “people from other neighborhoods do not use passive parks such as Aldenville Commons on a regular basis. Concerts held once a week in the summer may attract some residents from outside the area, but attendance is limited physically by the size of the Common itself (7,600 square feet), amount of parking and traffic congestion in the area.” This statement is contrary to information included in correspondence between the Parks and Recreation and the Office of Community Development on project origination documents dated May 2004. Specifically, the Parks and Recreation correspondence states “The following project request will help modernize and upgrade one of our most used facilities which needs a serious facelift.”

Aldenville Common was known for its summer concerts and people came from all over the city to attend the concerts. This should have been considered in its determination of the service area.

Comment 40 The determination of the area served by an activity is critical to the area benefit subcategory (See Comments 32 and 34).

- Comment 41 The audit noted that the City’s use of block numbering area percentages was not accurate since the street improvements did not always include all, or even a majority, of the streets within the block numbering area, and that the City only paved certain streets within block numbering areas. This is based on census data for the block groups that showed that in some instances, the percentage of persons making above \$35,000 could be up to 50 percent and the percentage of persons making above \$50,000 was, in some instances, above 20 percent.
- Comment 42 The finding’s recommendation (2A) takes this fact into consideration in regards to determining the actual service areas (See Comments 37 and 38).
- Comment 43 An audit includes the extensive examination of information and records, and exceeds what is performed during a HUD monitoring review (See Comments 36 and 37).
- Comment 44 The finding’s recommendation (2A) describes factors in regards to determining the actual service areas (See Comment 37).
- Comment 45 The “worksheet” showing the calculations for the low-to-moderate income benefit had a date of “11/93” and was from Sheridan Street Housing Coop residents. According to the City, these Coop residents were surveyed because the families that live there used the park. It is not clear how the City justified using the incomes from these Coop residents to support the service area of a park located outside of the Coop area, and further down the street from the Coop. Further, the Sheridan Street Housing Cooperative already had a park located within the confines of the housing cooperative.
- Comment 46 The audit noted that the City’s use of block numbering area percentages was not accurate and the City’s Office of Community Development did not adequately determine the actual service area (See Finding 2 and Comments 32 through 45).
- Comment 47 The City’s Office of Community Development did not adequately determine the actual service area (See Finding 2 and Comments 32 through 45).
- Comment 48 The deficiencies we identified in the procurement actions taken by the city for the Aldenville Common project included:
- the necessity of the work was not adequately documented;
  - there was an apparent conflict of interest between a Parks and Recreation Commission member, who was the former mayor’s wife, and the project;
  - there was an apparent conflict of interest with the former mayor and the project;
  - the architect’s contract for this project was not procured properly;
  - the specifications included proprietary items, but did not conform to Massachusetts State procurement regulations

- the project was initially put out to bid when all of the funds necessary were not available;
- these initial bids were then rejected without a sound documented reason;
- the revised invitation for bid did not provide a clear and accurate description of the work to be performed;
- the City unnecessarily required DCAM certification on the initial invitation for bid based on the gazebo being part of the bid;
- the rebid of the project did not provide for a date and time for a pre-bid meeting; and
- the City did not go back out for bid for \$81,175 in additional work, but instead issue a change order, which according to the Massachusetts Attorney General’s Office would be in violation of State regulations.

Based on the numerous deficiencies cited above, the city did not promote free and open competition to the maximum extent possible (See Comment 3).

Comment 49 In regards to the nature and extent of the work at Rivers Park, the architect stated in his letter that the work was for substantial repairs. HUD regulations state that maintenance and repair costs are not eligible to be paid with CDBG funds. HUD regulations do not define “repairs.” Therefore, we considered the repairs as unsupported, rather than ineligible costs. We recommended that HUD make the determination as to whether the costs cited are maintenance and repair items. Correspondence we reviewed during the audit indicated that the work was maintenance and repairs in nature.

Further, the architect’s letter also stated that he performed an inspection of the work with a concrete repair technician from the Sika Corporation. Based on this new information, we question the appropriateness of requiring proprietary manufactured products (from Sika Corp.) throughout the specifications. The City should provide a valid justification to HUD for using proprietary items for this project.

Comment 50 Repairs are not eligible CDBG costs. Also, the area of the City identified as “downtown” is not primarily residential in nature, and therefore, these costs may not meet the low-to-moderate income national objective. HUD should review these costs in detail to determine whether the City met a national objective for these costs.

Comment 51 We agree that it is not necessary to separate out the cleaning costs from the overall project. The cleaning costs could be bid and included in the overall project. However, CDBG funds should not have funded the cleaning portion (\$25,000 of the total \$137,000) of the project. In this case, the City should have used another funding source for that portion of the overall project.

Further, based on the additional information provided in the City’s response, it is not clear that this activity itself could meet the “low-to-moderate area benefit”

national objective. Specifically, the service area may not meet the “primarily residential” requirement.

In its response, the City notes that this specific project was designed, bid and constructed to make sure that the Public Works succeeded in its efforts to improve the sewer service to the downtown area. However, according to the RKG Housing Market Study issued in September 2003 and April 2004, the “downtown” setting, known as the “West End Neighborhood” has a population of just under 2000. This represents only 3.6% of the city’s population base. The residential acreage in this area accounts for 1% of the city’s residential properties, while commercial properties account for 2.1% of the city’s commercial acreage.

Based on additional information provided by the City we removed \$37,000 from the \$88,000 in costs initially classified as ineligible. Based on this revision, several figures were revised throughout the report accordingly.

- Comment 52 The project costs are in question because of several factors, one of which was the necessity of the project not being adequately documented (See Comment 25).
- Comment 53 The study addressed traffic mitigation options for the North Chicopee Street Industrial Park.
- Comment 54 The \$62,975 bid received by the City differed substantially from the cost estimate provided by the Parks and Recreation. The quote provided by the Parks and Recreation for furnishing and delivering the post and beam gazebo was \$20,862, plus \$8,280 in additional options. The concrete pad/foundation for the gazebo was already installed under the prior contract with that contractor. It is unclear how the City determined this amount did not substantially differ from the bid it received. Parks and Recreation should have required a cost breakdown from the contractor to ensure that the costs were reasonable and that the profit was not excessive.
- Comment 55 Federal regulations state that in order to use the sealed method of procurement, there needs to be a complete, realistic, and accurate specification or purchase description. If a realistic estimate cannot be determined, then the city should have considered other contract types such as a time and materials type contract, which would require a ceiling price be included in the contract. Further, if the city had performed a cost estimate and a cost analysis, it should have documented them, especially when Federal funds would be used under the contracts.

Three contractors were awarded contracts with the city, some in which included work periods over the past 10 years. Given that the specifications were not realistic and accurate, and the same contractors who won the bids would have known this, it could have given these contractors an unfair advantage over other bidders.

We agree that the city can extend the option years, if there is a documented reason showing that it is more economical to do so.

Comment 56 We conducted a detailed review of the disbursement records, including warrants and invoices, because the City's financial system did not allow the tracing of costs and expenditures. Further, Public Works' project files did not provide an adequate audit trail, and as a result, it was necessary to manually examine each payment request and the accompanying source documentation submitted by Public Works. We were not able to trace payments made by Public Works back to the original CDBG contract between Public Works and the Office of Community Development using the City's financial system (See Comment 3).

## Appendix C

### APPLICABLE CRITERIA AND VIOLATIONS

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<p>24 CFR [Code of Federal Regulations] 570.611(b) Conflict of interest</p> <p>Playing by the Rules: A Handbook for CDBG Subrecipients on Administrative Systems-Section 6.12 Conflict of Interest</p> <p>Memorandum dated June 16, 1986 from Alfred C. Moran, Assistance Secretary for Community Planning and Development to Kenneth J. Finlayson, Regional Administrator, Regional Housing Commissioner.</p> <p>Written agreements between the Office of Community Development and Public Works and Parks and Recreation covering Aldenville activities – Article XVI -1 and 2, Conflict of Interest</p>	<p>The City violated conflict-of-interest regulations. (Finding 1)</p>
<p>Community Development Advisory Committee Board Minutes dated December 3, 2003</p>	<p>Funds were not available to address neighborhoods with much greater needs. (Finding 1)</p>
<p>Office of Management and Budget] Circular A-87-Cost Principles for State, Local, and Indian Tribal Sound Management Practices: Attachment A (c) (1) (e) and (c) (2) (b) and (d) - General Principles for Determining Allowable Costs.</p> <p>City policies that apply uniformly to both Federal awards and other activities of the governmental unit included emphasizing “the need for a comprehensive rather than piecemeal approach to neighborhood revitalization” and the "targeting CDBG funds to one eligible neighborhood at a time"</p>	<p>The neighborhood was inappropriately classified as a CDBG “target area”. (Finding 1)</p>

<p>24 CFR [<i>Code of Federal Regulations</i>] 570.208(a)(1) Criteria for national objectives.</p>	
<p>24 CFR [<i>Code of Federal Regulations</i>] Part 91.105 Citizen participation plan; local governments</p> <p>Office of Management and Budget Circular A-87-Cost Principles for State, Local, and Indian Tribal Sound Management Practices: Attachment A (c) (1) (e) - General Principles for Determining Allowable Costs.</p> <p>The City of Chicopee’s “Citizen Participation Plan” as certified to HUD in its July 1, 2004 Annual Action Plan.</p> <p>24 CFR [<i>Code of Federal Regulations</i>] 570.506 (e), Records to be maintained</p>	<p>The public process was not followed. (Finding 1)</p>
<p>24 CFR [<i>Code of Federal Regulations</i>] 85.36 Procurement</p> <p>Designing and Constructing Public Facilities, Recommended Practices, Sources of Assistance, Legal Requirements by Commonwealth of Massachusetts Office of the Inspector General Gregory W. Sullivan Inspector General Fall 2005</p> <p>Inspector General Proprietary Specifications in Public Construction Projects July 2003 Office of the Inspector General Commonwealth of Massachusetts Gregory W. Sullivan</p>	<p>Significant deficiencies were found in procurement actions related to the Aldenville projects. (Finding 1)</p>
<p>24 CFR [<i>Code of Federal Regulations</i>] 570.200(a)(5) Determination of eligibility</p> <p>Office of Management and Budget Circular A-87-Cost Principles for State, Local, and Indian Tribal Sound Management Practices: Attachment A (c) (1) (e) and (j) and (c) (2) (b), (d) and (e) - General Principles for Determining Allowable Costs.</p>	<p>The Aldenville activities did not meet CDBG program eligibility requirements. (Finding 1)</p>



<p>24 CFR [Code of Federal Regulations] 570.208(a)(1) Criteria for national objectives</p> <p>24 CFR [Code of Federal Regulations] 570.506 (b), Records to be maintained</p> <p>CDBG Desk Guide: Community Development Block Grant Program - Guide to National Objectives and Eligible Activities for Entitlement Communities.</p> <p>Previous HUD Opinion dated April 19,1993 for MEMORANDUM FOR: John E. Wilson, Deputy Regional Administrator - Regional Housing Commissioner, FROM: Don I. Patch, Acting Deputy Assistant Secretary for Grant Program.</p>	<p>The City did not accurately determine or document the actual service areas for more than \$4.3 million in CDBG-funded public improvement activities. (Finding 2)</p>
<p>24 CFR [Code of Federal Regulations] 570.506, Records to be maintained</p> <p>24 CFR [Code of Federal Regulations] 570.490(d) Recordkeeping requirements</p>	<p>Records Prematurely Purged for One Park (Finding 2)</p>
<p>24 CFR [Code of Federal Regulations] 570.501 (b), Responsibility for Grant Administration</p>	<p>The City's Office of Community Development did not provide adequate oversight and monitoring of CDBG funds provided to Public Works and Parks and Recreation to ensure that funds were used in accordance with CDBG program requirements. (Finding 3)</p>
<p>24 CFR [Code of Federal Regulations] 570.207 (b) (2), Ineligible activities</p>	<p>CDBG regulations provide that costs associated with the maintenance and repair of publicly owned streets, parks, playgrounds, and water and sewer facilities are not eligible CDBG costs. The general rule is that any expense associated with repairing, operating, or maintaining public facilities, improvements, and services is ineligible. (Finding 3)</p>
<p>24 CFR [Code of Federal Regulations] 85.36 Procurement</p>	<p>The City's Office of Community Development did not ensure that \$5 million in procurements and contracts awarded by other City departments, in whole or in part using CDBG funds, always followed federal</p>

	procurement and contract procedures as required. (Finding 3)
24 CFR [ <i>Code of Federal Regulations</i> ] 85.20 Standards for financial management systems	The Office of Community Development did not ensure that CDBG funds administered by other City departments followed federal financial management requirements. (Finding 3)
24 CFR [ <i>Code of Federal Regulations</i> ] 570.603, Labor Standards	The Office of Community Development did not ensure that Parks and Recreation and Public Works complied with federal labor requirements for procurements funded using CDBG funds. (Finding 3)
24 CFR [ <i>Code of Federal Regulations</i> ] 570.208(a) (1) Criteria for national objectives.	Primarily residential (SEE COMMENT 51 in OIG evaluation of Auditee Comments)