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January 15, 2010

**MEMORANDUM NO:
2010-FW-0801**

MEMORANDUM FOR: Dominique Blom
Deputy Assistant Secretary for Public Housing Investments, PI

//signed//
FROM: Gerald R. Kirkland
Regional Inspector General for Audit, 6AGA

SUBJECT: HUD Guidance on American Recovery and Reinvestment Act Capital Fund
Physical Needs Assessment

INTRODUCTION

We reviewed the U. S. Department of Housing and Urban Development's (HUD's) guidance on using American Recovery and Reinvestment Act of 2009 (Recovery Act) capital funding for physical needs assessments. We performed the review due to concerns that came to our attention while performing a Recovery Act capacity review of a public housing agency (grantee). Our objective was to determine whether HUD's guidance to grantees on using Recovery Act capital funds for physical needs assessments was sufficient to ensure grantees had the information needed to avoid missing the grant obligation deadline of March 17, 2010.

We provided a draft report to HUD on January 5, 2010, and received comments on January 11, 2010. While agreeing with the conclusions, the comments mostly discussed a draft recommendation that we removed based upon the actions that HUD took.

METHODOLOGY AND SCOPE

We reviewed HUD's guidance provided between February and December 2009 related to its requirement that grantees perform a physical needs assessment as a condition of Recovery Act capital fund formula grants.¹ We reviewed the language in the grant agreement,² related HUD notices, and information posted on HUD's internet site. We also discussed the matter with HUD staff responsible for developing revised requirements for physical needs assessments. We performed the work in December 2009.

¹ We did not review HUD's compliance with its clearance procedures for issuing directives.

² Form HUD-53012, American Recovery and Reinvestment Act (ARRA) Formula Grant Capital Fund Program (CFP) Amendment To The Consolidated Annual Contributions Contract.

BACKGROUND

HUD allocates capital funds annually via a formula to grantees for development, financing, modernization, and management improvements. HUD also administers the capital fund financing program that authorizes grantees to borrow funds conditioned on a promise to pay the debt service from capital fund grants. Grantees were required to submit a physical needs assessment to HUD as part of the comprehensive plan every 6th year following the initial year of participation in the capital fund program.³

On February 17, 2009, the President signed the Recovery Act. Title XII of the Recovery Act appropriated \$4 billion for public housing agencies to carry out capital and management activities, as authorized under section 9 of the United States Housing Act of 1937. The legislation required that \$3 billion of these funds be distributed to grantees by formula with the remaining \$1 billion to be made available through a competitive process.

HUD required all grantees to perform physical needs assessments, as specified by HUD, as a condition of the Recovery Act capital fund formula grant.⁴ However, HUD did not require grantees to complete the assessments before commencing modernization work using the grant funds.⁵ The grant agreements were effective March 18, 2009.

In a “frequently asked questions” document dated July 17, 2009, posted to its internet site, HUD wrote that it was in the process of revising the requirements for physical needs assessments and advised grantees not to undertake a Recovery Act physical needs assessment until it provided further guidance. In another “frequently asked questions” document dated July 24, 2009, HUD advised grantees not to obligate Recovery Act funds for physical needs assessments because it had not completed revising the requirements. There was no indication whether all grantees received this guidance.

In August and September 2009, we audited a large grantee⁶ that budgeted funds for a physical needs assessment but had not made obligations because it was waiting for guidance from HUD. The grantee had not followed HUD’s guidance because it did not review the frequently asked questions on HUD’s internet site. We recommended the grantee revise its grant budget to reallocate the funds to other eligible activities.

Since HUD did not require grantees to perform physical needs assessments before commencing Recovery Act work, there did not appear to be a nexus between the physical needs assessments and the Recovery Act capital fund grants. Furthermore, the Recovery Act itself did not establish the requirement; HUD added it to the grant agreement on its own accord. HUD stated the physical needs assessments would be useful in determining the impact of the Recovery Act funds, even though they would be performed after Recovery Act work was substantially complete.

³ 24 *Code of Federal Regulations* 968.

⁴ Section 7(k) of the grant agreement.

⁵ Notice PIH 2009-12 (HA), issued March 18, 2009.

⁶ Report 2010-FW-1001, *Dallas Housing Authority, Dallas, Texas, Demonstrated Capacity to Administer its Recovery Act Capital Fund Formula Grant*, issued December 18, 2009.

RESULTS OF REVIEW

We discussed the physical needs assessment requirement with HUD and raised the concern that other grantees may be waiting to obligate funds for physical needs assessments once they received guidance from HUD. Grantees risked losing the funds because the March 17, 2010 obligation deadline was fast approaching. The Recovery Act required HUD to recapture any funds not obligated by that date. HUD agreed to contact grantees and clarify its guidance on the matter.

In part because of our concerns, HUD sent an electronic message on December 18, 2009, to all grantees reminding them about the information posted on its internet site regarding physical needs assessments. HUD restated that to avoid violating obligation and expenditure deadlines grantees should not use Recovery Act capital funds to conduct required physical needs assessments.⁷ HUD also provided a link to its website and an attachment containing the specific information referenced in the electronic message. We appreciate HUD quickly clarifying its position. We have no further recommendations.

⁷ HUD recommended that grantees budget future capital funding allocations for physical needs assessments.