



Issue Date	August 16, 2011
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Audit Report Number	2011-CH-1013
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TO: Shawn Sweet, Director of Public Housing Hub, 5DPH

//signed//

FROM: Kelly Anderson, Regional Inspector General for Audit, (Region V), 5AGA

SUBJECT: The Youngstown, OH, Metropolitan Housing Authority Needs To Improve Its Procurement Process

HIGHLIGHTS

What We Audited and Why

We audited the Youngstown Metropolitan Housing Authority's American Recovery and Reinvestment Act of 2009 Public Housing Capital Fund Stimulus formula and competitive grants. The audit was part of the activities in our fiscal year 2011 annual audit plan. We selected the Authority for audit based on the U.S. Department of Housing and Urban Development's monitoring review and a recent newspaper article. Our objective was to determine whether the Authority administered its grants in accordance with Recovery Act, HUD's, and its requirements.

What We Found

The Authority's procurement process had weaknesses. Specifically, the Authority did not ensure that contracts were awarded to the contractor that provided the best overall value to the Authority. This condition occurred because the Authority did not properly evaluate the contractors' proposals by not conducting a review of each evaluator's reasoning behind his or her scoring of the contractors. As a result, the Authority used \$97,705 in formula grant funds contrary to its annual contributions contract with HUD and its procurement requirements. As a result, HUD lacked assurance that the Authority effectively managed its grant.

We informed the Authority's interim executive director and the Director of HUD's Cleveland Office of Public Housing of minor deficiencies through a memorandum, dated August 11, 2011.

What We Recommend

We recommend that the Director of HUD's Cleveland Office of Public Housing require the Authority to (1) reimburse \$97,705 from non-Federal funds to HUD for transmission to the U. S. Treasury for the inappropriate use of grant funds and (2) implement adequate procedures to ensure that its procurement policy requirement that a contract shall be made to the lowest responsive and responsible bidder unless justified in writing based on price and other specific factors is followed.

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

Auditee's Response

We provided our review results to the Director of HUD's Cleveland Office of Public Housing and the Authority's former executive director during the audit. We also provided our discussion draft audit report to the Authority's interim executive director, its board chairman, and HUD's staff during the audit. We held an exit conference with the Authority's interim executive director on August 5, 2011.

We asked the Authority's interim executive director to provide comments on our discussion draft audit report by August 8, 2011. The Authority's interim executive director provided written comments, dated August 10, 2011. The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix B of this report.

TABLE OF CONTENTS

Background and Objective	4
Results of Audit	
Finding: The Authority’s Procurement Process Had Weaknesses	5
Scope and Methodology	8
Internal Controls	9
Appendixes	
A. Schedule of Questioned Costs	11
B. Auditee Comments and OIG’s Evaluation	12
C. Federal and Authority Requirements	14

BACKGROUND AND OBJECTIVE

The Youngstown Metropolitan Housing Authority was established in 1933 under section 3735.27 of the Ohio Revised Code and is governed by the U.S. Housing Act of 1937, as amended, and subject to regulations under Title 24 of the Code of Federal Regulations. The Authority is governed by a five-member board of commissioners with two members appointed by the mayor of Youngstown, OH, and one member each appointed by the Mahoning County Probate Court, Mahoning County Common Pleas Court, and Mahoning County commissioners. The board appoints the executive director. The executive director has general supervision over the administration of the business and affairs of the Authority, subject to the discretion of the Authority, and is charged with the management of the Authority's housing projects.

The Public Housing Capital Fund grant is administered by the U.S. Department of Housing and Urban Development's Office of Public Housing. The grant funds are available for capital and management activities, including development, financing, and modernization of public housing projects.

On February 17, 2009, the President signed the American Recovery and Reinvestment Act. The Recovery Act provided an additional \$4 billion to public housing agencies to carry out capital and management activities, including modernization and development of public housing. The Recovery Act required that \$3 billion of these funds be distributed as formula grants and the remaining \$1 billion be distributed through a competitive process. In March 2009, the Authority received a formula grant for nearly \$3.9 million. It was awarded a competitive grant totaling nearly \$9.9 million in September 2009.

According to the Recovery Act, the Authority was required to obligate 100 percent of its grant funds within 1 year, expend 60 percent of the funds within 2 years, and fully expend the funds within 3 years. As of May 2011, the Authority had expended all of its formula grant funds. As of June 2011, it had obligated 100 percent and expended nearly 47 percent of its competitive grant funds. The Authority was behind schedule with these expenditures due to an abnormal amount of rain in the spring of 2011, which delayed construction work. However, it stated that it would meet each of the expenditure deadlines.

Our selection of the Authority for audit was based on HUD's monitoring review and a recent newspaper article. An October 14, 2010, article in "The Vindicator," Youngstown's newspaper, reported that the Authority's former executive director stated that prudent use of Federal stimulus funds put the Authority in a position to contribute \$25,000 to the United Way's campaign. According to the documentation provided by the Authority, the donation was made from an account containing non-Federal funds.

Our objective was to determine whether the Authority followed Federal and its requirements regarding the administration of its Recovery Act capital fund grants. Specifically, we wanted to determine whether the Authority properly procured contracts related to the above-mentioned grants and appropriately used Federal funds for eligible expenditures.

RESULTS OF AUDIT

Finding: The Authority's Procurement Process Had Weaknesses

The Authority's procurement procedures had weaknesses. Specifically, the Authority did not ensure that contracts were awarded to the contractor that provided the best overall value to the Authority. This condition occurred because the Authority did not properly evaluate the contractors' proposals by not conducting a review of each evaluator's reasoning behind his or her scoring of the contractors. The Authority's procurement policy contained a justification requirement for evaluators, but it was not followed. As a result, the Authority used \$97,705 in formula grant funds contrary to its annual contributions contract with HUD and its procurement requirements. Therefore, HUD lacked assurance that the Authority effectively managed its grant.

The Authority's Procurement Procedures Had Weaknesses

The Authority did not follow its annual contributions contract with HUD and its procurement requirements when awarding a contract to contractor A for the design and installation of emergency generator systems for all senior buildings within the Authority (see appendix C for annual contributions contract definition, and Federal and Authority requirements). Contractor A's accepted bid was for \$702,756, or \$97,705 higher than the lower bid of \$605,051 made by contractor B.

The Authority used the competitive proposal method to award the contract. Unlike sealed bidding, the competitive proposal method permits consideration of technical factors other than price. The award is made on the basis of the proposal that represents the best overall value to the Authority, considering price and other factors. The Authority's procurement policy states that the contract shall be made to the lowest responsive and responsible bidder unless justified in writing based on price and other specific factors.

When the Authority evaluated the proposals of contractors A and B, it awarded 89 of 100 points to contractor A and 87 points to contractor B. The scoring process was divided into three areas: previous experience worth 35 points, approach strategy worth 35 points, and cost worth 30 points. Cost was a constant for all evaluations, with 30 points being awarded to contractor B and 26 points being awarded to contractor A. The cost points were determined by the Authority's contract specialist, who used the dollar amount of the bids as the basis for the number of points awarded. The evaluation used five separate evaluators, whose totals were added up and averaged to arrive at the final composite score.

The Authority used this evaluation to award contractor A the contract. Of the five evaluators, two scored contractor B ahead of contractor A, one scored them even, and one scored contractor A ahead by one point. The remaining evaluator scored contractor A ahead by 14 points. Due to this one outlier, the totals were skewed to give contractor A the highest average point total. Due to the difference in cost, \$97,705, or 16 percent higher than contractor B's bid, the Authority should have taken a closer look at the one outlier evaluator's reasoning behind the scoring before the bid was awarded. Without this detailed evaluation, the Authority did not ensure that the contract was awarded to the contractor that had the best overall value to the Authority or to the lowest bidder as required by its annual contributions contract with HUD.

The Authority's procurement policy required that the evaluators give justification, written or otherwise, for their reasoning in awarding points to the contractors in their evaluations. If the one outlier evaluator's awarded points were removed from the evaluation, the contract would clearly have been awarded to contractor B for \$97,705 less than the awarded amount. Because its procurement procedures did not reflect its procurement policy requirement, the Authority awarded the contract contrary to its annual contributions contract with HUD and its procurement requirements (see appendix C).

The Authority's former executive director stated that the Authority should have identified the outlier and reviewed notes to determine the reasoning behind the scoring. He also added that the Authority was changing its procedures to ensure that when it uses the competitive proposal method to award a contract, it will ask each evaluator to write detailed notes to justify his or her scoring and use them in its evaluation.

Conclusion

The Authority's procurement procedures had weaknesses. Specifically, the Authority did not ensure that contracts were awarded to the contractor that provided the best overall value to the Authority. This condition occurred because the Authority's procurement policy was not followed. This deficiency resulted in the Authority not properly evaluating the contractors' proposals by not conducting a review of each evaluator's reasoning behind his or her scoring of the contractors. As a result, the Authority misused \$97,705 of its formula grant funds when it failed to comply with HUD's and its requirements. Therefore, HUD lacked assurance that the Authority effectively managed grant funds.

Recommendations

We recommend that the Director of HUD's Cleveland Office of Public Housing require the Authority to

- 1A. Reimburse \$97,705 from non-Federal funds to HUD for transmission to the U. S. Treasury for the inappropriate use of the funds cited in this finding.
- 1B. Implement adequate procedures to ensure that its procurement policy requirement that a contract shall be made to the lowest responsive and responsible bidder unless justified in writing based on price and other specific factors is followed.

SCOPE AND METHODOLOGY

To accomplish our objectives, we reviewed

- Applicable laws and regulations; HUD's program requirements at 24 CFR (Code of Federal Regulations) Parts 50, 58, 85, 135, and 968; HUD Office of Public and Indian Housing notices; and HUD Handbook 7460.8, REV-2.
- The Authority's accounting records, bank statements, contract files, policies and procedures, board meeting minutes for March 2009 through March 2011, organization chart, program annual contributions contracts with HUD, and 5-year annual plans.
- The Authority's Recovery Act reports submitted to FederalReporting.gov and HUD's Recovery Act Management and Performance System.
- HUD's monitoring report for the Authority's Recovery Act funds and projects, dated March 21, 2011.
- HUD's files for the Authority.

We also interviewed the Authority's employees and HUD staff.

We reviewed the Authority's two Recovery Act grants that had a total of four contracts, three construction contracts and one purchase order. The three construction contracts totaled more than \$12 million, and the purchase order was for \$40,000. We reviewed all four contracts. We also reviewed 100 percent of the supporting hardcopy documentation, including bank statements and invoices, for all expenditures as of April 2011.

We performed onsite audit work at the Authority's office at 131 West Boardman Street, Youngstown, OH, between April 7 and June 30, 2011. The audit covered the period March 18, 2009, through March 31, 2011, but was expanded as determined necessary.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

INTERNAL CONTROLS

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

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

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

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

- Effectiveness and efficiency of operations – Policies and procedures that the audited entity has implemented to provide reasonable assurance that a program meets its objectives, while considering cost effectiveness and efficiency.
- Reliability of financial reporting – Policies and procedures that management has implemented to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements in accordance with generally accepted accounting principles.
- Compliance with applicable laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

We evaluated internal controls related to the audit objective in accordance with generally accepted government auditing standards. Our evaluation of internal controls was not designed to provide assurance on the effectiveness of the internal control structure as a whole. Accordingly, we do not express an opinion on the effectiveness of the Authority's internal control.

Significant Deficiency

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

- The Authority lacked adequate policies and procedures to ensure that contracts were awarded to the contractor that provided the best overall value to the Authority (see finding).

Separate Communication of Minor Deficiencies

We informed the Authority's interim executive director and the Director of HUD's Cleveland Office of Public Housing of minor deficiencies through a memorandum, dated August 11, 2011.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Ineligible 1/
1A	<u>\$97,705</u>
Total	<u>\$97,705</u>

- 1/ Ineligible costs are those costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

YOUNGSTOWN

METROPOLITAN HOUSING AUTHORITY

August 10, 2011

Mr. Ronald Farrell
Assistant Regional Inspector General for Audit
U.S. Department of Housing and Urban Development
Office of the Inspector General
200 North High Street, Room 334
Columbus, Ohio 43215

Dear Mr. Farrell:

Please accept this letter as a response to the two recommended courses of action in the discussion draft audit report sent to Youngstown Metropolitan Housing Authority (YMHA) dated July 26, 2011. The below response is enumerated to correspond to the numbered recommendations.

Comment 1

(1) YMHA acknowledges that the Authority's procurement procedure is not specific regarding the manner in which justification in writing shall appear. Please see below for YMHA's rectification of this issue. It is the position of YMHA; however, that the scored evaluations were, prior to the below modifications, representative of a written justification. This places into question whether or not procurement policy was violated.

Comment 2

(2) YMHA is at present, evaluating an amendment to the procurement policy to include the definition of the numeric points at which an outlying score must be reviewed and/or removed from consideration. Additionally, well in advance of the audit, the Authority implemented procedures to ensure that its procurement policy requirement: "a contract shall be made to the lowest responsive and responsible bidder, unless justified in writing, based on price and other specific factors" was made more clear. To reflect this procedural change, YMHA has recently modified the document provided to evaluators. Attached please find a sample of the revised Evaluation Sheet noting ancillary notes are required. A notation contained on the evaluation sheet states that any evaluation sheet received by procurement without the required ancillary notes will be returned to the evaluator for correction of this deficiency. Since this process has been in effect, there have been Evaluation Sheets returned to the evaluator for insufficient documentation.

Thank you in advance for your consideration and if you are in need of additional information, please contact me at 330-7442161.

Sincerely,

Carmelita Douglas
Interim Executive Director

CC: L. Nathaniel Pinkard, Board Chairman

131 West Boardman Street· Youngstown, OH 44503-1399
330-744-2161: Fax 330-742-4826 TDD: 330-742-2996

OIG Evaluation of Auditee Comments

Comment 1 The scored evaluations were numerical with no written comments to justify the numerical scoring. The Authority's Statement of Procurement Policy was specific with regards to making the award to the lowest responsive and responsible bidder unless justified in writing.

Comment 2 The Authority's proposed actions should improve its program operations, if fully implemented.

Appendix C

FEDERAL AND AUTHORITY REQUIREMENTS

The American Recovery and Reinvestment Act of 2009, Section 1605, states that public housing agencies shall obligate 100 percent of the funds within 1 year of the date on which funds become available to the agency for obligation, shall expend at least 60 percent of funds within 2 years of the date on which funds become available to the agency for obligation, and shall expend 100 percent of the funds within 3 years of such date.

Annual Contributions Contract – a contract entered into between HUD and the authority, setting forth terms and conditions for the operation, modernization, and development of public housing.

Section 110(A) of the Authority’s consolidated annual contributions contract with HUD, dated June 15, 1970, states that the local authority shall not award any construction or equipment contract to other than the lowest responsible bidder.

Section III.B. of the Authority’s Statement of Procurement Policy states that the award shall be made to the lowest responsive and responsible bidder unless justified in writing based on price and other specific factors, such as architect-engineer contracts. If nonprice factors are used, they shall be specified in the bidding documents.