



U.S. Department of Housing and Urban Development
Office of Inspector General, Region VI
819 Taylor Street, Suite 13A09
Fort Worth, Texas 76102

(817) 978-9309 **FAX** (817) 978-9316
<http://www.hud.gov/offices/oig/>
OIG Fraud Hotline 1-800-347-3735

MEMORANDUM NO:
2010-FW-1803

January 6, 2010

MEMORANDUM FOR: Katie S. Worsham
Director, Office of Community Planning and Development, 6AD

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

SUBJECT: The City of Grand Prairie, TX, Maintains Capacity To Adequately Administer Recovery Funding But Needs To Make Program Improvements

INTRODUCTION

As part of our organization's commitment to ensure the proper use of recovery funding, we performed a review of the City of Grand Prairie's (City) operations to evaluate its capacity to administer the \$3.2 million under the Housing and Economic Recovery Act of 2008 (HERA) and the American Recovery and Reinvestment Act of 2009 (ARRA). Specifically, our objective was to review and assess the City's capacity and risks in the following areas: basic internal controls, financial operations, and procurement.

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 review.

METHODOLOGY AND SCOPE

Our review period was October 1, 2008, to September 30, 2009. We conducted our review from August 31 through October 28, 2009, at the City's Housing and Neighborhood Services Department (HNS), 205 West Church Street, Grand Prairie, TX.

To accomplish our objective, we

- Reviewed and obtained an understanding of HERA and ARRA legislation, relevant program guidance and criteria, the City's grant agreements with U.S. Department of Housing and Urban Development (HUD), and its planned activities under HERA and ARRA.
- Interviewed City management and staff regarding the City's operations.
- Reviewed City procurement files for 15 contracts totaling more than \$370,254. We selected contracts based upon dollar value from existing HUD-funded City programs.

While this was not a statistical sample, we expect it to be representative of the City’s procurement for recent activities similar to HERA and ARRA contracts.

- Reviewed \$139,723 of a total of more than \$1.1 million, or 12 percent of all of the expenses from Community Development Block Grant (CDBG) public service activity providers, CDBG and HOME Investment Partnerships Program (HOME) rehabilitation projects, and the City’s two Neighborhood Stabilization Programs (NSP): foreclosed home acquisition and resale grant for only governmental employees (4-GOV) and the foreclosed home purchase assistance grant (FHPAG).
- Made site visits to four NSP purchase and resale homes during the City’s open house.

BACKGROUND

The City was incorporated in 1909 and is a home rule city operating under a council/manager form of government. The city council appoints a professional city manager to administer and coordinate municipal operations and programs.

Through various programs, HUD provides the City with resources to address a wide range of unique community development needs. Annually, the City receives approximately \$1.4 million in CDBG and \$580,000 in HOME funds. The City’s annual action plan updates the City’s 5-year consolidated plan and describes the HUD activities budgeted under each of its programs. In 2009, the City received more than \$2.2 million under HERA and more than \$941,000 under ARRA. Both HERA and ARRA require swift obligation and expenditure with stringent emphasis on accountability and transparency. The City’s HNS department administers all the CDBG, HOME, HERA, and ARRA programs. The City’s HNS department assists citizens with housing rehabilitation, housing reconstruction, emergency repairs, fair housing, and other community housing issues with HUD funding.

Table 1: Program funding

Program	Funding source	Amount
NSP	HERA	\$2,267,290
HPRP*	ARRA	569,746
CDBG-Recovery	ARRA	372,620
Total		\$3,209,656

* Homelessness Prevention and Rapid Re-Housing Program

RESULTS OF REVIEW

Generally the City has capacity to administer its HERA and ARRA funding. However, its NSP programs benefited government employees more than other City residents, and the City needs to make some improvements in its administration of its HOME program and contract administration.

Assistance Provided to Governmental Employees Was More Than That Provided to Nongovernmental Recipients

As designed, the City’s 4-GOV program, which aids only government employees, provides greater assistance than that provided to other City residents assisted under the City’s FHPAG.¹ The City divided its more than \$2.2 million in NSP funds evenly between its 4-GOV and FHPAG programs. Under the 4-GOV program, the City, through HNS, purchased and rehabilitated 10 houses. The purchasers of these houses, limited to government employees, received or will receive a 20 percent discount on the sales price. Under FHPAG, the City provides assistance to approved buyers of foreclosed-upon properties. The City assists the buyers with closing costs, up to 50 percent of the downpayment, and City-approved rehabilitation cost, not to exceed a total of \$20,000.

During our review period, the City closed on eight NSP-assisted homes, two with the 4-GOV program and six with FHPAG. The table below shows the amount of NSP nonacquisition costs spent per house. The 4-GOV program purchasers received \$73,765 and \$59,413, respectively, in assistance, while the most the FHPAG purchasers received was \$18,938. While HUD does not prohibit such disparities in assistance between programs, the City must guard against a real or the appearance of a conflict of interest or abuse. The following table and figure show the assistance provided to the two programs’ recipients.

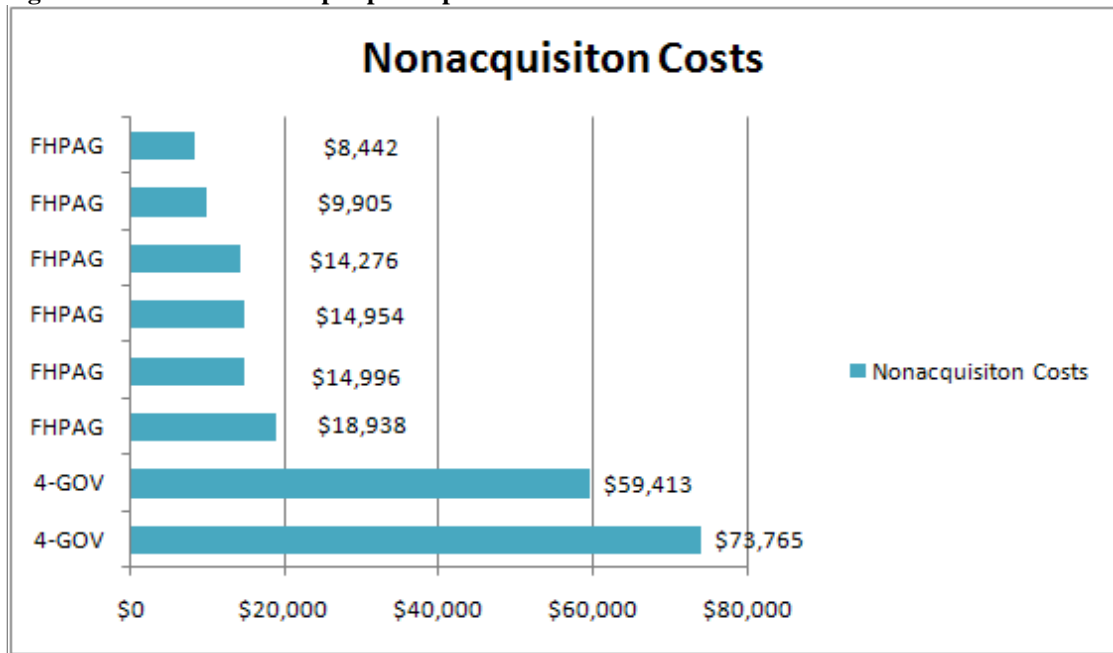
Table 2: Comparison of NSP-funded programs

Eligible participants	4-GOV program ²	FHPAG
Number of homes closed on as of September 30, 2009	2	6
Rehabilitation	\$91,678	\$36,495
Downpayment	0	14,172
Closing costs	0	29,423
Other	0	1,420
Discount of sales price	41,500	0
Average assistance	\$66,589	\$13,585

¹ Both City programs are funded through NSP.

² The program is open to Federal, State, or local government employees that work in the City. Approximately 3 percent of Grand Prairie’s population was either a City or Grand Prairie Independent School District employee.

Figure 1: Benefits received per participant



Further, the City sold one NSP house to an HNS employee and included a refrigerator as a post contract concession. The other buyer of a 4-GOV program house was not offered the same incentive. This buyer’s income was less than 50 percent of the median income threshold, whereas the HNS employee’s income was not. The City should ensure that it provides all 4-GOV program participants similar assistance to avoid the appearance of favoritism or a conflict of interest.

Ineligible Expenses Were Included in the Sales Price

The City included ineligible expenses in determining the sales price of one 4-GOV program house. HUD regulations³ required the City to allocate costs to each property based on the cost associated with that property. However, the City included the cost of the lock boxes for all of the 4-GOV program and FHPAG houses and the estimated salaries of the HNS employees performing rehabilitation work in the sales price for one house. It did so because it did not allocate the costs of the lock boxes to the individual properties and wanted to recover estimated staff costs related to property rehabilitation. As a result, the City overcharged the buyer \$3,952. Thus, HUD should require the City to reduce the loan by \$3,162.⁴

Further, the City did not maintain sufficient records to allocate employees’ time to specific jobs. The HNS director stated that the City estimated the cost in computing the sales price. After the matter was brought to the director’s attention, he agreed to start requiring the employees to document time spent on the NSP-funded programs.

³ Federal Register, Volume 73, Number 194 J. 2

⁴ Amount reflects the 20 percent discount provided by the City. $\$3,952 * 80 \text{ percent} = \$3,162$

The City Did Not Record Expenses Correctly

The City incorrectly recorded the expenses for one 4-GOV program house to the 120 percent of median income portion of the grant. However, the home buyer was a person with income of less than 50 percent of the median income level. The City must report this information to HUD in order for HUD to measure the City's compliance with requirements for aiding people with income of less than 50 percent of the median income level.⁵ The City needs to ensure that it correctly records and reports expenses to its NSP-funded programs.

The City Did Not Meet All HOME Requirements

The City did not meet all HOME requirements. Specifically, for one house for which the City used CDBG⁶ and HOME funds, it did not have a subsidy-layering plan⁷ and did not perform after-built valuations⁸ for HOME new construction projects. Further, the City did not maintain complete documentation showing that refinancing reduced the cost to the homeowner and lacked new construction cost estimates. HUD regulations required a subsidy-layering plan when using HOME and other HUD funds in combination.⁹ HOME regulations further required after-built valuations, documentation showing that new financing reduced the cost to the homeowner, and cost estimates.¹⁰ The City was unaware of the requirements. Without a subsidy-layering plan the City could not ensure that it was not investing more HOME funds than allowed and that the costs met other HOME requirements.

The City Had No Controls To Prevent Payment of Service Contracts Before Contract Execution

The City paid a public service activity provider \$2,147 nine days before executing a contract. The chief financial officer stated that it was the department head's responsibility to ensure that only valid contract payments were made. The HNS director explained that the City paid the contractor before the contract execution due to a delay in executing the contract. Unfortunately, the City's accounts payable system had no control to prevent payments before contract execution. As a result, the City paid \$2,147 without a legal instrument under which to make a payment.

City Contracts Lacked Required Clauses

Both of the NSP-funded programs required that the City choose the contractors for the rehabilitation work. Thus, the regulations required certain contract clauses to protect the City's interest. The City was unaware of the contract clause requirement; thus, it did not include several required contract clauses in its contracts. As a result, the City did not protect itself contractually. The following table shows the missing contract causes.

⁵ HERA, section 2301(f)(3)(A)(ii), requires that 25 percent of funds appropriated be made available to families whose incomes do not exceed 50 percent of median income.

⁶ The City used CDBG funds for preconstruction testing, surveying, and grading.

⁷ 24 CFR (Code of Federal Regulations) 92.508(a)(3)(x)

⁸ 24 CFR 92.254(b)(1)

⁹ Community Planning and Development Notice 98-1

¹⁰ 24 CFR 85.36(b)(9)

Table 3: Missing contract clauses

Contracts	Clause lacking
HPRP public service activity, NSP 4-GOV, FHPAG	Administrative remedies for breach ¹¹
NSP 4-GOV, FHPAG	Contract work hours and safety standards ¹²
NSP 4-GOV, FHPAG	Antikickback ¹³
NSP 4-GOV, FHPAG	Mandatory standards on energy efficiency ¹⁴

When brought to the City’s attention, the City corrected the lack of breach clause in its HPRP contracts with its public service activity providers.

Conclusion

Generally the City maintained capacity to administer its HERA and ARRA funding. However, it needs to be cognizant of potential favoritism, conflicts of interest, and the inclusion of ineligible expenses in NSP funding programs’ sales prices. Further, it needs to make some improvements to its HOME program and to its contracting and payment process, and policies and procedures.

RECOMMENDATIONS

We recommend that the Director, Fort Worth Office of Community Planning and Development,

- 1A. Monitor the 4-GOV program closely to ensure that favoritism or conflicts of interest are avoided and are detected if they occur.
- 1B. Require the City to reduce the loan by \$3,162 from non-Federal funds for the inclusion of the ineligible expenses in the sales price calculation for one home.
- 1C. Require the City to develop policies and procedures to ensure that it records and reports expenditures correctly.
- 1D. Ensure that the City’s HOME policies and procedures include provisions requiring (1) a subsidy-layering plan and (2) for new construction projects, after-built valuations, documentation showing that the projects reduced the overall cost to the buyers, and cost estimates.
- 1E. Require the City to reimburse the CDBG grant \$2,147 for funds paid without an executed contract or document payment eligibility.
- 1F. Require the City to include the required clauses in its contracts.

¹¹ 24 CFR 570 502(a)(12) and 24 CFR 85.36(i)(1)

¹² 24 CFR 85.36(i)(6)

¹³ 24 CFR 85.36(i)(4)

¹⁴ 24 CFR 85.36(i)(13)

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Ineligible <u>1/</u>
1B	\$3,162
1E	<u>2,147</u>
Total	<u>\$5,309</u>

1/ Ineligible costs are costs charged to HUD-financed or HUD-insured programs or activity that the auditor believed 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



December 21, 2009

Gerald R. Kirkland, Regional Inspector General
U.S. Department of Housing and Urban Development
Office of the Inspector General, Region VI
819 Taylor St. Suite 13A09
Fort Worth, Texas 76102

Dear Mr. Kirkland:

Attached you will find our written response, recommended corrective action, and comments regarding the draft report on the City of Grand Prairie's capacity to adequately administer recovery funds.

Though we do not agree with all of the findings contained in the report, we look forward to the resolution of the disputed items and also seek agreement on the effective corrective actions noted in our response.

Thank you for your consideration of our response, and we look forward to the issuance of the final report with the requested adjustments.

Sincerely,

William A. Hills, Director
Housing and Neighborhood Services

Ref to OIG Evaluation

Auditee Comments



Requested Responses To HUD OIG Draft Report Dated December 14, 2009

Comment 1

1A. Monitor the 4-GOV program closely to ensure that favoritism or conflicts of interest are avoided and are detected if they occur.

Response:

The 4-GOV program is designed to purchase foreclosed properties that have been on the market for an inordinate period of time. These properties require significantly more rehabilitation due to their less than favorable condition in comparison to properties that are presented as part of the FHPAG program depicted in Table 2. (comparison of NSP-funded programs). We firmly believe that the 4-GOV program did exactly what was intended:

- the program purchased foreclosed property that no one would purchase because the homes were in such disrepair, i.e., foundation issues, plumbing issues
- rehabilitate these homes, creating jobs for contractors
- bring the home value back up to market with other homes in the neighborhood
- resulting in less devaluation of all homes in the neighborhood
- providing affordable, decent housing for qualified buyers.

We take exception to this depiction of the two programs, and that the funding dedicated to each indicates any favoritism being granted to those persons utilizing the 4-GOV program as opposed to the FHPAG program.

Additionally, no 4-GOV buyers were offered incentives to purchase properties. However all 4-GOV purchasers were afforded some post contract concessions where requested. The premise that some 4-GOV purchasers were not afforded concessions is inaccurate as all have received some form of concession. We respectfully request this item be removed from this report. (Documentation of assertions available upon request.)

Comment 2

1B. Require the City to reduce the lien by \$3,162 from non-Federal funds for the inclusion of the ineligible expenses in the sales price calculation for one home.

Response:

Based on the allocated costs requirements sited in this report, employee time records now document the actual time spent on each project. In calculating home prices, actual time spent rather than estimates will be used. A new lien with a reduction of \$3162.00 will be issued to the purchaser and appropriately filed.

Ref to OIG Evaluation

Auditee Comments



Comment 2

1C. Require the City to develop policies and procedures to ensure that it records and reports expenditures correctly.

Response:

The city cannot predict which income bracket a 4-Gov house will be sold to ahead of time. The city has and will continue to record expenditures accurately. When a house is sold to a person in an income bracket different from the income budget line that expenses were paid through, it will adjust the voucher in DRGR and also include the information in the narrative section of the QPR, as we have already done. The manager and director will ensure that when 4Gov homes sell, these brackets will be compared and ensure adjustments are made when necessary. This process was reviewed by the Office of Community Planning and Development who is fully aware of the process we have in place and we will continue to make the necessary adjustments post sale. Based on the information provided, we respectfully request this item be removed from this report.

Comment 2

1D. Ensure the City's HOME policies and procedures include provisions requiring (1) a subsidy-layering plan and (2) for new construction projects, after-built appraisals, documentation showing that the projects reduced the overall cost to the buyers, and cost estimates.

Response:

The city of Grand Prairie has commissioned a consultant to assist in the preparation of our one and five year consolidated plan. In the preparation of these documents, we have requested a subsidy layering plan be included. This plan will directly affect new construction projects, including post construction appraisals and documentation illustrating the project reduction of overall cost to the buyers.

Comment 3

1E. Require the City to reimburse the CDBG grant \$2,147 for funds paid without an executed contract or document payment eligibility.

Response:

After reviewing the documentation associated with this payment it was discovered that the payment issued to the public service activity provider was indeed issued nine days prior to the execution of the contract. We have enhanced our controls regarding these payments to prevent any future occurrences of this potential error. However, in our review we also note that the payment was issued for a fully eligible CDBG activity and furthermore, no federal funds were drawn for payment until 10 days after the execution of the contract (see attached). Therefore, at no time were any federal funds committed without a contract in place. We feel that no reimbursement is warranted, as no Federal funds were ever at risk without a contract in place and we respectfully request this item be removed from this report.

Ref to OIG Evaluation

Auditee Comments



Comment 2

1F. Require the city to include the required clauses in its contracts.

Response:

The city has already included the required clauses in both the Homelessness Prevention and Rapid Re-housing (HPRP) program and both the Neighborhood Stabilization Program (NSP) program contracts as noted in the draft report table 3.

The added clauses now cover:

- 1) Administrative remedies for breach;
- 2) Contract work hours and safety standards;
- 3) Anti-kickback;
- 4) Mandatory standards for energy efficiency.

As these changes were made prior to the issue of this report, we respectfully request this item be removed from this report.

OIG Evaluation of Auditee Comments

- Comment 1** We changed wording in the finding based on comments from the City. However, as designed the City provides more assistance to the 4-GOV participants than to the FHPAG participants. Therefore, the City must be cognizant of the increased risk of conflicts of interest or favoritism with the 4-GOV assistance.
- Comment 2** We appreciate the actions the City will take to implement the recommendation.
- Comment 3** We changed wording in the finding based on comments received by HUD. We appreciate the action the City will take to implement the recommendation. The City's response did not address the finding that it obligated and obtained reimbursement of CDBG funds prior to contract execution. Therefore, we did not modify the recommendation.