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TO: Floyd R. Duran, Program Center Coordinator, Office of Public Housing, 6BPHO

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

SUBJECT: The Housing Authority of the City of Las Cruces, NM, Complied With
Recovery Act Capital Fund Obligation and Expenditure Requirements but
Had Environmental and Reporting Exceptions

HIGHLIGHTS

What We Audited and Why

In accordance with our goal to review funds provided under the American Recovery and Reinvestment Act of 2009, we audited the Housing Authority of the City of Las Cruces' Public Housing Capital Fund Stimulus (formula) Recovery Act-funded activities. Specifically, our objectives were to determine whether the Authority (1) properly followed Recovery Act rules and regulations when obligating and expending its Recovery Act formula grant funds, (2) properly followed the environmental requirements for Recovery Act activities, and (3) accurately reported its Recovery Act activities.

What We Found

The Authority properly obligated and expended its Recovery Act funds. It met the required deadlines and properly supported its obligations and expenditures. However, it did not properly follow environmental requirements before performing Recovery Act activities. Fortunately, the activities performed using Recovery Act funds were categorically excluded, meaning that no further assessments were required. Further, the Authority did not accurately report on its

Recovery Act-funded activities. These exceptions occurred because the Authority did not understand the requirements. As a result, the proper environmental review of the Recovery Act activities was not performed, and the Authority's Federal reporting was incorrect and incomplete.

What We Recommend

We recommend that the U. S. Department of Housing and Urban Development's (HUD) field office program center coordinator of the Office of Public Housing require the Authority and the City of Las Cruces to establish a process to ensure that future projects have the proper environmental review performed in a timely manner. We also recommend that HUD provide guidance to the Authority and assist it in correcting the information submitted to FederalReporting.gov.

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 issued the draft report to HUD and the Authority on August 31, 2011, and requested written comments by September 12, 2011. We conducted an exit conference with HUD and the Authority on September 8, 2011. The Authority provided its written response on September 8, 2011, which agreed with the report. The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix A of this report.

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BACKGROUND AND OBJECTIVES

The Housing Authority of the City of Las Cruces, NM, was created under the Municipal Housing Law of the State of New Mexico in November 1961. The Authority manages, owns, or serves as administrator for approximately 1,930 units. The governing body of the Authority is its board of commissioners appointed by the mayor. The Authority receives capital funds annually via a formula from the U. S. Department of Housing and Urban Development (HUD). The Authority's mission is to lead the public effort in providing safe, affordable housing to eligible persons.

On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 into law.¹ The Recovery Act provided \$4 billion for public housing agencies to carry out capital and management activities, including modernization and development of public housing. It allocated \$3 billion for formula grants and \$1 billion for competitive grants. The Recovery Act required public housing agencies to obligate 100 percent of the funds within 1 year of the date on which funds became available to the agency for obligation and expend 60 percent within 2 years and 100 percent within 3 years of such date.

HUD allocated \$480,323 to the Authority for its Recovery Act Public Housing Capital Fund formula grant. HUD made the formula grant available to the Authority on March 18, 2009, resulting in a statutory obligation deadline of March 17, 2010. If the Authority failed to comply with the obligation deadline, the Recovery Act required HUD to recapture those obligations that did not meet the deadline and return the funds to the U. S. Treasury for the sole purpose of deficit reduction.²

HUD required the Authority to use its Recovery Act formula grant on eligible activities already identified in either its annual statement or 5-year action plan (action plan). Additionally, HUD required the Authority to prioritize capital projects that were already underway or were included in the action plan. If the Authority decided to undertake work items not in its approved plans, it was required to amend its approved plans.

Our audit objectives were to determine whether the Authority (1) properly followed the Recovery Act rules and regulations when obligating and expending its Recovery Act formula grant funds, (2) properly followed the environmental requirements for Recovery Act activities, and (3) accurately reported its Recovery Act activities.

¹ Public Law 111-5

² The Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203) amended the Recovery Act, requiring recaptured funds to be returned to the U.S. Treasury and dedicated for the sole purpose of deficit reduction.

RESULTS OF AUDIT

Finding: The Authority Complied With Recovery Act Capital Fund Obligation and Expenditure Requirements but Had Environmental and Reporting Exceptions

The Authority properly obligated and expended its Recovery Act funds to repave parking lots, replace electrical outlets in units, landscape areas, and replace sidewalks. However, it did not properly follow environmental requirements by ensuring that an environmental review was performed and that the required forms were completed and signed by the City of Las Cruces, the responsible entity, before performing Recovery Act activities. Fortunately, the activities performed using Recovery Act funds were categorically excluded, meaning that no environmental impact statement or environmental assessment and finding of no significant impact was required. Further, the Authority did not accurately report on its Recovery Act-funded activities. It did not provide detailed descriptions of the activities performed or an estimate of the jobs created and/or retained by the contractor. These exceptions occurred because the Authority did not understand the requirements. As a result, the proper environmental review of the Recovery Act activities was not performed, and the Authority's Federal reporting was incorrect and incomplete.

The Authority Properly Obligated and Expended Its Recovery Act Funds

The Authority properly obligated its Recovery Act funds in accordance with the Recovery Act and Federal requirements. It properly planned and selected projects from its annual and action plans that met the Recovery Act purpose of developing and modernizing public housing projects. The Authority repaved parking lots, replaced electrical outlets in kitchens with new ground fault interrupter outlets, landscaped areas, and replaced sidewalks in several housing developments. It maintained sufficient records to detail the significant history of the Recovery Act procurement. Its records included the method of procurement, contract pricing arrangement, contractor selection, and the contract documents awarded or issued, which were signed by all parties involved. In addition, it executed its contract before the Recovery Act deadline of March 17, 2010.

The Authority's expenditures were eligible, properly supported, and disbursed in a timely manner. As of February 28, 2011, it had expended \$479,071 (99 percent of the grant) which exceeded the Recovery Act's March 18, 2011 deadline to be 60 percent expended. The Authority's final payment to the contractor occurred in July 2010, well before the 100 percent expenditure deadline of March 18, 2012.

The Authority Did Not Properly Follow Environmental Requirements

The Authority, also called the recipient, did not properly follow the environmental requirements for Recovery Act activities. Specifically, it did not ensure that (1) an environmental review was performed by the City of Las Cruces, the responsible entity; (2) all of the required environmental review forms were properly completed and signed by the responsible entity's certifying officer before Recovery Act activities began; and (3) the required documents were submitted to HUD before funds were requested.

Neither the Authority nor the City Performed a Proper Environmental Review

An environmental review for the Authority's Recovery Act activities did not occur because each party assumed the other had performed it. The Authority submitted to the City for signature a portion of the required documents³ it had completed based on its best guess of what would be considered exempt or excluded. The City received these completed documents, assumed the Authority was responsible for completing them, and submitted them to the certifying officer for signature. The requirements state that the City was the responsible entity for the environmental review, the decision making, and action that would otherwise apply to HUD. Further, the City had to certify that the requirements had been met before any activities were performed by the Authority. Neither the Authority nor the City understood what was required of them, thus the proper environmental review was not performed.

The City Lacked the Proper Environmental Review Records

Since the Authority submitted completed documents, the City assumed that the Authority had completed the environmental review and all needed documents. After sending the Authority's documents to the certifying officer for approval and signature, a City employee began reviewing them and realized the Authority had not prepared all of the required information. The City requested the additional documentation⁴ from the Authority, which responded that it did not know what the City was asking for. Although it did not have all of the information, the City approved the Request for Release of Funds and Certification, which was contradictory to the environmental requirements. As a result, as of May 2011, the proper environmental review documents had not been completed by the City, the responsible entity.

³ Environmental Clearance Status Form and Request for Release of Funds and Certification, form HUD-7015.15

⁴ Certification of Categorical Exclusion and Statutory Checklist For Categorical Excluded Projects Only (subject to 24 CFR 58.5 and 58.6)

The Authority Did Not Submit the Environmental Review in a Timely Manner

The Authority did not submit the required environmental review documents to HUD until April 2011, which was after it completed its Recovery Act activities in June 2010. Although the regulations required the environmental review to be completed before funds were released, both the Authority and HUD assumed that the activities were exempt and proceeded accordingly with the Recovery Act activities. However, the project wasn't exempt; it was categorically excluded, and as previously stated, additional documentation was needed and should have been completed before the Authority undertook the activities and HUD released the funds.

The Authority Did Not Properly Report Recovery Act Activities

The Authority did not accurately report its Recovery Act activities. Specifically, it did not (1) provide a detailed description of projects or activities; (2) report an estimate of jobs created and/or retained by its contractor; and (3) in a few instances, meet the 10-day quarterly requirement for filing its Recovery Act reports. The Recovery Act requirements of Section 1512 state that each recipient should report, no later than 10 days after the end of each calendar quarter, information that contains a detailed list of all projects or activities for which funds were obligated and/or expended, a description of the project or activity, and an estimate of the number of jobs created and/or retained by project or activity. These conditions occurred because the Authority did not understand the reporting requirements. As a result, the information reported by the Authority to FederalReporting.gov was incorrect and incomplete.

Conclusion

The Authority's Recovery Act funds were adequately supported, and the Authority met all obligation and expenditure requirements. However, it did not meet the environmental and reporting requirements. These exceptions occurred because the Authority did not understand the requirements. As a result, the proper environmental review of the Recovery Act activities was not performed, and the Authority's Federal reporting was incorrect and incomplete.

The Authority and the City have been proactive in developing a process to ensure that future environmental reviews are properly performed and that all documentation is completed and submitted to HUD in a timely manner.

Recommendations

We recommend that HUD's field office program center coordinator of the Office of Public Housing:

- 1A. Require the Authority and the City of Las Cruces to establish a process to ensure that future projects have the proper environmental review performed in a timely manner.
- 1B. Provide guidance to the Authority and assist it in correcting the information submitted to [FederalReporting.gov](https://www.federalreporting.gov).

SCOPE AND METHODOLOGY

We conducted our audit work at the Authority's administrative office and City Hall in Las Cruces, NM, and in HUD OIG's offices in Albuquerque, NM, and Fort Worth, TX, between April and July 2011. The audit generally covered the period March 1, 2009, through March 31, 2011. We limited our scope to the Authority's Recovery Act Capital Fund formula grant.

To accomplish our objectives, we performed the following steps as they related to the Authority's Recovery Act Capital Fund formula grant:

- Reviewed relevant laws, regulations, and HUD guidance.
- Reviewed meeting minutes of the Authority's board of commissioners for 2009, 2010, and 2011.
- Reviewed HUD's monitoring reports for the Authority's Recovery Act funds and projects, which were dated January 13, 2010, and March 2, 2011.
- Reviewed the Authority's audited financial statements for fiscal years 2008, 2009, and 2010.
- Reviewed the Authority's Recovery Act Capital Fund formula grant agreement, annual plan and action plan.
- Obtained HUD's Line of Credit Control System (LOCCS) grant expenditure and obligation detail data. We did not evaluate the reliability of the LOCCS data as we used it for information purposes only.
- Reviewed the Authority's procurement records including its procurement policies and internal control procedures.
- Reviewed 100 percent of the Authority's grant obligation records.
- Reviewed 100 percent of the Authority's expenditures to ensure that disbursements were adequately supported and made before Recovery Act deadlines.
- Reviewed the Authority's environmental review records for compliance with the environmental requirements.
- Analyzed the Authority's and the City of Las Cruces' environmental review process for compliance with environmental requirements.
- Reviewed the Authority's reporting submitted to FederalReporting.gov for compliance with the requirements. Items tested included name of activity, description of activity, completion status of activity, and number of jobs created and/or retained by activity.
- Conducted site visits at three assisted sites.
- Interviewed HUD's Office of Public Housing staff in Albuquerque, NM, the Authority's staff, personnel of the City of Las Cruces' Neighborhood Services Division, a contractor that performed the Recovery Act activities, and personnel from Cooperative Educational Services, which procured the contractor.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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 objectives:

- Controls to ensure the Authority followed procurement requirements.
- Controls to ensure obligations and expenditures were properly authorized and allocated, and that the Authority received the goods and services for which it paid.
- Controls to ensure the Authority met mandated environmental review requirements.
- Controls to ensure the Authority met Recovery Act and HUD reporting requirements.

We assessed the relevant controls identified above.

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

Significant Deficiencies

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

- The Authority lacked controls and procedures to ensure compliance with environmental requirements (finding).
- The Authority lacked internal controls to ensure that Recovery Act and HUD reporting requirements were met (finding).

APPENDIXES

Appendix A

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

Executive Director:
Thomas G. Hassell

General Offices:
926 S. San Pedro St.

Housing Authority of the City of Las Cruces, New Mexico

575-528-2000
575-526-8452 (fax)

September 8, 2011

Ms. Theresa Carroll, Assistant Regional Inspector General for Audit
US Department of Housing and Urban Development
Region VI Office of Inspector General
819 Taylor Street, Suite 13A09
Fort Worth, TX 76102

Ms, Carroll:

The following is our response to the findings indicated in your draft audit report.

The Authority did not properly follow environmental review requirements

And:

The Authority did not ensure that proper documentation relating to the environmental assessment was completed and signed by the responsible entities certifying officer before Recovery Act activities began

And:

The Authority did not submit the environmental review documents in a timely manner

Comment 1 *The Authority assumed, incorrectly, that since all work items in the CFRG were exempt that no environmental assessment would be necessary and that work could begin. The Authority subsequently completed the physical work, HUD also subsequently released the funds, all prior to the execution or completion of an environmental assessment. HUD*

later informed the Authority that environmental assessment documents would need to be completed and we complied at that time and submitted documents to the City of Las Cruces for their review and approval. Apparently the City of Las Cruces also assumed that since the work items were exempt or categorically exempt that they were not required to do anything other than sign the environmental clearance (release of funds and certification form), which they did.

Comment 1 *Based on the above, the Authority will work with HUD and the City of Las Cruces to establish a process to ensure that future projects have the proper environmental review performed in a timely manner.*

The Authority did not properly report Recovery Act activities

Comment 2 *The Authority submitted reports to Federal Reporting.gov relating to its CFRG activities. A description of work was entered, but was not detailed enough. An estimate of Jobs created was also entered but the reporting system would not allow for accurate entry of jobs created. Two reports were filed after the 10 day quarterly requirement for submission.*

Comment 2 *The Authority will work with the HUD Field Office to correct the information relating to detailed descriptions of work and jobs created. In the event that future reports are required, they will be submitted in a timely manner. The current CFRG cannot be closed until HUD completes the recapture of funds remaining in the grant. The Authority Board of Commissioners has passed a resolution on May 17, 2011, which approved the recapture of funds, as required by the HUD field office. Once this process is completed by HUD, a final report can be submitted and the grant closed.*

Please do not hesitate to contact me if you require further assistance or clarification.

Sincerely,

Thomas G. Hassell
Executive Director

OIG Evaluation of Auditee Comments

Comment 1 The Authority agreed that it did not properly follow the environmental requirements. The Authority plans on working with the City of Las Cruces to develop a step-by-step procedure for the environmental review process.

We acknowledge the Authority's plans.

Comment 2 The Authority agreed that it did not accurately report on its Recovery Act funded activities. The Authority plans on working with the HUD office to make possible editorial changes of the past reports in FederalReporting.gov.

We acknowledge the Authority's plans.