

January 22, 1998

Audit Related Memorandum
No. 98-NY-250-1802

MEMORANDUM FOR: Michael Merrill, Director, Community Planning and
Development, Buffalo Area
Office

FROM: Alexander C. Malloy, District Inspector General for Audit
New York/New Jersey

SUBJECT: Village of Fort Plain
CDBG Small Cities Programs
Village of Fort Plain, New York

We have completed a review of the Community Development Block Grant (CDBG) Small Cities grants received by the Village of Fort Plain, New York (Grantee). The Grantee's programs were administered by Avalon Associates (Consultant) through a Rehabilitation Coordinator acting as a subcontractor to the Consultant. The primary objectives of the review were to determine whether written complaints from citizens to the U.S. Department of Housing and Urban Development (HUD) had merit and whether the Grantee and Consultant have the administrative and internal controls needed to safeguard assets and accomplish program objectives.

During our review, we interviewed Grantee and Consultant personnel, program participants, and concerned citizens. Also, we examined records at the Grantee's office. Finally, we performed selected inspections of properties receiving HUD program assistance.

The review showed that the programs were administered by the Consultant and its subcontractor without any monitoring or oversight by the Grantee. This has allowed significant weaknesses in the system of administrative and internal controls to remain undetected. Accordingly, certain costs charged to the programs are not reasonable, eligible, and in conformity with applicable regulations. Despite the weaknesses in the administration of the programs, our review found that the books and records maintained by the Village Clerk/Treasurer were in conformance with HUD requirements.

These matters are discussed in detail in the subsections that follow. We are bringing these matters to your attention so that effective administration actions can be taken to address and correct the weaknesses.

BACKGROUND

The Grantee is governed by a Village Board led by Mayor Thomas Quackenbush. The programs were administered by Timothy Conrad, the Rehabilitation Coordinator retained by Avalon Associates. The rehabilitation office is located at Village Office located at 168 Canal Street. The financial records for the programs are maintained at the Village Office by Susanne Mahn, Village Clerk/Treasurer.

During the period of our review, the Village received the following grants.

1994 Small Cities Grant	\$ 400,000
1995 Small Cities Grant	400,000
1996 Small Cities Grant	<u>600,000</u>
Total	<u>\$1,400,000</u>

As of July 1997, \$637,382 of the grant funds had been expended. The funds were used for housing rehabilitation loans and grants. Program income from loan repayments totaled \$89,213 from 31 CDBG loans.

Since Mayor Quackenbush assumed office in April 1997, the following actions have been taken:

1. Processing of new rehabilitation grants and loans have been temporarily suspended.
2. Several contractors have been removed from the programs.
3. CDBG Advisory Board and Rehabilitation Coordinator have resigned.
4. Avalon Associates have been terminated as the consultant and administrator of the programs.
5. Efforts have been initiated to correct problems associated with rehabilitation work paid for but not done, or done in an unacceptable manner.

REVIEW RESULTS

Grantee Has Not Monitored the Administration of Its HUD Programs

The Grantee has retained the consultant to administer its programs since 1990 at a cost of \$337,000. The Grantee did not

establish effective procedures for monitoring the consultant's performance. Accordingly, the consultant exercised complete administrative control over the programs with little or no oversight by the Grantee.

The consultant's performance during the period has been inadequate and has resulted in the inefficient and uneconomical use of grant funds. The consultant did not establish effective programmatic and administrative controls required by Title 24 of the Code of Federal Regulations and Part 85-Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments. The more significant deficiencies are discussed in detail below.

1. Improprieties Involving Rehabilitation Work

The case file reviews and selected property inspections disclosed significant deficiencies in the administration and performance of rehabilitation work. Documentation supporting the propriety, cost reasonableness, and inspections of rehabilitation work was not accurate or sufficient.

In ten of the thirteen cases we reviewed, work items contained in the contracts were either not done, or were poorly performed. Despite this, the consultant's subcontractor authorized payments to the offending contractors. Significant deficiencies in cost estimates, work specifications, and inspection reports rendered them inadequate in determining the propriety and reasonableness of the costs.

Additionally, we found material weaknesses and possible improprieties in the bidding procedures used to select contractors performing rehabilitation work. We found a procurement process that did not assure free and open competition and that did not prevent contractor favoritism.

Examples of the typical improprieties found during the review are in the subsections below. Similar deficiencies exist in the other rehabilitation cases. All of the cases examined are identified in Appendix A of this report. Pertinent details concerning all the weaknesses will be provided to your staff to aid in the resolution of the problems.

Case File No. 94-006

The homeowner was approved for a grant in the amount of

\$17,800. The contractor's "Notice to Proceed" was dated November 6, 1995, but the work was not completed until October 16, 1996.

Problems Noted:

- a. Coordinator's cost estimate was not prepared until four days after the contractor bids were due.
- b. Contractor bids were altered and were submitted after the bid deadline of October 27, 1995. The winning bid was dated October 30, 1995.
- c. Coordinator accepted winning bid without reconciling significant cost differences between the Coordinator's cost estimate and the bid line items. Examples include:

<u>Work Item</u>	<u>Estimate</u>	<u>Bid Amount</u>
Side Walks	\$ 600.00	\$ 1,200.00
Roof Repair	4,800.00	3,600.00
Gutter Repair	300.00	850.00

The lack of work item reconciliations not only prevent cost reasonableness evaluations, but also allow contractors to receive significant portions of the grant funds for completing minor work items.

- d. Initial property inspection shows no major deficiencies with the buildings insulation or with the surrounding sidewalks. However, the work items are included in the work specifications and contract.
- e. Insulation work amounting to \$1,600 was billed and paid for but not done. The purported work was supported by an inspection report signed by the Coordinator and an itemized contractor invoice.

In September 1997, almost a year after being paid, the contractor reimbursed the program.

Case File No. 94-015

Homeowner was approved for \$16,100 in rehabilitation work, which was paid with funds from a grant of \$12,847.50 and a CDBG loan of \$3,252.50. The work was purported to have been completed on October 16, 1996.

Problems Noted:

- a. Bids were altered and written in pencil.
- b. Winning bid items were not reconciled with Coordinator's cost estimates. Examples are as follows:

<u>Work Item</u>	<u>Estimate</u>	<u>Bid Amount</u>
Roof Repairs	\$ 3,200.00	\$ 1,400.00
Furnace	2,200.00	3,500.00

- c. Contractor subcontracted the furnace installation to a competing bidder. The competing bidder had submitted a bid on the furnace work in the amount of \$1,900.00, as opposed to the winning bid of \$3,500. We found that the amount paid to the subcontractor was \$1,900, resulting in a windfall profit of \$1,600 to the contractor.
- d. Roofing work totaling \$600 and the installation of storm windows and doors at \$2,400 was billed and paid for, but not done. The purported work was supported by contractor invoices and an inspection report signed by the Coordinator.

Case File No. 94-016

Rehabilitation work totaling \$23,300 was completed on April 16, 1997, and was paid with funds from a grant and a CDBG loan.

Problems Noted:

- a. Homeowner advised that only one of the three contractors who submitted bids inspected his residence. The contractor that inspected the residence was not the winning bidder.
- b. Winning bid was in pencil and contained alterations.
- c. Bids were received after the established bid submission deadline.
- d. Winning bid contained line item costs that were not reconciled with Coordinator's estimate.

<u>Work Item</u>	<u>Estimate</u>	<u>Bid Amount</u>
Roof Repairs	\$ 4,500.00	\$ 2,300.00
Electrical	3,000.00	4,900.00

- e. Work items including the installation of a furnace, roofing repairs, and deck work were apparently not performed in an acceptable manner. The Grantee is currently paying other contractors to improve the quality of the work.

Case File No. 95-008

Rehabilitation work totaling \$15,325 was completed in September 1996. The rehabilitation work was paid for through a grant and a CDBG loan.

Problems Noted:

- a. Coordinator's cost estimate was prepared after bids were received.
- b. Bids contained alterations, erasures, and amounts were changed.
- c. Major electrical repairs identified in the initial inspection were not included in the specifications or bids. The work was to be performed by the home owner without any follow-up by the Grantee.
- d. Installation of a boiler and gas hot water heater was not proper. While the water heater problems have been corrected, the boiler installation cannot easily be resolved.

The Grantee has hired another contractor to evaluate the problems. The contractor has recommended the installation of a new boiler since the one originally installed is too small for the residence. To resolve the problems, an additional \$2,850 in cost will be necessary.

Case File No. 95-021

Rehabilitation work totaling \$17,150 begun on October 10, 1996, and remains incomplete. The original contractor was terminated from the job in August 1997, after receiving \$12,015 in funds for work either not done or done in a less than workmanlike manner.

Problems Noted:

- a. Winning bid contained altered amounts for various work items.
- b. Files contained inspection reports signed by the Coordinator that authorized payments for work that was not done. For example, the contractor received a payment of \$2,100 for storm windows that were never installed. The contractor billed for and was paid in November 1996.
- c. Work items were not properly performed, but were approved for payment by the Coordinator. Examples of the work items included roof repairs, installation of entry doors, painting, and repair of gutters and downspouts.
- d. Purported contractor negligence resulted in damage to the homeowner's property. The damage included cracked windows, spilled roofing material on deck and on carpets.

2. Procurement of Consultant Services Was Inadequate

Documentation supporting the procurement of the consultant's contracts showed very little evidence that the Grantee actively solicited proposals from other consultants. In fact, the Grantee advised that the consultant controlled most aspects of the procurement process including:

- The preparation of the Request For Proposal (RFP) detailing the requirements necessary to be considered for the contract.
- Determining the consultants who would receive the RFP.
- Mailing the RFPs to the selected consultants.

Apart from the above, our review of the consultant's contracts showed that the Grantee was required to pay substantial amounts for grant "set up" at the beginning of each grant year. The amounts ranged from \$10,000 to \$15,000 per grant year.

The Grantee did not maintain the documentation necessary to determine whether the payments were reasonable or

necessary. In evaluating the reasonableness of the costs, HUD will need to take into consideration that the Grantee's programs remained essentially the same from year to year. Moreover, the consultant was also being reimbursed for an on-site Coordinator and had cost pertaining to the services of a part time clerk also charged to the grants. The Grantee's Clerk/Treasurer maintained the books and records of the grants and disbursed approved checks.

3. Other Weaknesses and Deficiencies

- Case File No. 95-024 - All of the homeowner's income may not have been considered in the program eligibility determination.
- Grantee is not adequately enforcing the five year restriction on the sale of rehabilitated properties. Appropriate liens have not always been filed.
- Contractors may not be obtaining appropriate insurance for employees.
- Case File No. 90-026 - Documentation indicates that the recipient may not have been an owner occupant and therefore was not eligible for full reimbursement of the rehabilitation work. The over reimbursement would amount to \$6,000.

Conclusions and Recommendations

The Grantee is currently implementing corrective actions to ensure that they succeed in improving the administration of the program. In connection with this effort, they have received your approval to rectify all deficiencies in cited rehabilitation cases by using the funds contained in program income accounts. You have stipulated that funds used will be repaid to the program from Non-Federal funds, once the total amounts have been determined.

- 1A. Regarding the collection attempts, you should require the Grantee to seek recovery from the contractors responsible for the work not done, or poorly done, as well as the Consultant and the prior Rehabilitation Coordinator.
- 1B. We further recommend that you review the consultant's charges and determine their appropriateness and

reasonableness to the programs. The Grantee should be advised of your determination.

- 1C. Finally, we believe that your staff should monitor the Grantee's implementation of the corrective actions to ensure that they succeed. The Grantee should be reminded that it is responsible for implementing procedures to ensure that its programs are administered in accordance with HUD regulations.

Within 60 days please give us a status report on: (1) the corrective action taken; (2) the proposed corrective action taken and the date to be completed; or (3) why action is considered unnecessary. Also, please furnish us copies of any correspondence or directives issued because of this review.

Please contact William H. Rooney, Assistant District Inspector General for Audit, at 212-264-8000 extension 3976, if you or your staff have any questions, or require copies of pertinent working papers. Also, please furnish us with copies of any correspondence issued related to this review.

VILLAGE OF FORT PLAIN CDBG
LISTING OF REHABILITATION CASE FILES REVIEWED

REHABILITATION CASE FILE NUMBER

95-008
94-016
94-010
95-021
95-022
94-020
94-015
94-006
94-002
95-024
90-026
95-025
96-0161

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