



U.S. Department of Housing and Urban Development
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Philadelphia, PA 19107-3380

Regional Inspector General for Audit

MEMORANDUM NO:
2005-PH-0002

May 16, 2005

MEMORANDUM FOR: Joseph Smith, Deputy Director, Office of Healthy Homes and Lead Hazard Control, L

FROM: Daniel G. Temme, Regional Inspector General for Audit, Mid-Atlantic Region, 3AGA

SUBJECT: Interim Memorandum Report on the Office of Healthy Homes and Lead Hazard Control's Issuance of Its Fiscal Year 2004 Grants, Washington, DC

INTRODUCTION

In response to a number of congressional inquiries and complaints received by our office, we are auditing the Office of Healthy Homes and Lead Hazard Control's (Office of Healthy Homes) process for awarding fiscal year 2004 grants. The complainants alleged the Office of Healthy Homes inappropriately awarded its fiscal year 2004 Lead Hazard Control and Healthy Homes grants. Our objective was to determine whether the allegation in the complaints had merit. We also wanted to determine whether the Office of Healthy Homes followed appropriate procedures in awarding the fiscal year 2004 lead grants. To answer our objectives, we reviewed seven grant applications totaling \$8,125,400. This included six applications identified in the complaints, and one additional application a staff member in the Office of Healthy Homes provided us.

This memorandum report provides interim results pertaining to our audit. Our audit work is ongoing; however, our preliminary results identified significant conditions that we wish to bring to your attention immediately.

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 this audit.

SUMMARY

We found the complainants' allegation that the Office of Healthy Homes inappropriately awarded its fiscal year 2004 Lead Hazard Control and Healthy Homes grants had merit. We identified errors in the award process for all seven grant applications we reviewed. These errors caused four applicants to either receive an award they were not entitled to or to lose an award they should have received. The results of our review are:

- Two ineligible applicants received grant awards totaling \$5,000,000,¹
- One applicant was awarded a grant for \$957,900 that was not properly supported, and
- One applicant was denied \$365,736 in grant funds that it was eligible to receive.

In large part, these problems occurred because the department established a deadline of September 30, 2004, to process and award the grants without having an effective process in place. To meet this deadline, the Office of Healthy Homes and its contractor did not always follow established procedures in evaluating and scoring the grant applications. Specifically, the Office of Healthy Homes (1) did not ensure all of the contractor's staff was properly trained, (2) did not maintain a proper log to track when applications were received, (3) did not ensure the contractor performed appropriate initial reviews and evaluation of the grant applications, (4) did not perform adequate quality assurance reviews of the contractor's work, and (5) negotiated contracts after the grants were executed. Additionally, we noted the Office of Healthy Homes' decision to restrict its search for a contractor under HUD's accelerated contracting process to small business and 8(a) firms² severely limited the pool of qualified contractors. By restricting the bidding to only small business and 8(a) firms, the department was only able to get one contractor to bid on the contract. HUD ultimately awarded the contract to that firm.

Based on our survey results, we question whether the remaining fiscal year 2004 grants were properly awarded only to eligible applicants. We believe the department needs to take immediate action to ensure the 2005 grant award process is completed according to the notice of funding availability requirements and HUD's established grant processing procedures. The detailed results of our review follow.

METHODOLOGY AND SCOPE

Our overall objective was to determine whether the complaints were valid. We also wanted to determine whether the Office of Healthy Homes followed appropriate procedures in awarding the fiscal year 2004 lead grants.

To accomplish our audit objectives, we

- Reviewed applicable HUD regulations including the notice of funding availability relating to the administration of the Office of Healthy Homes grant program.

¹ Based upon the legal opinion received from the Office of Inspector General's Office of General Counsel, we will only be able to recapture \$3,000,000 of this amount.

² A certified 8(a) firm is a firm owned and operated by socially and economically disadvantaged individuals who are eligible to receive federal contracts under the Small Business Administration's 8(a) Business Development Program.

- Conducted interviews with Office of Healthy Homes employees and the contractor to determine each of their responsibilities concerning the awarding of the grant funds.
- Obtained an understanding of the Lead Hazard Control and Healthy Homes Grant program.
- Examined seven grant applications and supporting records. Six of the applicants were specifically named within the complaints. Of the six, five received fiscal year 2004 awards.

We performed the majority of our fieldwork between January and March 2005 at the Office of Healthy Homes, located in Washington, DC. The review generally covered the period of July to September 2004.

BACKGROUND

On October 28, 1992, Congress enacted the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Public Law 102-550), also known as Title X of the Housing and Community Development Act of 1992. This section of the act authorized a grant program, which allowed state and local governments to obtain funding for the evaluation and reduction of lead-based paint hazards in privately owned housing built before 1978 and occupied by low-income families. In 1991, HUD established the Office of Healthy Homes to bring together health and housing professionals in a concerted effort to eliminate lead-based paint hazards.

Funding under the Office of Healthy Homes grant program is completed on a competitive basis. An agency may submit an application for the grant under the notice of funding availability published in the Federal Register. To be competitive, an agency has to demonstrate, among other things, that the funds will be used effectively to implement the objectives of the Office of Healthy Homes' lead-based grants.

In past competitions, the application review process for Office of Healthy Homes grants was managed entirely by departmental staff appointed by the director of the Office of Healthy Homes. However, after processing approximately 235 applications in fiscal year 2003, the department realized it does not have adequate staff resources in-house to manage the entire application process. After assessing several alternatives, including contacting the Centers for Disease Control and Prevention, and the Environmental Protection Agency, the decision was made to seek contractor assistance in managing the application review process.

To obtain the contract, the Office of Healthy Homes used HUD's accelerated contracting process. Under this process, the General Services Administration schedule is used to search for a minimum of five contract holders, one of which must be a disadvantaged business or 8(a) business, *and* one a women-owned small business if such businesses are on the applicable federal supply schedule.

The application and award process works in the following manner. Once the applications are received, the Office of Healthy Homes reviews the applications to determine whether they were received before the application deadline. The applications are then forwarded to the contractor who reviews them to determine whether each grantee is eligible and the information within the

application is accurate. The contractor then scores all eligible applications based upon guidance provided within the notice of funding availability. Office of Healthy Homes staff then reviews the contractor's work to determine which grantees will receive an award. During fiscal year 2004, the Office of Healthy Homes received 262 applications from applicants that were applying for \$167 million in funding. Seventy-two lead-based grants were issued.

RESULTS OF REVIEW

The Office of Healthy Homes' Efforts to Meet Departmental Goals Adversely Affected Its 2004 Lead Grant Award Process

In completing the grant process for fiscal year 2004, the Office of Healthy Homes attempted to meet two departmental goals. These goals included ensuring the grant funds it received in 2004 were awarded to grantees in the same year, and to select a contractor following HUD's small business policy. Although these are admirable goals, we found that the Office of Healthy Homes had not established an efficient methodology or process to meet the grant award deadline of September 30, 2004, which had a negative impact on the 2004 grant process.

Public Law 108-199, passed on January 23, 2004, provides the fiscal year 2004 funding for the department. According to the public law the funding received by the department for Office of Healthy Homes grants is available until September 30, 2005. This means that the department has almost two years to determine which grantees will be allocated the funds. To meet its performance goals, the deputy director pushed to have the fiscal year 2004 funds issued by September 30, 2004. However, the Office of Healthy Homes did not have its award process fully defined to ensure all applications were properly reviewed and rated within this time span. In part, some of these problems may have developed because this was the first year the Office of Healthy Homes had used a contractor to complete the process. In previous years the Office of Healthy Homes completed the award process in-house.

Method of Procuring a Contractor Restricted the Pool of Qualified Bidders

To ensure that the contract was issued in time to meet its deadline of September 30, 2004, the Office of Healthy Homes used the department's accelerated contracting method. This approach allows for acquisitions of goods and services in an accelerated manner that emphasizes partnering with industry to achieve HUD objectives. One of the requirements of the accelerated contracting method is that it comply with HUD's small business policy, in which at least one small disadvantaged business or 8(a) business *and* one women-owned small business be solicited if such businesses are on the applicable federal supply schedule. During the solicitation process the Office of Healthy Homes carried this requirement one step further and only solicited small businesses and 8(a) firms. In doing so, it limited its scope of qualified candidates when time was in short supply.

The Office of Healthy Homes issued a request for proposal on June 1, 2004, to seven small business and/or 8(a) firms. The proposals were due June 17, 2004; however, none of the firms completed a proposal. The Office of Healthy Homes did not receive a bid until the contracting office contacted each of the seven firms and extended the due date to June 25, 2004.

Unfortunately, the contractor that submitted the bid admitted up-front that they had a limited capacity to carry out the required activities. Specifically, the contractor did not have sufficient staff to complete the required activities and would have to recruit, interview, and hire the necessary staff. Although the Office of Healthy Homes was aware of the contractor's shortcomings, on July 8, 2004, it selected the entity to manage the 2004 grant application process.

Office of Healthy Homes Could Not Demonstrate It Provided the Necessary Training to All of the Contractor's Staff

A key component of the grant award process is for the Office of Healthy Homes to ensure all of its contractor's staff are adequately trained. The contractor hired by the Office of Healthy Homes was responsible for reviewing the grant applications to ensure they met notice of funding availability requirements and then score the applications. Before beginning this process, the Office of Healthy Homes was to provide training on the specific notice of funding availability requirements. In addition, the Office of Healthy Homes was to provide training to the contractor's staff on how to score an application. Since the contractor's staff was located across the country, the training took place over the telephone. Each reviewer was provided a package of information to be used during the training exercise.

During our review, we identified 30 reviewers who participated in the fiscal year 2004 grant application review process. The Office of Healthy Homes said that all reviewers received appropriate training. However, documentation provided by the Office of Healthy Homes only showed 18 individuals participated in the training exercises. In addition, when we requested a copy of the training documentation used during the exercise, the Office of Healthy Homes said the information was presented on the contractor's Web site and had recently been removed.

The Office of Healthy Homes Did Not Maintain a Proper Log to Track When Applications Were Received

When the grant application is received, the Office of Healthy Homes is to review the application to ensure that it is postmarked and received before the application deadline. This information is logged into and tracked in a database. In fiscal year 2004, the closing date for submitting an application was July 13, 2004. The Office of Healthy Homes could not provide documentation to support five of the seven applications we reviewed, thus we could not determine whether these applicants met the application deadline date noted in the notice of funding availability. The Office of Healthy Homes staff believes these errors will not exist in 2005 because this process will now be automated.

Contractor Did Not Complete an Accurate Initial Review of All Applicants' Eligibility

Once the Office of Healthy Homes logged the receipt of the application, it was passed on to the contractor to determine whether the applicant was eligible for the grant before scoring. To assist the contractor during this review, a checklist was established to reflect the required elements for each application. Some of the items the contractor looked for included consistency in the proposed funding amounts throughout the document, submission of signed transmittal letters,

determination whether the applicant was a prior grantee, and review of past performance. Any deficiency found during the initial review was required to be corrected by the applicant before further review and scoring of the grant application would be performed.

Our review of the seven grant applications noted problems with the contractor's initial review. For six of the grant applications, the reviewer who performed the evaluation did not answer all of the items on the checklist, such as determining whether the grantee was a prior or current grantee and ensuring that budgeted amounts agreed throughout the application. Since these items were missed during the initial review they were not corrected and the Office of Healthy Homes awarded funding to four of the six applicants. As a result, two ineligible applicants were awarded \$5,000,000³ in grant funds. For example, contrary to the notice of funding availability, an applicant that had performed poorly in the previous grant year was awarded a grant without the department taking into consideration the entity's past performance. In another example, an applicant that had received funds in 2003 received additional funds in 2004, which is also a violation.

The Office of Healthy Homes Did Not Provide Adequate Quality Assurance Reviews and Oversight of the Contractor's Work

We found that the Office of Healthy Homes did not perform adequate quality assurance reviews and oversight of the contractor's work. Of the seven applications reviewed, we found four instances in which incorrect or unsupported scores were used in a decision to award funding. In two instances, one applicant received an award and the other did not. In the first instance, the contractor had made a mathematical error in scoring the grant application. Due to this error, the entity was denied funding when it should have received funding in fiscal year 2004. To correct the mistake, the Office of Healthy Homes plans to award this entity funds totaling \$365,736 (or the negotiated grant amount) from fiscal year 2005 appropriations or other resources. In the second instance, the Office of Healthy Homes could not provide the individual score sheets used to support the total score submitted for the applicant. Using the total score, the applicant received \$957,900 in grant funding. Thus, there is no way to determine whether the contractor calculated the score correctly. For the remaining two applications in which awards were made based on incorrect scores, the recalculated score was still high enough to be considered for an award.

The Office of Healthy Homes Conducted Negotiations with Applicants after It Awarded the Grants

According to the notice of funding availability, after the Office of Healthy Homes has rated and ranked all applications and made its selections, it may require that the selected applicants participate in negotiations to determine the specific terms of the funding agreement and budget. Out of the five applicants that received funding, the Office of Healthy Homes did not require that the applicants participate in negotiations before executing the awards. If the Office of Healthy

³ A portion of this amount (\$2,000,000) relates to a grant issued to the City of San Antonio. Based upon our review, the city should not have received a grant due to poor past performance. The Office of Inspector General's Office of General Counsel concurs with our assessment that the grant should not have been awarded; however, it does not believe that these funds can be repaid to the department, since the issuance of these funds was based upon an error made by the department and not the grantee.

Homes had conducted negotiations before executing awards, funds that were adjusted by the department would not have had to be readjusted.

In summary, the decisions made to issue the fiscal year 2004 grants by September 2004, limiting the contractor selection process, and hiring a contractor with limited capacity contributed to the issues we have noted during our review. We are bringing these concerns to your attention before the fiscal year 2005 funding is distributed in hopes of avoiding similar problems for the fiscal year 2005 allocation.

RECOMMENDATIONS

The Office of Healthy Homes needs to correct these deficiencies immediately to ensure that the distribution of the \$168 million in the fiscal year 2005 grant award process is conducted in a more fair and equitable manner.

To accomplish this, we recommend that the Office of Healthy Homes

- 1A. Ensure an adequate pool of highly qualified contractors are solicited and considered for the fiscal year 2005 contract. If necessary this may include opening the solicitation to all eligible General Supply Administration federal supply schedule contractors, without restricting them to only small business and/or 8(a) firms.
- 1B. In selecting a contractor, ensure that it has the capacity to complete requirements as noted in the contractor's statement of work.
- 1C. Ensure the selected contractor has an adequate quality control process in place to ensure all applications are rated and scored according to the notice of funding availability requirements.
- 1D. Ensure all contractor staff are provided training before the processing of the fiscal year 2005 grant applications.
- 1E. Routinely monitor the contractor during the grant rating process to ensure all applications are processed appropriately.
- 1F. Update its process to ensure quality assurance reviews and oversight of the contractor's work adequately identify and correct problems with the contractor's rating and scoring of grant applications.

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

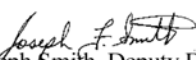


U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-3000

OFFICE OF HEALTHY HOMES AND
LEAD HAZARD CONTROL

May 6, 2005

MEMORANDUM FOR: Daniel G. Temme, Regional Inspector General for Audit,
Mid-Atlantic Region, 3AGA

FROM:  Joseph Smith, Deputy Director, Office of Healthy Homes and Lead Hazard Control, L

SUBJECT: Comments on the Interim Memorandum Report on the Office of Healthy Homes
and Lead Hazard Control's Issuance of Its Fiscal Year 2004 Grants

Thank you for the opportunity to respond to the subject report. The Office of Healthy Homes and Lead Hazard Control (OHHLHC) plays an important role in the lives of hundreds of thousands of children. Our focus since the February 2004 Inspector General audit has been to restore integrity to the program. We believe we are on the right track. This audit indicates that we have more to do before completely regaining the trust of those we serve. There should be no doubt that we are fully committed to doing just that.

We believe most of the shortcomings identified in this report are in part due to our rapid transition to a merit-based grant program. We believe the majority of the concerns can be immediately corrected by additional management controls, including more focused training for, and extensive oversight of our contractor by OHHLHC staff. Specifically, we plan to:

- Require the contractor to provide a quality control plan for ensuring that the training requirement is fulfilled and documented. Additionally, office staff will provide enhanced oversight during the training process;
- Require the contractor to certify that each reviewer attended the training prior to reviewing applications;
- Automate the threshold review and application review processes with a system containing the appropriate internal controls and required management information necessary to more adequately monitor quality. These controls include: mathematical score calculation; minimum data input requirements to complete threshold reviews, evaluations, and quality assurance reviews; record retention requirements to ensure a complete administrative record for each application; status reports to monitor progress; and, system audit capabilities.

While we believe firmly the audit findings will help to ensure that our future program practices reflect tougher, higher standards, we disagree with the lack of faith expressed with using an 8(a) contractor to manage the grant application review process. In hindsight, we believe training,

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extensive oversight and a performance-based clause would have resulted in a better product being delivered. We believe using a qualified 8(a) contractor supports the Administration's and the Agency's small business goals.

When implementing major systemic changes, continual tweaks and refinements have to be made. As a result of those changes and this audit, we believe the programs that depend upon us for funding will see a marked improvement in the 2005 awards process and evaluation.

We were reviewing our program prior to this audit, and will continue to review and refine our program practices to ensure they adhere to the highest standards of equity and transparency.

Attachment

Finding: The Office of Healthy Homes' Efforts to Meet Departmental Goals Adversely Affected Its 2004 Lead grant Award Process**Comment 1**

We do not accept the OIG's finding. We disagree that the departmental goals adversely affected our 2004 lead grant award process. We do agree however that some of the problems developed because 2004 was the first year the OHHLHC had used a contractor to complete the process. In this regard, we fully expected to encounter the problems typically encountered when implementing any new process. While resource constraints were a factor in deciding to seek contractor assistance in managing the application review process, the determining factor was the need to ensure the integrity of the grant competition by hiring objective, independent qualified professionals to review applications based on the merits. Subsequent to the OIG's February 6, 2004, audit in which the OIG states that awarded unsolicited proposals were not evaluated, likewise it became increasingly apparent that funding decisions associated with prior NOFAs may not always have been based on the merits of an application but rather on OHHLHC staff knowledge of the applicant, applicant partners, or other information irrelevant to the competition process. Confirmation of this appeared during the debriefing process with unsuccessful 2004 applicants during which, for example, one applicant who had previously been awarded grants noted that if OHHLHC staff had been reviewing applications the applicant would have received an award. In another instance an OHHLHC staff person expressed concern to the Deputy Director about debriefing an unsuccessful applicant because during the prior-year's debriefing, the applicant had been promised a 2004 award. The Deputy Director was approached to see what accommodation might be made for this applicant.

Comment 2

The timeframe for reviewing applications for 2004 was generally consistent with past funding rounds in that the OHHLHC traditionally finishes the review of grant applications in July or August depending on the issuance of the NOFA. Delaying the obligation process beyond September 30th causes significant problems, including: (a) negatively impacting the Department's ability to achieve the goal of eliminating the threat of childhood lead poisoning by the year 2010; (b) jeopardizing future program funding and increasing the programs' unexpended balance, an issue cited in the OIG 2/6/04 audit report 2004-AO-0001, due to delayed draw-downs on the current appropriation of as much as two years after its issuance as grantees progress through their startup periods which may consume three quarters; and, (c) requiring prolonged grant negotiations resulting from shifts in grantee personnel, dissolution of partnerships, and funds matching issues due to the protracted elapsed time between proposal submission, when project teams are assembled and award.

Finding: Method of Procuring a Contractor Restricted the Pool of Qualified Bidders**Comment 3**

We do not accept the OIG's finding. While we agree that the method of procuring a contractor may have restricted the pool of qualified bidders, we disagree that the process resulted in an award to a contractor with limited capacity to carry out the required activities. The Small Business Administration (SBA) certifies the qualifications of all firms on the applicable federal supply schedule used during the accelerated contracting method. To suggest that the Office not use small business and/or not target 8(a) firms would be to restrict small business contracting opportunities, which is at odds with the Secretary's small business contracting policy re-issued March 21, 2005, (originally issued November 25, 2003) which includes taking affirmative steps to

ensure inclusion of these businesses in HUD contracting. It also disregards the President's Management Agenda (PMA) of providing universal access to Federal contracting opportunities for small and 8(a) businesses. It is our intent to act in accordance with HUD's policy and the PMA. Further, while the OHHLHC could have directly contracted with an 8(a) firm, to our credit we employed competition to obtain a contractor. Finally, the Office of Procurement and Contracts advises that the non-receipt of bids for this solicitation was a result of some bidders requiring more time to prepare a proposal and was not due to a lack of capacity to perform the work. The OHHLHC extended the due date for receiving responses and OPC was assured by at least 3 bidders that proposals would be submitted. One subsequently provided a proposal. We believe that the record also will show that the OHHLHC evaluated the offer received rather than summarily accepting it, and that by working with OPC we found and contracted with a qualified 8(a) business.

The contractor's proposal to hire reviewers was not an acknowledgement of lack of capacity to conduct the application review process but rather the strategy the contractor proposed to obtain the necessary expertise to review the applications. The Office accepted this strategy in that we had anticipated that many Offerors would employ it and, it is not uncommon for small firms to staff up for projects. We also believe the strategy provided a greater level of objectivity and quality to the review process by providing access to qualified reviewers nationwide.

Finding: Office of Healthy Homes Could Not Demonstrate It Provided the Necessary Training to All of the Contractor's Staff

We do not accept the OIG's finding. Per the Performance Work Statement (PWS) the contractor was required to "ensure that all reviewers receive appropriate training from the OHHLHC in order to effectively carry out their responsibilities under the PWS." The contractor provided, and we submitted to the OIG documentation listing all 30 reviewers who received training, the trainer's name, the training date, the relevant NOFA, and copies of the training materials. The training agenda includes an overall review of the OHHLHC's programs, overviews of each program, discussions on scoring and evaluation, and instructions for the calibration exercise. Calibration exercises generally took place as part of the NOFA training and the sample applications used during the calibration exercises were included with the training materials provided by the contractor.

Nonetheless, for the FY 2005 grants review process, we will ensure enhanced oversight and quality control of the contractor. Our Performance Work Statement (PWS) requires the contractor to ensure that all CRT members and the program manager(s) attend training prior to reviewing grant applications. OHHLHC will require the contractor to provide a quality control plan for ensuring that this training requirement is fulfilled. OHHLHC staff will provide enhanced oversight during the training process, including recording the names of those reviewers in attendance. These documents will be provided to the contract GTR. We will require a certification from the contractor that each reviewer attended the training prior to reviewing applications.

Finding: The OHHLHC Did Not Maintain a Proper Log to Track When Applications Were Received

Comment 4

We accept the OIG's finding. While the OHHLHC inspected applications during the intake process to ensure timely submission, our database did not specifically record the date of submission. For FY 2005 the Department is not accepting paper applications, unless an applicant requests and receives a waiver to do so. The government's e-grants web portal and HUD's Grants Information Management System (GIMS) will accept and electronically route applications to the appropriate program offices, electronically tracking receipt dates and times as well. Staff from the Office of Departmental Grants Management and Oversight (ODGMO) advises that Grants.gov (the e-grants web portal through which all electronic applications must be submitted) will not accept applications past the submission deadline, thus eliminating the potential for receipt of late applications. The OHHLHC is purchasing electronic date stamps to record the date and time of paper applications received. The OHHLHC also is implementing EQPRS, an electronic system into which data for each application, including date received for paper applications, will be recorded. Finally, the OHHLHC will photocopy and attach the shipping labels to each paper application received.

Finding: Contractor Did Not Complete an Accurate Initial Review of All Applicants' Eligibility

Comment 5

We accept the OIG's finding but wish to add the following clarifications. The OHHLHC disagrees with the OIG's position that the lack of documentation at threshold review showing that the Department considered past performance, resulted in an award to an ineligible applicant. Neither the NOFA General Section nor the Lead Hazard Control (LHC) NOFA state that poor past performance makes an applicant ineligible, unless the applicant is applying for a Competitive Performance-Based Renewal. The NOFA General Sections V.B.6.a and V.B.6.b state that "In evaluating applications for funding, HUD will take into account applicants' past performance..." and "In evaluating past performance, HUD may elect to deduct points from the rating score or establish threshold levels as specified under the Factors for Award in the individual Program NOFAs." It also is clear from the above references that past performance considerations generally occur during the evaluation process and not during the threshold review process.

The applicant in question is the City of San Antonio who applied for an award under our Lead-Based Paint Hazard Control Program. Past performance considerations at the threshold review level for this program is limited to those applicants seeking funding for a Competitive Performance-Based Renewal. This information is not relevant, at this stage in the process, for other applicants and therefore would not be completed on the threshold checklist. Past performance is considered under Rating Factor 1 (Capacity). In this regard, LHC NOFA Section V.A.1 (a)(2) states "Factor 1: Capacity - The applicant should provide a description of any previous experience in enrolling units and in completing lead hazard control work in a timely and effective manner. You may demonstrate capacity by thoroughly describing your prior experience in initiating and implementing lead hazard control efforts...". "If the applicant received previous HUD LHC funding, this past performance will be evaluated in terms of cumulative progress and achievements under the previous grant(s). If the applicant has received multiple HUD LHC grants, performance under the most recent grant will be primarily evaluated." "HUD's evaluation process will consider an applicant's past performance record as reported to HUD in effectively organizing and managing their grant operations, in meeting performance and work plan benchmarks and goals, and in managing funds, including their application to account for funds appropriately, the timely use of funds received either from HUD or other federal, state, or local programs, and meeting performance

milestones. HUD may also use other information relating to these items from sources as hand, including public sources such as newspapers, IG or GAO reports or findings, hotline complaints, or other sources of information that have been proven to have merit.” The LHC score sheets for Factor 1 include past performance as part of the evaluation and the City of San Antonio’s application specifically discusses prior experience, challenges, and achievements. Further, had the maximum points for past performance been deducted, the City of San Antonio would have remained well within the competitive funding range and, as such would have been recommended for and received an award.

Nonetheless, the OHHLHC is simplifying the threshold review checklists to ensure a less cumbersome review process. Threshold review checklists will only cover items deemed critical to an application in order for the application to be reviewed thus helping to eliminate the possibility of missing items on the checklist. The OHHLHC’s EQPRS system is automating the threshold review process and, as such, will require a response to all items on the electronic review checklist before an application may be reviewed. Likewise, EQPRS will require a response to all items on the electronic score sheet in order for the score sheet to be submitted. OHHLHC management will provide closer oversight of this process via EQPRS.

Finding: The OHHLHC Did Not Provide Adequate Quality Assurance Reviews and Oversight of the Contractor’s Work

We accept the OIG’s finding. For the fiscal year 2005 grant cycle EQPRS will automate the scoring process and require that individual reviews and associated score sheets with appropriate justifications, as well as consensus scores with associated strengths and weaknesses be completed prior to beginning the quality assurance review process conducted by Office staff. The system will save all scoring documents associated with each application and will provide management reports showing application review status information. The system will automatically calculate scores to eliminate the potential for mathematical errors. We are reviewing our quality assurance review process to identify improvement opportunities, however, at this time we expect that EQPRS will enhance the quality assurance review process so that ARP members may, with appropriate justification and concurrence(s), reject contractor reviews entirely or change scores. EQPRS will provide the appropriate controls to create an administrative record of any rejected review or score changes.

Finding: The OHHLHC Conducted Negotiations with Applicants after It Awarded the Grants

We accept the OIG’s finding and wish to provide additional clarification. The OHHLHC is confident that our process of negotiating grants after award has no adverse impact on the quality of awards made. On the contrary, awarding grants prior to negotiation allows grantee start-up activities to begin immediately. Grantee use of funds is restricted to 10% of the grant award until final negotiations are completed. Further, unlike prior years, the OHHLHC did not reduce requested award amounts in order to fund additional applicants. While this practice results in additional awards it also has the potential of negatively impacting the integrity of the NOFA competition by adversely effecting the merits of the projects selected for award, as well as the associated proposed budgets and partnering agreements. Likewise, it raises the potential

Comment 6

for awarding grants to mediocre applicants, creating higher risk to the Department. When awarding grants at the requested level negotiation is not always required and, if required is generally simplified. As a result selected applicants are less likely to be impacted by protracted negotiations jeopardizing the project teams assembled in the proposal. We do agree that greater attention and management oversight during the threshold review process will preclude the type of funding adjustments required during this year's grants cycle. Given the advantages to our grantees, and ultimately to the program, we will continue to exercise this option.

OIG Recommendations:

**Comment 1
Comment 3
Comment 7**

- 1A. Ensure an adequate pool of highly qualified contractors are solicited and considered for the fiscal year 2005 contract. If necessary this may include opening the solicitation to all eligible General Supply Administration federal supply schedule contractors, without restricting them to only small business and/or 8(a) firms.

OHHLHC Action: The OHHLHC intends to use a highly qualified 8(a) contractor for the fiscal year 2005 contract.

Comment 8

- 1B. In selecting a contractor, ensure that it has the capacity to complete requirements as noted in the contractor's statement of work.

OHHLHC Action: The OHHLHC will ensure that the contractor has the capacity to perform the work required in the SOW.

Comment 9

- 1C. Ensure the selected contractor has an adequate quality control process in place to ensure all applications are rated and scored according to the notice of funding availability requirements.

OHHLHC Action: The OHHLHC will ensure that the contractor has an adequate quality control process in place. As noted above, it is our expectations that EQPRS will resolve some quality control issues and we will provide closer management oversight as well.

- 1D. Ensure all contractor staff is provided training before the processing of the fiscal year 2004 grant applications.

OHHLHC Action: We will ensure that all contractor staff is provided training before they begin reviewing applications. OHHLHC will require the contractor to provide a quality control plan for ensuring that this training requirement is fulfilled. OHHLHC staff will provide enhanced oversight during the training process, including recording the names of those reviewers in attendance. These documents will be provided to the contract GTR. We will require a certification from the contractor that each reviewer attended the training prior to reviewing applications.

- 1E. Routinely monitor the contractor during the grant rating process to ensure all applications are processed appropriately.

OHHLHC Action: The enhancements to the process provided by EQPRS will help ensure that applications are processed appropriately in that the system will retain electronic copies of all individual and team scores and related justifications, as well as quality assurance reviews for each application. EQPRS also will provide an audit trail documenting the status of each application during the review process. OHHLHC management will monitor this information to ensure that both the system and the reviewers are performing as expected and will provide timely feedback to the contractor as necessary to correct any identified deficiencies.

- 1F. Update its process to ensure quality assurance reviews and oversight of the contractor's work adequately identify and correct problems with the contractor's rating and scoring of grant applications.

OHHLHC Action: In addition to the actions noted under recommendation 1E above and our response to finding six, EQPRS will enhance the quality assurance review process so that ARP members may, with appropriate justification and concurrence(s), reject contractor reviews entirely or change scores. EQPRS will provide the appropriate controls to create an administrative record of any rejected review or score changes.

OIG Evaluation of Auditee Comments

Comment 1 Although we agree that transitioning from an in-house award process to using a contractor created a number of problems for the Office of Healthy Homes, the root cause of the problems related to the Office of Healthy Homes' commitment to meet the department's goals. These goals included targeting small business and 8(a) firms in awarding contracts and obligating the funds by September 30, 2004. To meet the department's goal to award all grants by September 30, 2004, the Office of Healthy Homes used HUD's accelerated contracting method. However, although it is not a requirement under this contracting method, the Office of Healthy Homes elected to limit the solicitation to small business and 8(a) firms. This severely limited the number of quality firms who bid on the contract. As our audit showed, the Office of Healthy Homes had a very difficult time in finding a small business or 8(a) contractor who would bid on the contract. It was not until the solicitation due date was extended did the Office of Healthy Homes find one bidder who finally accepted the contract. It was quite apparent that the Office of Healthy Homes' contracting options were very limited under this approach.

Further, due to the time restrictions in meeting the department's deadline of September 30, the Office of Healthy Homes did not have time to ensure the proper administrative controls were established to ensure the grant award process was conducted in a fair and equitable manner according to the notice of funding availability requirements. As we pointed out in the report, we found significant weaknesses in the training of the contractor's staff, logging and tracking of the applications, contractor's evaluation of the grant applications, and the Office of Healthy Homes' oversight of the contractor's work. As a result, we found a number of applicants either received or were denied a grant contrary to HUD's established process.

Comment 2 The reasons the Office of Healthy Homes provided for not wanting to delay the grant obligation process beyond September 30 all have merit. However, the overall integrity of the grant award process must take precedence over the desire to meet a defined deadline. For the 2004 grant award process, the Office of Healthy Homes did not have the administrative processes in place to ensure the grant award process was fair and equitable. This situation needs to be avoided in future grant awards even if it means establishing a later deadline.

Comment 3 We did not suggest the Office of Healthy Homes not use small business and/or target 8(a) firms for its contracting needs. However, we did recommend it not restrict its search to these firms if an adequate number of qualified vendors did not bid on the solicitation using this method. As the audit highlights, the Office of Healthy Homes had a difficult time in finding and recruiting a small business or 8(a) contractor for the task. The fact remains that the Office of Healthy Homes only obtained one bid after extending the due date for the solicitations. Also, the only bidder that was selected needed to recruit and train the staff that it needed to perform the task. It was quite apparent that the Office of Healthy Homes' decision

to restrict contracting under this approach limited the number of qualified firms who may be better structured to perform the task. Further, as our audit results show, the selected contractor made a number of significant errors in processing the grant applicants which compromised the integrity of the grant award process. As such, we believe the Office of Healthy Homes has a responsibility to use all available methods to ensure it obtains a contractor who is best suited to complete the process by the imposed deadlines.

Comment 4 During our review, we identified 30 reviewers that participated in the fiscal year 2004 grant application review process. The Office of Healthy Homes claimed that all reviewers received appropriate training. However, documentation provided by the Office of Healthy Homes only showed 18 individuals participated in the training exercises.

Further, our audit clearly demonstrated performance issues with the contractor's staff. For the seven grant applications reviewed, we identified problems with the initial review on six of the grant applications. Specifically, reviewers who performed the evaluations did not answer all of the items on the checklist, such as determining whether the grantee was a prior or current grantee and ensuring that budgeted amounts agreed throughout the application. These errors caused the Office of Healthy Homes to award two ineligible applicants \$5,000,000 in grant funds and readjust funding budgets for two other applicants.

Comment 5 The applicant in question is the City of San Antonio who applied for an award under the Lead-Based Paint Hazard Control Program. Ultimately the Office of Healthy Homes was responsible for making the final decision to fund the applicant. The Office of Healthy Homes could not provide us with any documentation to demonstrate it took into consideration the City of San Antonio's poor past performance before a final decision was made to award it a 2004 grant. This concerned us because in the year 2003, the City of San Antonio had to return \$2.2 million in grant funds under the Lead Hazard Control Program because it was not able to fully implement its grant program. Despite the grantee's poor performance, the Office of Healthy Homes provided the City of San Antonio with another \$2 million award under the Lead Hazard Control Program. The past performance of the grantee clearly demonstrated it did not have the capability to effectively implement a grant program and use the funds that the Office of Healthy Homes provided them. As such, other grantees with greater capacity should have been considered for the award to ensure the program's limited funding was more effectively used to meet the objectives of the program.

Comment 6 According to the notice of funding availability, after the Office of Healthy Homes has rated and ranked all applications and made its selections, it may require that the selected applicants participate in negotiations to determine the specific terms of the funding agreement and budget. If the Office of Healthy Homes feels that this approach specified under the notice of funding availability is not beneficial, and the process of negotiating grants after the award is a better and more effective

procedure, it should revise the notice of funding availability accordingly. However, this should only be done if the Office of Healthy Homes can fully support its position with appropriate performance data from its past grant awards.

- Comment 7** The Office of Healthy Homes needs to address a plan of action that will be used incase it receives a very limited pool of qualified contractors.
- Comment 8** Although the Office of Healthy Homes agrees with the recommendation, it needs to specifically define how it intends to evaluate the contractor’s capacity to perform the tasks identified in the statement of work.
- Comment 9** The Office of Healthy Homes should not rely totally on its expectations that its Enhanced Quarterly Performance Reporting System (EQPRS) will resolve some of the quality control issues. Also, it should require the contractor to submit the quality control plan as part of the terms of the contract.