



July 9, 1996

Audit-Related Memorandum
96-SF-241-1807

MEMORANDUM FOR: Herbert L. Roberts, Director, Community Planning and
Development Division, 9DD

FROM: Gary E. Albright, District Inspector General for Audit, 9AGA

SUBJECT: Subgrantee Selection and Funding
City of Pomona Community Development
Block Grant (CDBG) Program
Pomona, California

INTRODUCTION

We reviewed the propriety of the City of Pomona's (Grantee) selection and award of CDBG program funds to subgrantees in its 1994-95 funding year. The purpose of our review was to determine whether the following alleged conditions existed and, if so, violated program requirements:

- 1. Potential conflicts of interest by the Grantee's elected officials and the President/board member of a subgrantee.**
- 2. Preferential treatment may have been provided by the Grantee in awarding CDBG program funds to certain subgrantees.**
- 3. HUD CDBG program requirements may have been violated when subgrantees did not achieve non-profit status or meet the conditions of the Request for Proposal (RFP) to participate in the program.**

In addition to the three allegations we reviewed, there were allegations that discrimination may have been applied against certain ethnic or racial groups and organizations. These allegations are being addressed separately by HUD's Office of Fair Housing and Equal Opportunity.

SUMMARY

Some of the concerns we reviewed were valid; however, others were not.

The allegations of conflict of interest violations against the City Mayor and the President/board member of a subgrantee were not valid. Our review, however, determined there was the appearance of a conflict of interest between a Council member's relationship with Pomona Valley Center for Community Development (PVCCD), a subgrantee, and that person's position on the City Council.

We did not find conclusive evidence to support a determination that Council members steered funds to new subgrantees where they may have had a personal interest. We believe that the Grantee's CDBG funding procedures were adequate to provide for a fair and competitive process. Although our review of 20 proposals disclosed rating inconsistencies, we did not find indications of deliberate efforts by Grantee officials to direct the award of CDBG funds to specific subgrantees.

With respect to the concern that historically funded organizations received less or no funding Grantee's records showed that the Community Life Commission (CLC), which reviewed and recommended funding to the City Council, recommended 22 proposals in the 1994-95 funding year. Of the 22 proposals, eight were organizations that received more funding in previous years than during the 1994-95 funding year. The Grantee's records showed that these organizations received less funding during the 1994-95 funding year due to a lack of available funds and not because Council members steered funds to new subgrantees.

We also did not find that organizations serving Hispanics were given preferential treatment or that they received the alleged 80 to 85 percent of the funds awarded. The City allocated only 24.8 percent to private organizations, including those serving Hispanics and other minority constituents. The Grantee's public agencies received 46.9 percent of awarded funds. These funds were generally used on citywide activities designed to benefit low income residents - rather than allocated based on the ethnic composition of Pomona's population. The remaining funds were used for program administration and a loan repayment.

Although rating inconsistencies occurred indicating that five proposals may have been overrated and three underrated, we did not find compelling evidence that CLC members who rated those proposals manipulated the selection and funding process so as to serve the personal interest of the Council members who appointed them.

The allegation that three subgrantees were new and had no track record administering the activities for which they were funded was valid but not necessarily improper. Although we found that these subgrantees may have been overrated and, therefore, could have been excluded from

consideration, we did not find any compelling evidence that they were given preferential treatment.

The allegations concerning violations of the Grantee's program were valid, but those conditions were not violations of HUD requirements. The concern was that two subgrantees had failed to include required documents with their proposals, thus, they were ineligible for CDBG funding consideration. The Grantee's procedures, however, allowed the Grantee the prerogative of waiving some of its RFP requirements. Therefore, if the Grantee chose to accept proposals without receiving all the required documents, the applicant's failure to submit documents would not prevent its proposal from being considered for CDBG funding.

We made on-site reviews at two subgrantees to determine whether these organizations were using CDBG funds to accomplish their stated objectives. The Latino Chamber of Commerce (LCC), a subgrantee, had a problem spending the funds in a timely manner due to high staff turnover; however, the Grantee had already taken certain corrective actions to resolve the problem. Chicana Service Action Center was using the funds timely and in accordance with its stated objectives.

We provided the Grantee with a copy of the results of our review for comment. The Grantee generally agreed with our draft report. We have revised portions of our draft report based upon the Grantee's written response. The full text of the Grantee's response is included as Appendix A to this report.

BACKGROUND

Title 24 of the Code of Federal Regulations (CFR) Part 570.200(f), *Means of Carrying Out Eligible Activities*, provides that subject to local law, activities eligible for CDBG assistance may be undertaken by the recipient through its employees, or through loans or grants under agreements with subrecipients, or by one or more public agencies, including existing public agencies designated by the chief executive officer of the recipient.

The City of Pomona undertakes its CDBG program activities through its various public service departments or agencies and private non-profit organizations (subgrantees). The Grantee's procedures for competitive review of CDBG funding proposals, during the 1994-95 CDBG funding period were as follows:

- The City issued a Request for Proposals (RFP) for CDBG funding for the program year, which included detailed instructions for completing a proposal, required certification forms and attachments, explanations for seven ranking factors and information needed to satisfy each factor, submission deadline, and date and time for oral presentation of proposals by respective applicants or sponsors.
- The Grantee's Housing Department staff reviewed the proposals for satisfactory

compliance with RFP requirements, eligibility of the proposed activity, etc. Proposals found acceptable for further consideration were then forwarded to the CLC.

- The CLC was an advisory body to the council. The CLC's chairman was appointed by the Mayor. In addition, each of the six City Council members appointed a commissioner for a two year term on the CLC. The CLC conducted public meetings, heard oral presentations of each proposal, evaluated and rated how each proposal satisfied each of the seven evaluation factors based on a numeric scoring system, and recommended to the Council the winning proposals - including the recommended award amount.
- The City Council, which had authority to override the CLC's recommendation, made the final selections and awarded the funds.

The City's RFP procedures required each CLC member to complete a rating sheet for each proposal, where the numeric points assigned by each member for each of the seven factors was entered. With certain exceptions, the Grantee's policy requires that only proposals receiving a rating of 70 points and above were considered for final ranking and funding.

The seven ranking factors are shown in the following table:

Evaluation Factors	No Response	Poor	Fair	Good	Excellent
Project Benefit	0	5	10	15	20
Self-Sufficiency Potential	0	5	10	15	20
Program Experience & Qualifications	0	4	8	12	15
Fiscal Administration	0	4	8	12	15
Coordination With Other Agencies	0	4	8	12	15
Outreach to MBE/WBE & Local Contractor	0	3	5	7	10
Program Design	0	2	3	4	5
Maximum Possible Points				100	

There were 75 proposals submitted for the CLC's consideration for the 1994-95 CDBG fund award. Of the 75 proposals, 50 were for public service activities, 11 for public facilities improvements, 5 for housing, 1 for historical preservation, 3 for special economic development, and 5 for other eligible activities. There were 28 public services and 7 other eligible activities that received qualifying scores of 70 and above.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objectives of our review were to (1) determine the validity of a widerange of allegations and, (2) if the allegations were an accurate portrayal of conditions, determine whether the conditions violated program requirements. To accomplish our objectives, we:

- Interviewed the Los Angeles Area Office (LAAO) Community Planning and Development (CPD) program staff.
- Reviewed the LAAO CPD correspondence and monitoring files.
- Interviewed Grantee program officials and staff.
- Reviewed the Grantee's procedures for rating and selecting proposals for the 1994-95 CDBG fund award.
- Selected and reviewed 20 of the 75 proposals submitted for consideration, which included 14 winning and six losing proposals to determine the adequacy of information supplied to satisfy each of the seven rating factors.
- Evaluated the rating points given by each CLC member on each of the 20 proposals to determine if the numerical scores were properly supported by data or information included in the proposals.
- Made on-site reviews at two subgrantees to verify whether funds were being used to accomplish their approved and funded activities.

Our review focused only on the three general allegations of potential conflict of interest preferential treatment, and violations of CDBG program regulations and requirements. We did not review allegations relating to discrimination (as identified in the Introduction of this report) because these issues are being directly addressed by HUD's Office of Fair Housing and Equal Opportunity (FHEO). According to FHEO officials, these allegations are currently being addressed in a separate review of the Grantee's program that deal specifically with discrimination issues.

Our review generally covered the period February 1, 1994 to August 8, 1995. Where appropriate, we expanded our review to consider other periods.

REVIEW RESULTS

Following are the details of the allegations and the results of our review:

1. Potential conflict of interest by Grantee officials and President/board member of a subgrantee.

Conflict of interest between the City Mayor and LCC

This allegation was not valid. Although the Grantee's records correctly showed that the City's Mayor was a founding member, past President, and a member of LCC, these occurred before LCC submitted its proposal and received the award of CDBG funds.

Due to concern that the City Mayor may have a conflict of interest with LCC, an employee of the Grantee's Housing Department sought a legal opinion from the City Attorney on the matter. The City Attorney opined that the City Mayor's past membership and position with LCC were not conflict of interest violations, as prohibited under Title 24 CFR Part 570.611.

Conflict of interest between a Council member and PVCCD

The Grantee's records showed that this Council member was serving as a board member of PVCCD at the time PVCCD submitted its proposal for CDBG funding. This gives the appearance of a conflict of interest. Our review of CLC's scoring of PVCCD's proposal showed that the Council member's appointee to the CLC gave a 100 point rating to PVCCD's proposal. The PVCCD's proposal topped the list of winning proposals for the public service category with an overall rating of 90 points. When the Council voted to award the funds, the council member voted in favor of the award.

Conflict of interest violation by LCC's President/board member.

The allegation that paying LCC's President/board member with CDBG funds, while acting in the capacity of Project Director, was not a conflict of interest violation. Title 24 CFR Part 570.206 *Program Administration*, paragraph (a)(1), states that reasonable cost of overall program management, coordination, monitoring, and evaluation may include expenditures for salaries, wages, and related costs of the recipient's staff, the staff of local public agencies, or other staff engaged in program administration.

This issue was also brought to the attention of the City Attorney who determined that there was no conflict of interest. Further, the City Attorney's opinion was also referred to the HUD Los Angeles Area Office's Legal Division for review. LAAO's Legal Division concurred with the City Attorney's opinion.

2. Preferential treatment may have been provided by the Grantee in awarding CDBG program funds to certain subgrantees.

The Grantee's council members steered funds to new subgrantees in which they had a personal interest; therefore, traditional non-profit organizations received less, or no funding.

We did not find any conclusive evidence to support a determination that Council members steered funds to new subgrantees in which they had a personal interest. We believe that the Grantee's CDBG funding procedures were adequate to provide for a fair and competitive process. Although our review of 20 proposals disclosed rating inconsistencies, we did not find indications showing inappropriate and deliberate efforts by Grantee officials to direct the award of CDBG funds to specific subgrantees.

As shown in the Background section of this report, the Grantee's funding procedures required a multi-level review and evaluation of CDBG funding proposals. This included staff review of the submitted proposals for satisfactory compliance with RFP requirements, eligibility of the proposed activity, etc. The CLC, whose Chairman is appointed by the Mayor and six commissioners who are each appointed by one of the six council members, recommended to the Council the winning proposals and the amount recommended for each award. Any recommendation for award was made only after the commission conducted public meetings, heard oral presentations, and evaluated and rated how each proposal satisfied seven evaluation factors based on a numeric scoring system.

We selected 20 proposals (12 funded and 8 not funded) to test whether CLC's numeric scoring of the evaluation factors was justified based on supporting information included in the proposals and whether the basis for giving numerical scores was consistently applied. The results of our test disclosed rating inconsistencies in eight of the 20 proposals. We noted that five winning proposals did not contain adequate supporting documents or information to justify the higher scores received. Conversely, the other three losing proposals contained adequate information that we believed deserved higher scores, yet CLC gave those proposals lower ratings. These inconsistencies, therefore resulted in five proposals being overrated and three underrated. We do not believe however, that these inconsistencies are sufficient to conclude that actual preferential treatment was given to some organizations.

With respect to the allegation that historically funded organizations received less or no funding, Grantee's records showed that CLC recommended 22 proposals to the City Council for fund award. Of the 22 proposals, eight were organizations that received more funding in previous years but received less during the 1994-95 funding year. The Grantee's records showed that these organizations received less funding during the 1994-95 funding year due to the lack of available funds, and not because Council members steered funds to new subgrantees.

We also reviewed minutes of the City Council's meetings but we did not find any

indication that Council members purposely directed funds to organizations where they may have had a personal interest. The minutes showed that the City Council made overriding changes to the number of proposals and funding levels that CLC previously recommended for approval. The changes included: (1) removing two of 10 recommended proposals under Public Service, while adding four that were not recommended; (2) removing one of 12 recommended proposals under Economic Development/Housing while adding four that were not recommended; and (3) generally reducing the funding levels recommended for all recipients.

These changes, however, were in accordance with the Grantee's RFP procedures which provide that: (1) a final award is contingent upon the City Council's approval and availability of funds and, (2) the City of Pomona reserves the right to accept, negotiate or reject any or all proposals based on the RFP criteria, and to increase or decrease funding levels when in the best interest of the City and its citizens.

Organizations serving Hispanics were given preferential treatment and received 80 to 85 percent of the funds.

This allegation was not valid. While it was true that Council members appointed the CLC members and that a majority of the council members and commissioners were Hispanics, we did not find any evidence to substantiate this allegation. Aside from rating inconsistencies discussed above, we did not find any indication that CLC manipulated the selection process so as to serve the personal interest of the Council members.

We also did not find that organizations serving Hispanics received 80 to 85 percent of the \$2.62 million CDBG funds allocated to the Grantee. The following table shows the distribution of the 1994-95 CDBG funding (in millions of dollars) for the City:

Funds Allocated To/For:	Amount	Percent
Grantee's public agencies	\$1,230	46.9%
Program administration	525	20.0%
Repayment of Section 8 loan	218	8.3%
Subtotal	\$1,973	75.2%
Private organizations	652	24.8%
Total grant funds	\$2,625	100.0%

The above table shows that only 24.8 percent, not 80 to 85 percent, was awarded to private organizations which included both those serving Hispanics and those serving other minority constituents of the Grantee.

Funds allocated to the Grantee's public agencies (46.9%) were generally used on citywide activities designed to benefit low income residents, and not necessarily based on the ethnic composition of the population.

CDBG subgrantees, such as the LCC, PVCCD, and PYSL, were new with no prior track record administering the activities for which they were they funded.

This allegation is valid but not necessarily improper. Our review of LCC's, PVCCD's and Pomona Youth Soccer League's (PYSL) proposals showed that these organizations were new participants in the Grantee's program and all three had little or no track record administering the activities for which they were funded. One of the seven factors that an applicant was required to satisfy was "Experience and Qualification" for the activities being requested for funding. As discussed above, we found that CLC may have overrated these three subgrantees on the "Experience and Qualifications" factor. However, as explained above, we did not find any compelling evidence that the scoring deficiencies were deliberate.

3. HUD CDBG program requirements may have been violated when subgrantees did not achieve non-profit status or meet the conditions of the RFP to participate in the program.

Missing IRS letter evidencing non-profit status.

This allegation was valid; however, HUD regulations do not require an IRS-designation establishing the non-profit status of an organization as a condition for eligibility for CDBG funding. Title 24 CFR Part 570.204(c) *Eligible subrecipient* merely defines a neighborhood-based non-profit organization as an association or corporation duly organized to promote and undertake community development activities on a not-for-profit basis within a neighborhood. A non-profit organization, however, may be exempt from Federal income tax and may obtain a tax-exempt status letter from the Internal Revenue Service under Revenue Code Section 501(c)(3).

According to the Grantee's staff, its procedures require non-profit organizations submitting a proposal to enclose a copy of an IRS letter as evidence of its non-profit status. This is a Grantee requirement rather than HUD's requirement.

We found that the IRS non-profit tax-exemption letter accompanying the Mexican American Political Association's (MAPA) proposal was issued in the name of MAPA Voter Registration & Education Corporation, an entirely different non-profit entity. However, PYSL's proposal did not include a similar non-profit tax-exemption letter or any other documentation supporting its non-profit status.

Audited financial statements and proof of liability insurance were not submitted.

This allegation was also valid. Instead of providing an audited financial statement as required in the RFP, LCC merely provided an unaudited 2-month period profit and loss statement. Also, LCC did not have a liability insurance policy. LCC used a copy of a "slip and fall" liability insurance certificate of the shopping center where LCC was renting an office to satisfy the Grantee's proof of liability insurance requirement.

MAPA did not submit a copy of an audited financial statement but included a statement stating that this was unnecessary because MAPA had no outstanding debts or equipments. MAPA correctly submitted a copy of its own liability insurance policy.

The Grantee's procedures, however, allow it to waive some of its RFP requirements. Therefore, if the Grantee chose to accept proposals without receiving all the required documents, the applicant's failure to submit documents would not prevent its proposal from being considered for CDBG funding.

In our opinion, the conditions that may have prompted the allegations were due to the Grantee's less than strict compliance with its own established RFP procedures. We believe that in order to avoid the appearance of preferential treatment, the Grantee should not deviate from any of its procedures - especially during the qualification and rating process.

Auditee Comments:

The Grantee generally agreed with the results of our review and stated that it had made substantial improvements to its CDBG program administration. The Grantee, however, disagreed with the portion of our draft report that stated that the CLC members were not familiar with RFP procedures and related program guidelines. The Grantee claimed that CLC members worked extensively with program staff to establish the RFP procedures and jointly reviewed program guidelines prior to the City Council's review and approval of subgrantees.

OIG Evaluation of Auditee Comments:

Based on our evaluation of the Grantee's response, we deleted our draft comments concerning the CLC's possible unfamiliarity with RFP procedures. Accordingly, we also deleted a recommendation addressing the same issue.

RECOMMENDATION

We recommend you instruct the Grantee to require its program staff to enhance its existing policies and practices, for accepting, ranking, and funding proposals for CDBG program activities, by fully documenting the basis for waivers or exemption from the stated policies.

We are not controlling the above recommendation under the Departmental Automated Audit Management System; therefore, there is no need for you to provide us with status reports or action taken.

We have provided a copy of this report to the Grantee. If you have any questions concerning this report, please call me or Glenn Warner, Assistant District Inspector General for Audit, at (415) 436-8101.

Appendices:

- A. Auditee Comments
- B. Distribution

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