




Issue Date July 21, 2006

Audit Report Number 2006-CH-0003

TO: Nelson R. Bregón, General Deputy Assistant Secretary for Community Planning and Development, D
Robert S. Kenison, Associate General Counsel of Assisted Housing and Community Development, CD

FROM: 
Heath Wolfe, Regional Inspector General for Audit, 5AGA

SUBJECT: The Congressional Grants Division's Oversight of Economic Development Initiative – Special Purpose Grants Needs to Be Improved

HIGHLIGHTS

What We Audited and Why

We audited the U.S. Department of Housing and Urban Development's (HUD) Congressional Grants Division's (Division) oversight of Economic Development Initiative – Special Purpose Grants (Grants) appropriated for fiscal years 2002 through 2005. The audit was part of our fiscal year 2005 annual audit plan, and our strategic plan to contribute to improving HUD's execution of and accountability for fiscal responsibilities. Our objectives were to determine the adequacy of HUD's application and award processing, and monitoring of the Grants.

What We Found

The Division did not require grantees to place liens on assisted properties' titles. It also did not ensure that grantees placed covenants on assisted properties' titles assuring nondiscrimination and that Grant funds were appropriately used according to HUD's Grant agreements with grantees.

We statistically selected 105 fiscal years 2002 through 2005 Grants for review to determine the adequacy of the Division's application and award processing, and the monitoring of the Grants. Of the 105 Grants, the Division did not ensure that 71 grantees submitted required forms and documentation for appropriate monitoring, and 9 grantees properly completed (7) or even submitted (2) required application and award forms and documentation. The Division also could not support that 4 grantees submitted required semi-annual progress reports, 3 grantees submitted certifications regarding lobbying, and that it approved 2 grantees' environmental release of funds before disbursing Grant funds.

What We Recommend

We recommend that HUD's general deputy assistant secretary require the Division to improve its existing procedures and controls to ensure that 1) grantees receiving Grant funds above a HUD-established minimum threshold record liens showing HUD's interest in assisted properties, 2) grantees place covenants on properties' titles assuring nondiscrimination, 3) grantees properly complete required application forms and documentation for Grant awards, 4) Grant funds are appropriately used, and 5) Grant funds are properly disbursed. We also recommend that HUD's associate general counsel of assisted housing and community development strengthen existing procedures and controls over the Grant agreement template review to ensure that citations to requirements are accurate.

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 provided our discussion draft audit reports to HUD's general deputy assistant secretary during the audit. We held an exit conference with the HUD's director of congressional grants on May 5, 2006.

We asked the general deputy assistant secretary to provide written comments on our revised discussion draft audit report by July 12, 2006. The general deputy assistant secretary provided written comments dated July 12, 2006. The general deputy assistant secretary generally disagreed with our finding and recommendation regarding HUD needs to require grantees to secure its interest in assisted properties and improve existing monitoring procedures and generally agreed with our finding and recommendations regarding HUD needs to improve controls over its grant application and award process, and the disbursement of Grant funds. The complete text of the written comments, along with our evaluation of that response, can be

found in appendix B of this report except for 15 pages of documentation that was not necessary to understand the general deputy assistant secretary's comments.

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BACKGROUND AND OBJECTIVES

The Economic Development Initiative program. The U.S. Department of Housing and Urban Development's (HUD) Economic Development Initiative program includes noncompetitive Economic Development Initiative – Special Purpose Grants (Grants). HUD awards Grants to entities included in the U.S. House of Representatives' conference reports. The table below contains the amounts Congress appropriated in the conference reports for fiscal years 2002 through 2005.

<i>Conference Report</i>	<i>Fiscal Year</i>	<i>Number of appropriations</i>	<i>Appropriations amounts</i>
107-272	2002	802	\$294,200,000
108-10	2003	882	261,000,000
108-401	2004	902	278,000,000
108-792	2005	1,032	262,000,000
<i>Totals</i>		<i>3,618</i>	<i>\$1,095,200,000</i>

HUD transferred oversight of the Grants from its Office of Multifamily Housing to its Office of Community Planning and Development in 1998 when Congress appropriated the Grants through the community development fund. HUD's Congressional Grants Division (Division) manages nearly the entire Grant process from application to close-out. HUD's field Offices of Community Planning and Development are responsible for the environmental review process for the Grants.

Our objectives were to determine the adequacy of HUD's application and award processing, and monitoring of the Grants.

RESULTS OF AUDIT

Finding 1: HUD Needs to Require Grantees to Secure Its Interest in Assisted Properties and Improve Existing Monitoring Procedures

The Division did not require grantees to place liens on assisted properties' titles, ensure that grantees placed covenants on assisted properties' titles assuring nondiscrimination, and ensure that Grant funds were appropriately used according to HUD's Grant agreements with grantees. It also could not support that 71 of 105 grantees statistically selected for review submitted required forms and documentation for the monitoring of fiscal years 2002 through 2005 Grants. We provided the Division a schedule of the Grants with missing forms and documentation. The problems occurred because the Division lacked effective oversight of the Grants. As a result, HUD's interest in assisted properties was not secured and it lacks assurance that Grant funds were appropriately used.

HUD Did Not Request Grantees to Record Its Interest on Properties' Titles

The Division did not require grantees to record HUD's interest on the titles of properties assisted with Grant funds. Recording HUD's interest on the properties helps to protect HUD in case the properties are sold, part of an insurance claim due to fire or a natural disaster, and/or no longer used for their intended purpose.

HUD required its fiscal year 2002 grantees to submit Standard Form 424D, Assurances – Construction Programs. Based on our external audits of fiscal year 2002 and 2003 Grants, the four grantees' representatives certified in Standard Form 424D, section 3, that they would record the federal interest in the title of the assisted properties in accordance with awarding agency directives.

The Division's position is that the standard form only requires grantees to record HUD's interest in the assisted properties if it issued a directive that requires grantees to record HUD's interest or it specifically directs grantees to record HUD's interest in the properties. Although, HUD did not issue any directives requiring grantees to record HUD's interest in the assisted properties or specifically direct grantees to record HUD's interest, it clearly has the authority to require a grantee to record HUD's interest in the assisted properties. The Division does not believe it can direct grantees to record HUD's interest in the properties' titles since it has already closed-out the Grants. However, HUD still has the authority to request grantees to record HUD's interest in the properties' titles.

Further, starting with its fiscal year 2003 Grants, the Division required its grantees to submit form HUD-424-B, Applicant Assurances and Certifications, rather than Standard Form 424D. Form HUD-424-B does not contain a certification that grantees will record the federal interest in the title of assisted properties in accordance with awarding agency directives. HUD's director of congressional grants said the change to HUD-424-B was an agency wide decision.

The following table shows the results of our external audits of four fiscal year 2002 and two fiscal year 2003 Grants.

<i>Grant number</i>	<i>Fiscal year</i>	<i>Grantee</i>	<i>Grant amount</i>	<i>Unsecured grant amount</i>
B-02-SP-IN-0220	2002	City of Carmel	\$1,000,000	\$1,000,000
B-02-SP-OH-0555	2002	College	1,000,000	1,000,000
B-02-SP-MI-0310	2002	NorthStar	350,000	184,871
B-02-SP-WI-0779	2002	City of Rhinelander	120,000	47,668
B-03-SP-MI-0352	2003	City of St. Ignace	223,537	223,537
B-03-SP-IN-0240	2003	City of Indianapolis	134,123	134,123
Totals			<u>\$2,827,660</u>	<u>\$2,590,199</u>

The Division did not require any grantees to record HUD's interest on the assisted properties' titles. Therefore, HUD's interest in the properties is not protected in case they are sold, part of an insurance claim due to fire or a natural disaster, and/or no longer used for their intended purpose.

For example, in February 1999, HUD awarded a \$2 million Grant to a children's center in the state of New York to acquire land and an existing building for the purpose of an educational and therapeutic program for disabled preschool children. In 2004, our Office discovered the children's center was seeking purchasers for the property. The children's center stood to gain significantly from the sale. HUD would not have been aware of the sale of the property since it did not require the children's center to record HUD's interest on the property's title.

In August 2004, HUD awarded a \$497,050 fiscal year 2004 Grant to an elderly care nonprofit organization in New Orleans, Louisiana to renovate a church and a rectory to be used as an elderly care facility. The organization completed the activities contained in the Grant agreement and entered into a close-out agreement with HUD in June 2005. The organization did not record HUD's interest on the assisted properties' titles. In August 2005, both the renovated church and rectory sustained damage from Hurricane Katrina. The organization filed an insurance claim and was awaiting approval on the final claim amount as of March 1, 2006. HUD awarded at least 17 additional Grants totaling nearly \$4.1 million in the New Orleans area for fiscal years 2002 through 2005. HUD's interest in these projects may also be at an elevated risk since the Division did not require grantees to place liens on assisted properties' titles. Liens would assist HUD in ensuring the applicable portion of any insurance proceeds are used as outlined in the

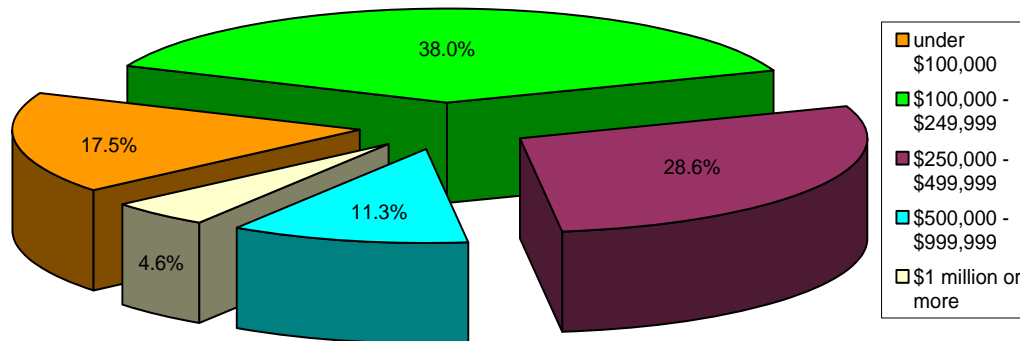
grantees' applications for the Grants or for another purpose involving similar services or benefits.

Based on our statistical sample of fiscal years 2002 and 2003 Grants, and our audits of four fiscal year 2002 and two fiscal year 2003 Grants, we estimate that grantees used more than \$200 million in Grant funds per year without recording HUD's interest on the assisted properties' titles.

Congress' appropriations of Grant funds for fiscal years 2002 through 2005 varied from \$15,000 through \$4.5 million. The following table and chart break down, by dollar value, the number and percentage, respectively, of Grants in which Congress appropriated to grantees for fiscal years 2002 through 2005.

Fiscal year	Number of Grants Congress appropriated to grantees					Totals
	Less than \$100,000	\$100,000 - \$249,999	\$250,000 - \$499,999	\$500,000 - \$999,999	\$1 million or more	
2002	114	277	215	124	72	802
2003	214	332	241	74	21	882
2004	86	414	228	127	47	902
2005	<u>218</u>	<u>352</u>	<u>352</u>	<u>84</u>	<u>26</u>	<u>1,032</u>
Totals	632	1,375	1,036	409	166	3,618

Percentage of Grants Congress appropriated to grantees for fiscal years 2002 through 2005



In addition, many grantees assist multiple properties with funds from a single Grant. Since it may not be economical for HUD's Division to ensure grantees record HUD's interest on all titles of properties assisted with Grant funds, HUD's Division should, at a minimum, establish a threshold in which grantees are required to record HUD's interest on properties' titles.

HUD Did Not Ensure That Grantees Placed Covenants on Properties' Titles Assuring Nondiscrimination

The Division lacked adequate procedures and controls to ensure grantees secured HUD's interest in the purchase, construction, and/or rehabilitation of land and/or

a building. Based on our external audits, four grantees used more than \$2.2 million in fiscal year 2002 Grant funds without protecting HUD's interest in the properties' titles. The Division did not require the four grantees to place covenants on properties' titles assuring nondiscrimination as required by Standard Form 424D.

In addition, starting with its fiscal year 2003 Grants, the Division required its grantees to submit form HUD-424-B, Applicant Assurances and Certifications, rather than Standard Form 424D. Form HUD-424-B does not contain a certification that grantees will include a covenant in the title of real property acquired in whole or part with federal assistance to assure nondiscrimination during the useful life of the project. HUD's director of congressional grants said the change to HUD-424-B was an agency wide decision.

The purpose of the covenants is to ensure nondiscrimination for the period that the properties are used as outlined in the grantees' applications for the Grants or for another purpose involving similar services or benefits. The recording of the covenants provides HUD recourse if discrimination occurs in relation to the properties.

The Division's position is that grantees are only required to place covenants on properties' titles assuring nondiscrimination based on race, color, national origin, or handicap when grantees dispose of the assisted properties. However, the four grantees assured HUD that they would place a covenant on the properties' titles to assure nondiscrimination during the useful life of the projects. Further, as previously mentioned, the Division does not require grantees to place liens on assisted properties' titles. Therefore, HUD lacks a mechanism for knowing when grantees are selling assisted properties. This limits HUD's knowledge of when to require grantees to place covenants on assisted properties. As a result, HUD may lack recourse should discrimination occur related to the assisted properties.

**HUD Needs to Improve Its
Exiting Procedures and
Controls to Ensure That Grant
Funds Are Appropriately Used**

The Division needs to improve its existing procedures and controls to ensure that Grant funds are appropriately used according to its Grant agreements with grantees. Based on our six external audits, the Division did not ensure that one grantee used Grant funds appropriately. NorthStar improperly used \$123,372 in Grant funds and lacked documentation to support that an additional \$1,970 in Grant funds was used according to its amended budget approved by HUD.

Subsequent to our audit report #2006-CH-1006 issued on December 30, 2005, NorthStar submitted to HUD a proposed budget amendment and documentation to

support the \$1,500 of the \$1,970. The Division approved the budget amendment since it believed the amendment met the purpose of the U.S. House of Representatives' Conference Report 107-272 for NorthStar's appropriation. Based upon HUD's approval and NorthStar's supporting documentation, the amount of Grant funds that NorthStar inappropriately used was reduced to \$13,630 (\$13,160 of ineligible and \$470 of unsupported). While the amount of inappropriately used Grant funds cited in our one audit was not significant based upon the Grant funds we reviewed, the Division still needs to improve its existing oversight of the Grants to ensure that funds are appropriately used.

HUD Did Not Ensure That Grantees Provided Required Documentation for Monitoring

Of the 105 Grant files statistically selected for review, the Division could not support that 71 (67.6 percent) grantees submitted required forms and documentation for the monitoring of fiscal years 2002 through 2005 Grants. HUD's Grant files did not contain:

- ❖ Close-out documentation for 62 Grants;
- ❖ Supporting expense documentation for 25 Grants; and
- ❖ All the required progress reports for four Grants.

Based on our statistical sample of fiscal years 2002 through 2005 Grants, we estimate the Division cannot support that 610 (67.6 percent of 903 Grants) grantees submitted required forms and documentation for the monitoring of fiscal years 2002 through 2005 Grants. In addition, the Division did not sign and date a close-out agreement for one Grant and did not ensure a grantee signed and dated a close-out agreement for another Grant.

The Division did not review its grant officers' work to ensure that grantees submitted the required forms and documentation. In addition, it did not require grant officers to maintain a checklist for grantees' required forms and documentation. The Division is drafting procedures that will require grant officers to maintain a checklist for each Grant. The director stated the Division is awaiting issuance of our discussion draft audit report to finalize the procedures. As a result, HUD lacks assurance that Grant funds were appropriately used.

Recommendation

We recommend that HUD's general deputy assistant secretary require the Division to

- 1A. Improve its existing procedures and controls to ensure that (1) grantees receiving Grant funds above a HUD-established minimum threshold record liens showing HUD's interest in the assisted properties, (2) grantees place covenants on the properties' titles assuring nondiscrimination, and (3) Grant funds are appropriately used.

Finding 2: HUD Needs to Improve Controls over Its Grant Application and Award Process, and the Disbursement of Grant Funds

The Division did not ensure that nine grantees properly completed (seven) or even submitted (two) required application and award forms and documentation. The Division also could not support that four grantees submitted required semi-annual progress reports, three grantees submitted certifications regarding lobbying, and that it approved two grantees' environmental release of funds before disbursing Grant funds. The problems occurred because the Division needs to improve its existing procedures and controls over its Grant application and award process, and the disbursement of Grant funds. As a result, HUD lacks assurance that grantees properly completed required application forms and documentation for Grant awards, and that it appropriately disbursed Grant funds to grantees.

HUD Did Not Ensure All Grantees Properly Completed Forms and Documentation

Of the 105 fiscal years 2002 through 2005 Grants we statistically selected for review, the Division did not ensure that nine (8.6 percent) grantees properly completed required application forms and documentation. Grantees did not date application forms for five Grants and failed to provide separate budgets for two Grants. In addition, the Division could not support that grantees submitted Standard Form 424D, Assurances - Construction Programs, or form HUD-424-B, Applicant Assurances and Certifications, for two Grants. The following table summarizes the improperly completed and missing forms and documentation by Grant number.

Grant number	Application forms	Separate budget	Assurances
B-02-SP-AL-0009			X
B-02-SP-KY-0246	X		
B-02-SP-MO-0332	X		
B-02-SP-OH-0555	X		
B-02-SP-WI-0779		X	
B-03-SP-NY-0567	X		
B-03-SP-RI-0713		X	
B-04-SP-CA-0062	X		
B-04-SP-NC-0580			X
Totals	5	2	2

Based on our statistical sample of fiscal years 2002 through 2005 Grants, we estimate that the Division did not ensure that 77 (8.6 percent of 903 Grants) grantees properly completed required application forms and documentation.

The Division's file for Grant B-02-SP-MS-0349 did not contain an explanation as to the reason the Division awarded the Chickasaw Trails Economic Development Compact \$230,000 rather than the \$300,000 appropriated in the U.S. House of Representatives' Conference Report 107-272 and included in the Chickasaw Trails Economic Development Compact's application and budget.

The Division did not periodically review its grant officers' work to ensure that grantees properly completed and submitted required application forms and documentation. Beginning with the fiscal year 2002 Grants, the Division stopped requiring grant officers to maintain a checklist for award and application forms and documentation. As a result, HUD lacks assurance that grantees properly completed required application forms and documentation for Grant awards.

HUD's director of congressional grants said that in October 2005, he began reviewing application forms and documentation to ensure that they were properly completed and submitted by the grantees. The Division is drafting procedures that will require grant officers to maintain a checklist for each Grant. The director stated the Division is awaiting issuance of our discussion draft audit report to finalize the procedures.

**HUD's Grant Agreements
Contain an Incorrect
Regulatory Citation as of April
2004**

Article II, section A, of HUD's Grant agreements with grantees states that a grantee may not draw down Grant funds until the grantee has received and approved any certifications and disclosures required by 24 CFR [*Code of Federal Regulations*] 24.510(b) regarding ineligibility, suspension, and debarment. However, 24 CFR [*Code of Federal Regulations*] 24.510(b) no longer exists. Before April 1, 2004, 24 CFR [*Code of Federal Regulations*] 24.510(b) stated that grantees shall require participants in lower tier transactions to certify they are not excluded or disqualified.

Effective April 1, 2004, 24 CFR [*Code of Federal Regulations*] 24.300 mandates that grantees seeking to enter into lower tier transactions must verify that the person with whom the grantee intends to do business is not excluded or disqualified.

The Division submits its Grant agreement template to the Office of General Counsel's Community Development Division (Counsel) upon each fiscal year's appropriation and any major changes to requirements. The Counsel's assistant general counsel said one of his attorney-advisors assigned to the Division missed the incorrect citation to a regulation regarding ineligibility, suspension, or debarment in connection to lower tier participants in his review of the Grant

agreement template. Further, the assistant general counsel stated he did not periodically review the attorney-advisor's review of the Grant agreement template. As a result, grantees may not be required to follow the requirements contained in 24 CFR [*Code of Federal Regulations*] 24.300.

**HUD's Files Did Not Contain
All the Documentation
Required before the
Disbursement of Grant Funds**

The Division's files for nine of the 105 (8.6 percent) fiscal year 2002 through 2005 Grant files we statistically selected for review did not contain all the documentation required before the disbursement of Grant funds. The Division could not provide support that it approved environmental release of funds and that grantees submitted environmental review documentation and certifications regarding lobbying before disbursing funds. In addition, the Division could not provide documentation to support that grantees did not have overdue semi-annual progress reports when it disbursed funds. The Division's files for the six fiscal year 2005 Grants that we reviewed contained the required documentation for the disbursement of Grant funds.

HUD's Grant agreements require grantees, before drawing down funds, to follow 24 CFR [*Code of Federal Regulations*] 87.100, which requires the grantee to submit a certification to HUD that it has not made and will not make any payment from Grant funds for a prohibited lobbying activity. The Division did not have documentation showing that three grantees submitted a certification regarding lobbying before disbursing nearly \$600,000 in Grant funds.

Form HUD-1044, Assistance Award/Amendment, states that Grant funds may not be drawn down before an environmental release of funds approval. The Division could not support that it approved an environmental release of funds for 14 Grants before disbursing more than \$4.1 million in Grant funds. In addition, it could not support that the 14 grantees submitted environmental review documentation. However, after our file reviews, the Division, HUD's applicable field Offices of Community Planning and Development, and/or grantees provided support that they completed environmental review documentation and that HUD approved an environmental release of funds before drawing down more than \$3.6 million for 12 of the 14 Grants.

HUD's Grant agreements state that HUD will not approve draw downs for projects with overdue semi-annual progress reports. The Division lacked documentation to support that four grantees submitted complete semi-annual progress reports before disbursing nearly \$360,000.

The following table summarizes the Grant funds disbursed without required forms and documentation regarding environmental reviews, semi-annual progress reports, and lobbying activities by Grant number.

Grant number	Lobbying activities	Environmental reviews	Progress reports	Total amount disbursed
B-03-SP-FL-0156		\$402,368		\$402,368
B-03-SP-MT-0416	\$357,660			357,660
B-02-SP-KY-0246			\$209,200	209,200
B-04-SP-NC-0580	124,263			124,263
B-03-SP-MA-0298	<u>111,769</u>			111,769
B-04-SP-PA-0647		<u>99,410</u>		99,410
B-02-SP-TX-0703			75,000	75,000
B-04-SP-PA-0686			49,705	49,705
B-02-SP-MA-0282			<u>25,827</u>	<u>25,827</u>
Totals	<u>\$593,692</u>	<u>\$501,778</u>	<u>\$359,732</u>	<u>\$1,455,202</u>

Based on our statistical sample of fiscal years 2002 through 2005 Grants, we estimate that the Division’s files for 77 (8.6 percent of 903) Grants did not contain all the documentation required before the disbursement of grant funds.

The Division did not review its grant officers’ work to ensure that grantees submitted all the required documentation. In addition, the Division did not require grant officers to maintain a checklist for the required documentation. The Division is drafting procedures that will require grant officers to maintain a checklist for each Grant. The director stated the Division is awaiting issuance of our discussion draft audit report to finalize the procedures. As a result, HUD lacks assurance that it disbursed Grant funds to eligible grantees.

Recommendations

We recommend that HUD’s general deputy assistant secretary require the Division to

- 2A. Improve its existing procedures and controls over its Grant application and award process to ensure that grantees properly complete required application forms and documentation for Grant awards, and ensure Grant funds are properly disbursed.

We also recommend that HUD’s associate general counsel of assisted housing and community development

- 2B. Improve exiting procedures and controls over the Grant agreement template review to ensure that citations to requirements are accurate.

SCOPE AND METHODOLOGY

We performed the audit at HUD Headquarters and six grantees' offices from February 2005 through February 2006. The six grantees were Mount Union College (College); the City of Carmel, Indiana; the City of Indianapolis, Indiana; the City of St. Ignace, Michigan; the City of Rhinelander, Wisconsin; and NorthStar Community Development Corporation (NorthStar). To accomplish our objectives, we interviewed HUD's staff, the six grantees' employees, and a senior economist from the Office of Management and Budget.

To determine the adequacy of HUD's application and award processing, and monitoring of the Grants, we reviewed:

- U.S. House of Representatives' Conference Reports 107-272, 108-10, 108-401, and 108-792;
- Data from HUD's Line of Credit Control System;
- HUD's monthly budget reports for Grant disbursement totals;
- The Division's files related to 105 statistically selected Grants; and
- Financial records for the six grantees.

We also reviewed Executive Order 12549; 24 CFR [*Code of Federal Regulations*] Parts 1, 8, 24, 58, 84, and 85; 56 *Federal Register* 16337; 70 *Federal Register* 35967; HUD Directives 1.5, 8.50, 84.32, and 85.31; Office of Management and Budget Circulars A-21, A-87, A-102, A-110, A-121, A-122, and A-123; and HUD Handbook 2000.06, REV-3 (see Appendix C).

We used attribute sampling in the U.S. Army Audit Agency's Statistical Sampling System, Version 6.3 (System) software to select statistical samples of fiscal years 2002 and 2003, and 2004 and 2005 Grants, in which 90 percent or more in funds were disbursed, as of February 1, 2005, and November 1, 2005, respectively. There were 658 fiscal years 2002 and 2003 Grants totaling nearly \$221.4 million and 245 fiscal years 2004 and 2005 Grants totaling nearly \$69.9 million. Our statistical samples, using a confidence level of 90 percent, a 50 percent error rate, and a sampling precision of 10 percent, produced sample sizes of 62 fiscal years 2002 and 2003 Grants, and 54 fiscal years 2004 and 2005 Grants. We used the System software to generate random numbers to select the samples. The 62 fiscal years 2002 and 2003 Grants totaled more than \$21.7. The 54 fiscal years 2004 and 2005 Grants totaled more than \$15.5 million. We then extracted those Grants in the sample involving the purchase, construction, and/or rehabilitation of land and/or a building. We reviewed 53 fiscal years 2002 and 2003 Grants totaling more than \$18.1 million, and 52 fiscal years 2004 and 2005 Grants totaling nearly \$15.2 million.

Further, we conducted external audits of four 2002 Grants and two 2003 Grants from our extracted sample. We selected the six grantees that were located in the jurisdiction of HUD's Region V. The Grant funds totaled more than \$2.8 million.

We issued separate audit reports for each of the six Grants we reviewed. The following table provides the Grant numbers, report numbers, and issue dates for the six grantees.

<i>Grantee</i>	<i>Grant number</i>	<i>Report number</i>	<i>Issue date</i>
College	B-02-SP-OH-0555	2005-CH-1018	September 28, 2005
City of Carmel	B-02-SP-IN-0220	2005-CH-1019	September 28, 2005
City of Indianapolis	B-03-SP-IN-0240	2005-CH-1021	September 30, 2005
City of St. Ignace	B-03-SP-MI-0352	2006-CH-1001	November 11, 2005
City of Rhinelander	B-02-SP-WI-0779	2006-CH-1003	December 5, 2005
NorthStar	B-02-SP-MI-0310	2006-CH-1006	December 30, 2005

The audit covered the period from January 1, 2003, through December 31, 2004. This period was adjusted as necessary. We performed our audit in accordance with generally accepted government auditing standards.

INTERNAL CONTROLS

Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved:

- Effectiveness and efficiency of operations,
- Reliability of financial reporting,
- Compliance with applicable laws and regulations, and
- Safeguarding resources.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined the following internal controls were relevant to our objectives:

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Validity and reliability of data – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.
- Compliance with laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.
- Safeguarding resources – Policies and procedures that management has implemented to reasonably ensure that resources are safeguarded against waste, loss, and misuse.

We assessed all of the relevant controls identified above.

A significant weakness exists if internal controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

Significant Weakness

Based on our audit, we believe the following item is a significant weakness:

- The Division lacked effective oversight of the Grants to ensure grantees placed liens and covenants on assisted properties, and grantees submitted required documentation for monitoring (see finding 1).

APPENDIXES

Appendix A

FEDERAL REQUIREMENTS

U.S. House of Representatives' Conference Reports 108-10, 108-401, and 108-792 for fiscal years 2003, 2004, and 2005, respectively, require that projects receiving funds must comply with the environmental review requirements set forth in 42 *United States Code* 3547 (see finding 2).

According to 42 *United States Code* 3547, a Grant recipient is required to submit a request for release of funds and a state or unit of local government certification to the secretary of HUD. The secretary shall approve the environmental release of funds before any commitment of funds (see finding 2).

Office of Management and Budget Circular A-123, attachment I, dated June 21, 1995, states that the proper stewardship of federal resources is a fundamental responsibility of agency managers and staff. Federal employees must ensure that government resources are used efficiently and effectively to achieve intended program results. Resources must be used consistent with agency mission, in compliance with law and regulation, and with minimal potential for waste, fraud, and mismanagement (see findings 1 and 2).

Office of Management and Budget Circular A-123, revised December 21, 2004, states that management is responsible for establishing and maintaining internal controls to achieve the objectives of effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulations (see findings 1 and 2).

Article I, section A, of HUD's Grant agreements with grantees states that Grant funds will be used for activities described in the application, which is incorporated by reference and made part of the Grant agreement (see finding 2). Section C states that grantees agree to assume all of the responsibilities for environmental review and decision making actions as required in 24 CFR [*Code of Federal Regulations*] Part 58 (see finding 2). Section E states that grantees will comply with 24 CFR [*Code of Federal Regulations*] Part 84 or 85, as applicable (see finding 1). Article II, section A, states grantees may not draw down Grant funds until the grantee has received and approved any certifications and disclosures required by 24 CFR [*Code of Federal Regulations*] 87.100 concerning lobbying (see finding 2) and by 24 CFR [*Code of Federal Regulations*] 24.510(b) regarding ineligibility, suspension, and debarment (see finding 2). Article IV states that grantees shall submit progress reports every six months after the effective date of the Grant agreements. Progress reports shall consist of a narrative of work accomplished during the reporting period and a completed financial status report. HUD will not approve draw downs for projects with overdue progress reports (see findings 1 and 2).

Before April 1, 2004, 24 CFR [*Code of Federal Regulations*] 24.510(b) states that each participant shall require participants in lower tier covered transactions to include the certification in appendix B to this part for it and its principals in any proposal submitted in connection with such lower tier covered transactions (see finding 2).

As of April 1, 2004, 24 CFR [*Code of Federal Regulations*] 24.300 mandates that grantees seeking to enter into lower tier transactions must verify that the person with whom the grantee intends to do business is not excluded or disqualified (see finding 2).

According to 24 CFR [*Code of Federal Regulations*] 58.71(a), the grantee is required to submit a request for release of funds and a certification to HUD in a form specified by HUD (see finding 2).

According to 24 CFR [*Code of Federal Regulations*] 84.2 and 85.3, real property means land, including land improvements, structures, and appurtenances thereto, but excludes movable machinery and equipment (see finding 1).

HUD Directive 84.32 and 24 CFR [*Code of Federal Regulations*] 84.32(a) state that title to real property acquired in whole or in part under an award shall vest in the recipient as long as the recipient uses the real property for its authorized purpose and does not encumber the real property without HUD's approval. Section 84.32(c) states that when the real property is no longer needed for the authorized purpose or cannot be used in other HUD-approved federally sponsored projects or programs with purposes consistent with the authorized purpose of the original project, the recipient shall request disposition instructions from HUD. HUD shall require the recipient to do the following: (1) retain title to the real property without further obligation to the federal government after it compensates the federal government the percentage of the current fair market value of the real property attributable to the federal participation in the project, (2) sell the real property and compensate the federal government for the percentage of the current fair market value of the real property attributable to the federal participation in the project, or (3) transfer title to the real property to the federal government or to an eligible third party and be entitled to compensation for its percentage of the current fair market value of the real property (see finding 1).

HUD Directive 85.31 and 24 CFR [*Code of Federal Regulations*] 85.31(a) state that title to real property acquired under a grant shall vest in the recipient as long as the recipient uses the real property for its authorized purpose and does not encumber the real property without HUD's approval. Section 85.31(c) states that when the real property is no longer needed for the authorized purpose, the recipient shall request disposition instructions from HUD. HUD shall require the recipient to do the following: (1) retain title to the real property without further obligation to the federal government after it compensates the federal government the percentage of the current fair market value of the real property attributable to the federal participation in the project; (2) sell the real property and compensate the federal government for the percentage of the current fair market value of the real property attributable to the federal participation in the project; or (3) transfer title to the real property to the federal government or to an eligible third party and be entitled to compensation for its percentage of the current fair market value of the real property (see finding 1).

According to 24 CFR [*Code of Federal Regulations*] 87.100, each person who receives a federal grant shall file with that agency a certification that the person has not made and will not make any payment from Grant funds for a prohibited lobbying activity (see finding 2).

According to 56 *Federal Register* 16337, “directive” means a handbook (including a change or supplement), notice, interim notice, special directive, and any other issuance that the department may classify as a directive (see finding 1).

HUD’s application package for fiscal years 2002 through 2005 Grants requires a grantee to submit an application form; a one-page separate budget for the Grant; Standard Form-424D, Assurances - Construction Programs, or form HUD-424-B, Applicant Assurances and Certifications; and Certification Regarding Lobbying. The application package also states that the Division will review all forms to determine whether they are correctly filled out, signed, and dated and the activities the grantees propose are the same as the activities specified in the applicable conference report (see finding 2).

Form HUD-1044, Assistance Award/Amendment, states that Grant funds may not be drawn down before an environmental release of funds approval (see finding 2).

Standard Form 424D, Assurances – Construction Programs, section 3, states that grantees will record the federal interest in the title of real property in accordance with awarding agency directives and include a covenant in the title of real property acquired in whole or in part with federal assistance to assure nondiscrimination during the useful life of the project (see finding 1).

HUD’s deputy assistant secretary for operations, in a March 13, 2003, internal memorandum to HUD’s deputy assistant secretary for economic development, stated that the Division will maintain the environmental review (see finding 2) and semi-annual progress reports for Grants (see findings 1 and 2). Grantees are required to submit draw requests, including supporting documentation, for draws that are 70 percent or more of the total Grant amount (see finding 1).


Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

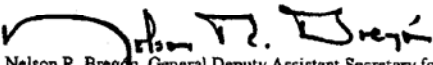
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 U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

ASSISTANT SECRETARY FOR
COMMUNITY PLANNING AND DEVELOPMENT

JUL 12 2006

MEMORANDUM FOR: Heath Wolfe, Regional Inspector General for Audit, SAGA

FROM: 
Nelson R. Bregon, General Deputy Assistant Secretary for
Economic Development, D

SUBJECT: Comments on Draft Audit of the Division of Congressional Grants
Economic Development Initiative -Special Project Grants

The purpose of this memorandum is to provide comments on the draft audit of the Office of Community Planning and Development's (CPD's) Congressional Grants Division and its administration of Economic Development Initiative-Special Project grants.

Finding 1A: HUD Needs to Require Grantees to Secure Its Interest in Assisted Properties and Improve Existing Monitoring Procedures.

Recommendation 1A: Implement existing procedures and controls to ensure that (1) Grantees receiving grant funds above a HUD-established minimum threshold record liens showing HUD's interest in the assisted properties, (2) Grantees place covenants on the properties' titles assuring nondiscrimination, and (3) Grant funds are appropriately used.

Recordation of Liens

The draft report should note the lack of any statutory or regulatory requirement that directs HUD to require EDI-SP grantees to record liens on assisted properties. It should also be noted that this recommendation would represent the first time in which the Department has imposed a requirement on recipients of congressionally directed grants beyond those established by each annual appropriation of congressionally directed grants or under the "common rule" of the applicable OMB circulars and the Department's implementing regulations for those rules at 24 CFR Part 84 and 24 CFR Part 85.

None of the six EDI-SP external audits conducted by the Office of Inspector General (OIG) and cited in the draft audit indicate the improper disposition of properties assisted with EDI-SP grant funds. In four of those audits, OIG recommended that HUD impose property liens on (i) a city's Veterans Plaza and Reflecting Pond; (ii) a city's railroad spur crossing and access road; (iii) a \$20 million plus college science building, in which \$1 million of EDI-SP funds were used for architectural costs; and (iv) individual private housing dwelling units developed by a nonprofit corporation that were to be sold to individuals consistent with the Congressionally

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Comment 1

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Auditee Comments

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Comments 2 and 3	<p>authorized language. The draft audit recommends the retroactive imposition of liens on some unidentified portion of the 4,539 open EDI-SP grants and recommends that the Department "request" the imposition of such liens on the 1,852 EDI-SP grants that have been closed by the Department. The audits conducted by OIG, as well as the very nature of assisted properties that were the subject of the audits however, suggest that the resources required to impose such liens far outweigh the risk of improper disposition by the subject grantees.</p>
Comment 4	<p>Each year, Congress directs HUD to provide an authorized level of EDI-SP funds, to a designated entity, to undertake a specified activity. The Department currently requires that Congressionally directed awards comply with the crosscutting requirements applicable to all Federal funds, including the property disposition requirements at 24 CFR §84.32 and 24 CFR §85.31. Congress itself also has established additional requirements for these grants, such as recent limitations on the use of EDI-SP funds for planning, management development or administrative costs. The audit cites as its basis for its recommendation, its reviews of the external grants and certifications submitted by those grantees as part of the grant application. The regulations governing liens in the common rule for non-profit grantees at 24 CFR §84.37 reads: "HUD <i>may</i> [emphasis added] require recipients to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with Federal funds and that use and disposition conditions apply to the property." As this provision is permissive, CPD has not implemented this requirement by directive in absence of Congressional direction to do so.</p>
Comment 5	<p>With respect to the four audits conducted of the units of general local government grantees, they are governed by 24 CFR Part 85. There is no express regulatory authority in Part 85 for HUD to require that liens be sought. CPD does not believe that the discretionary authority in the assurances to the 2002 grant application, as against an absence of express regulatory authority, requires imposition of liens on properties of units of local government. Therefore, with respect to the internal audit discussion, it would appear than any consideration of liens would be limited to the two auditees governed by Part 84, Mount Union College, and Northstar Community Development Corporation. Further with respect to Northstar, the Congressionally authorized purpose of the funds was for " a targeted housing production program". Under such a purpose, the CDC would be expected to not only acquire and own properties, but the fulfillment of the Congressional purpose would include disposition of such units to third party beneficiaries. It is not clear that liens are needed to protect the Federal interest since disposition is clearly contemplated within the Congressionally authorized purpose. Regarding Mount Union College, founded in 1878, it would not appear that there is a great risk that the grantee would dispose of the property. The low level of risk revealed by the external audits conducted by OIG of EDI-SP grantees did not confirm that any of the projects posed any additional risk. The audit does not provide a basis to conclude that the additional requirements of §84.37 should be implemented. CPD believes that the audit finding should be reevaluated in this light and deleted.</p>
Comment 2	
Comment 2	<p>The draft report suggests that the imposition of liens is necessary to ensure the proper disposition of property pursuant to the requirements of 24 CFR Part 84.32 and 25 CFR Part 85.31. Grantees are subject to those requirements, however, only when grant funds are used, in whole or in part, for the acquisition of property. The draft audit also recommends the imposition of liens on EDI-SP projects in which funds are used for renovation and other activities,</p>
Comment 6	

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Auditee Comments

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Comment 6	proposing discretionary authority beyond that mandated by either Congress or OMB for Congressionally directed grants not governed by the property disposition requirements of 24 CFR Part 84.32 or 25 CFR Part 85.31.
	Covenants Assuring Nondiscrimination
Comment 7	The draft audit recommends that HUD require EDI-SP grantees to place a covenant on the property title assuring nondiscrimination based on race, color, national origin or handicap. It does not note, however, that there is no statutory or regulatory requirement for the placement of such covenants absent the disposition or transfer of property by the grantee.
	The draft audit cites the provisions of the Certifications and Assurances form (SF 424-D) as the basis for its recommendation, that, contrary to HUD's regulations, grantees record covenants, whether or not disposition or transfer of the property has occurred and regardless of whether the purpose of the federal assistance is continued upon disposition to another entity. The Department's regulations governing the imposition of covenants are set forth at 24 CFR Parts 1 and 8.
Comments 7 and 8	As noted in previous management decisions on the external EDI-SP audits conducted by OIG, it is the conclusion of HUD's Office of General Counsel (OGC) both program counsel and the Office of Fair Housing and Equal Opportunity (FHEO) and FHBO counsel, as well as CPD, that this recommendation is based upon a misinterpretation of 24 CFR Part 1.5(a)(2) and 24 CFR Part 8.50(c)(2) and that no covenants are required of grantees that have not disposed of assisted properties.
	24 CFR Part 1.5(a)(2) provides that "in the case of real property, structures, improvements thereon, or interests therein, acquired through a program of federal financial assistance, the instrument affecting any <i>disposition by the recipient</i> of such real property, structures, improvements thereon, or interests therein shall contain a covenant running with the land assuring nondiscrimination based on race, color, or national origin for the period during which the real property is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits." (Emphasis added.)
	24 CFR Part 8.50(c)(2) provides that "when no transfer of property is involved, but property is purchased or improved with federal financial assistance, the recipient shall agree to include a covenant in the instrument affecting or recording <i>any later transfer</i> of the property for the period during which it retains ownership or possession of the property to assure nondiscrimination based upon a handicap." (Emphasis added.)
Comment 9	The covenant referenced by the subject regulations is required only at the point in time when property obtained by the recipient with federal financial assistance is disposed or transferred by the recipient during the period in which the property is used for the activity authorized by such federal assistance. The audit's recommendation that covenants be required for all EDI-SP grantees and the audit's reliance on the provisions of SF 424-D also do not reflect the fact that the subject form and its provisions regarding covenants was discontinued in 2003 for both EDI-SP grants as well as for grants competitively awarded by the Department under the

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Auditee Comments

Comment 10

Comment 4

Comment 11

Comment 12

Comment 13

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FY2003 and subsequent fiscal years' SuperNOFAs. Further, the audit does not note that in instances in which provisions of a Certifications and Assurances form are inconsistent with Department regulations, the latter prevail. The draft audit also tries to tie the imposition of the covenants to a basis for the imposition of liens. As stated above, however, there is no regulatory provision for the imposition of liens for grants to units of general local government under 24 CFR Part 85.

In light of the above, CPD believes that the draft audit's reliance on Standard Form 424D is misplaced. As previously stated, CPD relies on the appropriate regulations. This audit finding should not be issued unless and until OIG is able to sustain its position regarding the regulatory authority to require the subject covenant with appropriate FHEO counsel

Appropriate Use of Grant Funds

The draft audit cites a single example in which a grantee expended funds within the categories of its approved budget, but at different levels than set forth in that budget. As noted in the draft audit, CPD concluded that, with the exception of a portion of funds used to pay fines and penalties that the EDI-SP expenditures were eligible under the terms of the authorized use of the grant and an approved amended budget for the grantee's expenditures. The draft audit does not note, however, that the OIG concurred in this management decision.

Currently, the Congressional Grants Division requires grantees to submit semi-annual reports, which include a narrative of project activities as well as the submission of a Financial Status Report (Form 269A), if any expenditure of grant funds has occurred. A final narrative report and financial report is also required at the time of grant closeout. As part of its new procedures, which are attached to these comments, the Congressional Grants Division will require grantees to submit as part of its final financial report a comparison of its approved or amended project budget against actual expenditures. Long term, CPD is also working to develop a web-based grants reporting system that would allow the Division to more readily track expenditures against approved or amended budgets over time.

The draft audit also finds that "HUD did not ensure grantees provided required documentation." As examples, the draft audit cites a single grantee and the Division, respectively, as failing to sign and date two closeout agreements, constituting 1.9% of grants reviewed. The draft audit also points to four grants (3.8%) as missing required semi-annual reports. These percentages do not support the broad based nature of the findings, which imply systemic faults with this portion of the Division's operations. CPD does not believe that the OIG's findings demonstrate a statistically significant basis or exceed monetary thresholds that demonstrate that procedures were inadequate. Of the six external audits issued for grants exceeding \$2.8 million, there has been \$470 of unsupported costs substantiated. That amount is less than 0.02 percent of the total audited funds. CPD recommends that the audit be revised to indicate that the cited instances do not appear to materially affect program administration.

The draft audit finds a substantial portion of grants (67.6%) as lacking required documentation. The bulk of this missing documentation is 62 grants cited as lacking close-out documentation. The draft audit does not explain the nature of the "documentation." The current

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Comment 14

EDI-SP grant agreement requires grantees to submit a request for closeout documents within 30 days "after the grantee has drawn down all funds and completed the activities described in the application." The draft audit assumes that any grantee that has expended all grant funds must submit a request for close-out within thirty days of the final payment of grant funds. Any grant for which all funds had been disbursed that did not contain a grantee request for close-out is deemed by the audit to lack the required documentation. This finding ignores the second portion of the Grant Agreement close-out requirement, i.e., the grantee has also "completed the activities described in the application." If for example, the approved project is for the construction of a community center and all EDI-SP grant funds have been drawn as payment for construction, no request for close-out would be required until the construction of the community center was complete. A request for close-out documentation is only required when both conditions of the Grant Agreement have been met, i.e., all EDI-SP funds have been drawn and the approved activity had been completed. Absent a determination that both conditions had been met and no close-out request was made by the grantee, the audit should not cite close-out "documentation" as lacking.

Comment 15

It should be noted that grantees most frequently request closeout packages via e-mail or by phone. In an effort to expedite project close-outs, Division staff also may initiate close-outs without written requests, for grants with zero balances and completed projects. For these reasons, for example, 15 of the 23 FY2002-FY2003 grants cited as missing documents have either actually closed or grantees have been sent close-out packages for signature. In the short term, the Division will act to make close-out documents more readily available to grantees, by providing access to the close-out package on its web site. In the long term, CPD is working to develop a web-based grants reporting system that would allow the grantees to request and access close-out documents on-line.

Comment 16

The draft audit finds 25 (23.8%) of reviewed grant files missing source documentation to support the disbursement of funds. Prior to March 2003, the Division's instructions to grantees required the submission of source documentation when more than 50% of grant funds were to be disbursed in a single draw request. In March 2005, this threshold was raised to 70%. Revised procedures of the Division will require the submission of source documentation for the initial and final draw of grant funds as well as when 70% of more grant funds are to be drawn at one time. The procedures also establish new policies for Grant Officer approval of payment requests from grantees, which are also designed to ensure receipt and filing of required source documentation. It should be noted that all grantees are required to maintain source documentation for the full amount of each EDI-SP grant. In the six external EDI-SP audits conducted by OIG, CPD and OIG concluded that a total of \$470 of unsupported disbursements by a single grantee should be subject to recovery.

Comment 17

The Congressional Grants Division has prepared new policies and procedures, which address required documentation needed to participate in the grant program (See Attachment A). We ask that you concur with the action we have taken and close this recommendation.

	<p>07/12/2006 16:36 HUD -> 913123538866</p> <p>ND.845 087</p> <p>6</p> <p><u>Finding 2: HUD Needs to Improve Controls over Its Grant Application and Award Process, and the Disbursement of Grant Funds.</u></p> <p><u>Recommendation 2A: Improve existing procedures and controls over the Division's Grant application and award process to ensure that grantees properly complete required application forms and documentation for Grant awards, and ensure Grant funds are properly disbursed.</u></p> <p>Forms and Documentation</p> <p>The draft audit concludes that the Division "lacks assurance that grantees properly completed application forms and documentation for Grant awards, and that it appropriately disbursed grant funds." This finding is based upon 5 (4.7%) grant applications lacking the date of execution and 2 (1.9%) applications lacking certifications. With regard to the 2 (1.9%) applications lacking separate budgets for EDI-SP grant funds, it should be noted that in at least one cited case, the separate budget was required prior to the disbursement of any grant funds (B-02-SP-WI-0779). Further, because the executed grant agreement incorporates the application by reference and includes references to all salient programmatic requirements applicable to the grantee, CPD recommends that the audit be revised to reflect that the grants cited to support this finding do not appear to materially affect program administration.</p> <p>The draft audit notes the discontinuance of the use of an application review checklist in FY2002 as one explanation for the incomplete forms and documentation. The audit should note that the Division has reintroduced the use of the checklist effective July 3, 2006, for the review of all grant applications.</p> <p>Review of EDI-SP Grant Agreement Template</p> <p>The draft audit is correct in noting that the Division's grant agreement contained an outdated regulatory citation referencing 24 CFR 24.510(b), which was superseded by 24 CFR Part 300 on April 1, 2005. The draft audit concludes that as a result of the outdated citation "grantees may not be required to follow the requirements contained in 24 CFR Part 24. 300." The provisions of the cited regulation, however, are not applicable to EDI-SP grantees in any event. With regard to the review of the grant agreement template, however, OGC has indicated to CPD that in addition to its annual review of the EDI-SP grant agreement template, it will also conduct a review of each regulatory citation to ensure its accuracy. This review by the Division's program counsel also will be subject to concurrence by the Assistant General Counsel for EDI Special purpose grants program.</p> <p>Documentation of Disbursements</p> <p>This draft audit finds 2 (1.9%) grants lacking documentation of the required environmental review; 3 (2.8%) grants lacking certification with regard to the use of funds for lobbying</p>
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Comment 18

Comment 19

Comment 20

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Auditee Comments

Comment 21

Comment 22

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activities and 4 grants (4.7%) as lacking progress reports prior to disbursement of funds. CPD acknowledges that such documents should all be on file for every grant and takes note of the fact that in spite of an increasing number of grant applications and grants, all recent files (FY2005) reviewed as part of the draft audit contained the required documentation.

As noted above, the Congressional Grants Division has prepared new policies and procedures that address required documentation needed to participate in the grant program (See Attachment A). We ask that you concur with the action we have taken and close this recommendation.

If you have any further question please contact Frank McNally, Director of Congressional Grants Division on, 202-708-3773 extension 7100.

Attachments

OIG Evaluation of Auditee Comments

- Comment 1** We did not recommend that the City of Rhineland, Wisconsin record a lien on the rail spur crossing.
- Comment 2** Recording HUD's interest on the properties' titles helps to protect HUD in case the properties are sold, part of an insurance claim due to fire or a natural disaster, and/or no longer used for their intended purpose.
- Comment 3** Since it may not be economical for HUD's Division to ensure grantees record HUD's interest on all titles of properties assisted with Grant funds, HUD's Division should, at a minimum, establish a threshold in which grantees are required to record HUD's interest in the properties.
- Comment 4** The disposition requirements at 24 CFR [*Code of Federal Regulations*] 84.32(a) and 24 CFR [*Code of Federal Regulations*] 85.31(a) are mandatory. Our position is that the most effective and efficient way to ensure that grantees comply with the disposition requirements is for the grantees to record liens showing HUD's interest in the assisted properties.
- Comment 5** Two of the grantees' representatives certified in Standard Form 424D, section 3, that they would record the federal interest in the title of the assisted properties in accordance with awarding agency directives. Starting with its fiscal year 2003 Grants, the Division required its grantees to submit form HUD-424-B, which does not contain a certification that grantees will record the federal interest in the title of assisted properties in accordance with awarding agency directives. The requirements in 24 CFR [*Code of Federal Regulations*] Parts 84 and 85 do not prevent HUD from requiring grantees to record HUD's interest in the assisted properties.
- Comment 6** According to 24 CFR [*Code of Federal Regulations*] 84.2 and 24 CFR [*Code of Federal Regulations*] 85.2, real property means land, including land improvements, structures and appurtenances, but excludes movable machinery and equipment. We recommend that HUD's general deputy assistant secretary require the Division to improve its existing procedures and controls to ensure that grantees receiving Grant funds above a HUD-established minimum threshold record liens showing HUD's interest in the assisted properties.
- Comment 7** The grantees representatives for the four fiscal year 2002 Grants certified in Standard Form 424D, section 3, that they would include a covenant on the title of real property acquired in whole or in part with federal assistance to assure nondiscrimination during the useful life of the project.
- Comment 8** The requirements in 24 CFR [*Code of Federal Regulations*] Parts 1 and 8 do not prevent HUD from requiring grantees to place covenants on the properties' titles assuring nondiscrimination prior to disposition of the properties.

- Comment 9** We state, starting with its fiscal year 2003 Grants, the Division required its grantees to submit form HUD-424-B, Applicant Assurances and Certifications, rather than Standard Form 424D. Form HUD-424-B does not contain a certification that grantees will include a covenant in the title of real property acquired in whole or part with federal assistance to assure nondiscrimination during the useful life of the project.
- Comment 10** The covenant requirement in Standard Form 424D does not conflict with the requirements in 24 CFR [*Code of Federal Regulations*] Parts 1 and 8.
- Comment 11** We state subsequent to our audit report #2006-CH-1006 issued on December 30, 2005, NorthStar submitted to HUD a proposed budget amendment and documentation to support the \$1,500 of the \$1,970. The Division approved the budget amendment since it believed the amendment met the purpose of the U.S. House of Representatives' Conference Report 107-272 for NorthStar's appropriation. Based upon HUD's approval and NorthStar's supporting documentation, the amount of Grant funds that NorthStar inappropriately used was reduced to \$13,630 (\$13,160 of ineligible and \$470 of unsupported).
- Comment 12** The Division did not require grantees to place liens on assisted properties' titles, ensure that grantees placed covenants on assisted properties' titles assuring nondiscrimination, and ensure that Grant funds were appropriately used according to HUD's Grant agreements with grantees. It also could not support that 71 of 105 grantees statistically selected for review submitted required forms and documentation for the monitoring of fiscal years 2002 through 2005 Grants. Therefore, there is a significant weakness in the Division's oversight of the Grants to ensure grantees placed liens and covenants on assisted properties, and grantees submitted required documentation for monitoring.
- Comment 13** We provided the Division a schedule of the Grants with missing forms and documentation.
- Comment 14** According to 24 CFR [*Code of Federal Regulations*] 84.71, recipients shall submit within 90 calendar days after the date of completion of the award all financial, performance, and other reports as required by the terms and conditions of the award. According to 24 CFR [*Code of Federal Regulations*] 84.2, award means financial assistance that provides support or stimulation to accomplish a public purpose.

According to 24 CFR [*Code of Federal Regulations*] 85.50, HUD will close-out the award when it determines that all applicable administrative actions and all required work of the grant are completed. According to 24 CFR [*Code of Federal Regulations*] 85.3, grant means an award of financial assistance, including cooperative agreement, in the form of money, or property in lieu of money, by the federal government to an eligible grantee.

Further, section II.C.1. of the Division's newly prepared pre- and post-award policies and procedures states Grants are subject to close-out when there is either a zero balance for the Grant or when a grantee has submitted a written request to initiate close-out.

Comment 15 The general deputy assistant secretary for Community Planning and Development did not provide any supporting documentation.

Comment 16 Based upon HUD's approval and NorthStar's supporting documentation, the amount of Grant funds that NorthStar inappropriately used was reduced to \$13,630 (\$13,160 of ineligible and \$470 of unsupported).

Comment 17 If implemented, the Division's newly prepared pre- and post-award policies and procedures should assist it in ensuring Grant funds are appropriately used. We recommend that HUD's general deputy assistant secretary require the Division to improve its existing procedures and controls to ensure that (1) grantees receiving Grant funds above a HUD-established minimum threshold record liens showing HUD's interest in the assisted properties, (2) grantees place covenants on the properties' titles assuring nondiscrimination, and (3) Grant funds are appropriately used. Therefore, we cannot concur with the action taken by the Office of Community Planning and Development and close Recommendation 1A.

Comment 18 We did not state that the Division's need to improve its existing procedures and controls over its Grant application and award process, and the disbursement of Grant funds was a significant weakness.

Comment 19 The reintroduction of a Grant application review checklist should assist the Division in ensuring that grantees properly complete required application forms

Comment 20 According to 24 CFR [*Code of Federal Regulations*] 24.300, grantees seeking to enter into lower tier transactions must verify that the person with whom the grantee intends to do business is not excluded or disqualified.

Comment 21 Our sample of 105 fiscal years 2002 through 2005 Grants only included 6 fiscal year 2005 Grants due to our restriction that 90 percent or more in funds be disbursed. Further, Grants from all four fiscal years are representative of current and recent files.

Comment 22 If implemented, the Division's newly prepared pre- and post-award policies and procedures should assist the Division in ensuring that grantees properly complete required application forms and documentation for Grant awards, and Grant funds are properly disbursed. We recommend that HUD's general deputy assistant secretary require the Division to improve its existing procedures and controls over its Grant application and award process to ensure that grantees properly complete required application forms and documentation for Grant awards, and ensure Grant funds are properly disbursed. Therefore, we cannot concur with the action taken

by the Office of Community Planning and Development and close
Recommendation 2A.