

Homes and Community Renewal

Housing Trust Fund Corporation: Internal Controls Over and Maximization of Federal Funding for Community Development Block Grant & HOME Investment Partnerships Programs

Report 2021-S-10 | September 2022

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objectives

To determine whether Homes and Community Renewal (HCR) has established and maintains adequate internal controls to oversee and monitor the federally funded Community Development Block Grant (CDBG) program and HOME Investment Partnerships Program (HOME) to ensure they meet requirements, and whether HCR is obtaining federal reimbursements on time and in a manner that recovers all eligible costs. This audit covers the period from April 2017 through June 2022.

About the Program

HCR is the State's affordable housing agency, with a mission to build, preserve, and protect affordable housing and increase homeownership throughout the State. HCR is comprised of several different offices and agencies, including the Housing Finance Agency, Governor's Office of Storm Recovery, and Housing Trust Fund Corporation (HTFC). HTFC's Office of Community Renewal is allocated federal funding from the U.S. Department of Housing and Urban Development (HUD) to administer the CDBG and HOME programs across the State. While HCR administered a variety of programs prior to the COVID-19 pandemic, the unprecedented housing crisis caused by the pandemic escalated the need for programs that provide housing stability. As such, the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act) provided funding for emergency economic relief for individuals, families, and businesses affected by COVID-19, and the American Rescue Plan Act of 2021 enhanced this assistance.

Between April 1, 2017 and June 6, 2022, HUD allocated over \$244 million in CDBG funds to HCR, for grant years 2017 through 2021, and about \$127 million in additional funding from CDBG COVID-19 relief aid (CDBG-CV) through the CARES Act. During the same period, HUD allocated about \$120 million in HOME funds to HCR, as well as approximately \$93 million more in HOME COVID-19 relief aid through the HOME American Rescue Plan Program (HOME-ARP). CDBG and HOME both provide funding to expand the supply of decent, safe, and affordable housing principally for low- and moderate-income households across the State. While CDBG and HOME share the same goals, the programs have different approaches to meeting the needs of low- and moderate-income families and have different rules regarding eligible activities. HCR functions as a pass-through entity, awarding CDBG and HOME grants to Local Program Administrators (LPAs), which may be entities such as units of local government and non-profit corporations. LPAs are subrecipients of pass-through funds from HCR; however, they may elect to further subgrant all or portions of their CDBG funds to another subrecipient (Subrecipient) or contract with another entity (Contractor). LPAs are responsible for monitoring all grant-supported activities provided by the Subrecipient or Contractor to ensure their compliance with applicable State and federal requirements as well as their achievement of performance goals. HCR is responsible for overseeing the activities of LPAs to ensure their compliance with federal requirements and that performance expectations are being achieved.

Key Findings

- In September 2020, HUD provided HCR approximately \$127 million in CDBG-CV funds to prevent, prepare for, and respond to the spread of COVID-19 as well as respond to the impacts of the virus and safely reopen and prepare businesses and facilities for new safety protocols. However, as of June 9, 2022 – more than 2 years after the start of the pandemic – HCR had only committed about \$98 million, of which less than \$5 million has been reimbursed. To meet HUD's

requirements, HCR must expend over \$96 million of the CDBG-CV funds – more than 19 times the amount it has been able to spend since the funds were received in September 2020 – by September 23, 2023 to avoid potentially losing the funding.

- HCR could improve its internal controls over the administration of the CDBG program. We found problems with HCR’s monitoring of three (\$2 million) of the eight grants (\$5 million) we reviewed at three of the five LPAs we visited. While the issues varied, our findings are generally attributable to how HCR monitors LPAs that directly contract with vendors.
- We also identified potential vulnerabilities in the handling of confidential information.

Recommendations

- Work with LPAs to ensure the timely obligation and spending of CDBG-CV and HOME-ARP funded projects. This may include but not be limited to:
 - Improving communication with LPAs regarding, and/or adjusting flexibility of, performance completion requirements.
 - Identifying and reducing delays in releasing funds to LPAs for work completed.
- Improve internal controls over the administration of the CDBG, including:
 - Developing methods to better monitor Subrecipients and Contractors used by LPAs to administer CDBG grants.
 - Helping LPAs to reduce the use of local funds to cover project costs before reimbursement from the State, where practicable.
 - Correcting weaknesses in controls over confidential information.



**Office of the New York State Comptroller
Division of State Government Accountability**

September 16, 2022

RuthAnn Visnauskas
Commissioner/CEO
Homes and Community Renewal
25 Beaver Street
New York, NY 10003

Dear Ms. Visnauskas:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Housing Trust Fund Corporation: Internal Controls Over and Maximization of Federal Funding for Community Development Block Grant & HOME Investment Partnerships Programs*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

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Glossary of Terms

Term	Description	Identifier
CARES Act	Coronavirus Aid, Relief, and Economic Security Act of 2020	<i>Key Term</i>
CDBG	Community Development Block Grant	<i>Grant Program</i>
CDBG-CV	CDBG CARES Act (COVID-19) Program	<i>Grant Program</i>
Contractor	Entity, such as a consultant, that has a contract with an LPA to provide goods or services	<i>Key Term</i>
HCR	Homes and Community Renewal	<i>Auditee</i>
HOME	HOME Investment Partnerships Program	<i>Grant Program</i>
HOME-ARP	HOME American Rescue Plan Program	<i>Grant Program</i>
HTFC	Housing Trust Fund Corporation	<i>Division</i>
HUD	U.S. Department of Housing and Urban Development	<i>Federal Agency</i>
LPA	Local Program Administrator	<i>Grantee</i>
PPSI	Personal, private, sensitive information	<i>Key Term</i>
Subrecipient	Entity receiving funds from an LPA to undertake eligible activities under a federal award	<i>Key Term</i>

Background

Homes and Community Renewal (HCR) is the State's affordable housing agency, with a mission to build, preserve, and protect affordable housing and increase homeownership throughout the State. HCR is comprised of several different offices and agencies, including the Housing Finance Agency, Governor's Office of Storm Recovery, and Housing Trust Fund Corporation (HTFC). HTFC's Office of Community Renewal receives federal funding from the U.S. Department of Housing and Urban Development (HUD) to administer the Community Development Block Grant (CDBG) program and HOME Investment Partnerships Program (HOME) across the State.

While HCR administered a variety of programs prior to the COVID-19 pandemic, the unprecedented housing crisis caused by the pandemic escalated the need for programs that provide housing stability. As such, the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act) provided funding for emergency economic relief for individuals, families, and businesses affected by COVID-19, and the American Rescue Plan Act of 2021 enhanced this assistance. HCR received about \$220 million from this funding.

For example, HUD allocated about:

- \$244 million in CDBG funds to HCR, for grant years 2017 through 2021, between April 1, 2017 and June 6, 2022; and
- Through the CARES Act, about \$127 million in additional funding from CDBG COVID-19 relief aid (CDBG-CV).

During the same period, HUD allocated about:

- \$120 million in HOME funds to HCR; and
- Through the HOME American Rescue Plan Program (HOME-ARP), \$93 million more in HOME COVID-19 relief aid.

CDBG and HOME both provide funding to expand the supply of decent, safe, and affordable housing, principally for low- and moderate-income households across the State. While CDBG and HOME share the same goals, the programs have different approaches to meeting the needs of low- and moderate-income families and have different rules regarding eligible activities. CDBG's eligible activities are diverse and range from residential rehabilitation to public infrastructure and economic development. HOME funds a variety of activities to acquire, rehabilitate, or construct affordable housing or to aid low-income homebuyers or renters. HCR functions as a pass-through entity, awarding CDBG and HOME grants to Local Program Administrators (LPAs), which can be entities such as local governments and non-profit corporations. LPAs administer CDBG and HOME projects at the local level.

To receive and continue receiving CDBG and HOME funding from the federal government, HCR must expend and account for federal CDBG and HOME awards in accordance with federal statutes, regulations, and the terms and conditions of the federal award. HCR is responsible for the operations related to CDBG and HOME

funds awarded. This includes monitoring LPAs, which manage programs at the local level to ensure compliance with applicable federal requirements and ensure performance expectations are achieved. LPAs are a subrecipient of pass-through funds from HCR; however, LPAs may elect to further subgrant all or portions of their CDBG funds to another subrecipient (Subrecipient) or contract with another entity (Contractor). LPAs are also responsible for monitoring all grant-supported activities provided by the Subrecipient or Contractor to ensure compliance with applicable State and federal requirements as well as the achievement of performance goals. LPAs, Subrecipients, and Contractors are accountable for their use of the funds received. Each must expend funds in accordance with all applicable requirements, including maintaining documentation and adhering to audit requirements as determined by the pass-through entity.

Additionally, federal regulations require that program information be maintained in systems or records that have appropriate administrative, technical, and physical safeguards to protect the information, however current. This responsibility extends to HCR, as a public housing authority using systems maintained by HUD. In addition, State information security policy requires all State entities to protect personal, private, sensitive information (PPSI) from unauthorized use and manage the risk of security exposure or compromise.

HCR is further responsible for ensuring adequate internal controls over each program it administers. This includes, to the extent possible, maximizing federal funding opportunities – and making every effort to approve, expend, and draw down federal funds promptly to facilitate program needs – and establishing a monitoring function over allocated funds to ensure compliance with applicable State and federal requirements. Monitoring activities should be designed to protect against fraud, waste, and abuse and be a continuous process by which State entities verify that grant recipients are operating federally funded programs in compliance with written agreements and completing stated activities and objectives. State agencies are also responsible for monitoring all project budget levels and making every effort to disburse and/or adjust all unspent federal awards as soon as possible.

Federally funded programs often establish time frames for the allocation and/or expending of funds awarded, especially temporary funding streams such as those provided under the CARES Act and American Rescue Act of 2021. For example:

- HUD's and HCR's funding agreement for CDBG-CV funds is for September 24, 2020 through September 23, 2026.
- CDBG-CV funds are not available for expenditure after the 6-year performance period ends September 23, 2026.
- HCR must expend at least 80% of the funds no later than the end of the third year (September 23, 2023) of the grant agreement.

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- HCR implemented a 12-month performance period for each CDBG-CV grant agreement – half the duration of typical 24-month CDBG grants. However, HCR can extend and provide multi-year CDBG-CV awards as needed.
 - HOME-ARP funds were obligated to HCR on September 20, 2021 and will expire September 30, 2030.

HCR cannot begin spending HOME-ARP funds until it submits, and HUD approves, its allocation plan. For projects not funded through COVID-19 relief funds, there are also established time frames in which HUD requires HCR to expend all funding. For our scope period, this was generally 7 to 8 years for both CDBG and HOME programs. Further, for CDBG funds, LPAs are required to remit payments to vendors within 5 days of receiving funds from HCR.

Audit Findings and Recommendations

We found HCR could improve the timely release of federal funds, especially with the CDBG-CV funded grants. CDBG-CV funded projects were intended to help communities develop critical activities to prevent the spread of the virus as well as respond to the impacts of the virus and safely reopen and prepare businesses and facilities for new safety protocols. However, as of June 9, 2022 – more than 2 years after the start of the pandemic – HCR had only committed about \$98 million of the \$127 million and reimbursed less than \$5 million. Therefore, to meet HUD's requirements, HCR (through the LPAs) must expend over \$96 million by September 23, 2023 – more than 19 times the amount it has been able to spend since funding was received in September 2020 – to avoid potentially losing funding.

Additionally, despite the potential benefits for their communities, we found that not all LPAs chose to apply for CDBG-CV funding, sometimes due to the program restrictions imposed by the agency. Officials at two of the five LPAs we visited stated they did not apply for funding because they did not believe they could meet HCR's 12-month performance period, especially given the supply chain issues caused by the COVID-19 pandemic as well as the availability of contractors.

We also found that HCR could improve its internal controls over the administration of the CDBG program. We found problems with the monitoring of three (\$2 million) of the eight grants (\$5 million) we reviewed. While the issues varied, our findings are generally attributable to HCR conducting less stringent monitoring of LPAs' use of Contractors than it does for other parties such as Subrecipients. HCR staff are required to obtain evidence of LPAs' monitoring activities for Subrecipients but are only required to describe the oversight procedures used by LPAs to monitor Contractors. For example, HCR reviews documentation for deficiencies found by the LPAs as well as how they are addressed for each Subrecipient, whereas it obtains a short description of the procedures LPAs use to monitor Contractors and does not verify anything or require any other forms of support that these procedures are being implemented and are functioning as intended. This increases the risk that Contractor non-compliance with State and federal requirements goes undetected.

Furthermore, the timing and frequency HCR established to oversee LPAs' CDBG projects are ineffective for identifying problems and correcting performance issues, because HCR only completes and documents a full review of projects at their completion and not at any point during the project. Although LPA officials stated they are in contact with HCR officials throughout the project life, officials could not provide support for this; therefore, it is unclear what level of oversight is achieved through this communication.

We also identified potential vulnerabilities in the handling of confidential information.

Expending of Federal Funds

CDBG

In September 2020, HUD provided HCR approximately \$127 million in CDBG-CV funds to prevent, prepare for, and respond to the spread of COVID-19. However, as of June 9, 2022 – more than 2 years after the start of the pandemic – HCR only committed about \$98 million (\$92 million awarded to 66 LPAs and \$6 million in State administration), of which less than \$5 million has been expended. Therefore, to meet HUD’s requirements, HCR (through the LPAs) must spend over \$96 million by September 23, 2023 – more than 19 times the amount it has expended since funds were received in September 2020. If these funds are not expended by September 23, 2023, HCR and its associated LPAs could potentially lose the funding. In addition, all the remaining \$122 million must be spent by the end of the performance period, September 23, 2026, to prevent further potential loss of funding.

We found that not all LPAs chose to apply for this CDBG-CV funding, despite the benefits it could afford the community in responding to the COVID-19 pandemic. Three of the five LPAs we visited that administer CDBG grants did not apply for funding. Officials from two of the three LPAs stated they did not apply for funding because they did not believe they could meet HCR’s 12-month performance period, especially given the supply chain issues caused by the COVID-19 pandemic as well as the availability of contractors. The third LPA was still considering applying.

Based on the performance of the grants awarded to LPAs under the CDBG-CV funding, this concern may be justified. Of the six grants set to expire on or before July 15, 2022, only one has been, or will be, completed within a 12-month period. Of the remaining five grants, four grants recently had their performance date extended by HCR and one grant (totaling \$1.9 million) had a remaining balance of about \$333,000 as of June 9, 2022. In total, after just one year of awarding CDBG-CV grants, HCR has extended, or is in the process of extending, the performance end dates for eight awards totaling about \$8.3 million. HCR cited supply chain issues as a contributing factor for three grant extension requests. Further, as of June 9, 2022, only 11 of the 66 LPAs awarded grants totaling \$92 million have been reimbursed funds since being awarded the grants between June 2021 and May 2022.

Even though HCR has the flexibility to extend the 12-month performance period and has not attempted to reclaim awards to those LPAs that did not meet the 12-month period, not all LPA officials were aware of this option and some stated they chose not to apply for these grants as a result. Officials said they imposed the 12-month contract term as a mechanism to ensure awards were for projects that could be implemented and completed quickly to meet expenditure deadlines. However, had HCR offered a more realistic performance period and/or communicated the flexibility of the established performance periods, more LPAs may have applied to perform projects to benefit their communities. HCR might also be closer to committing all the CDBG-CV funds and meeting expenditure deadlines prescribed by HUD.

We interviewed officials at two LPAs that were awarded CDBG-CV funding – but only one had spent any money as of January 2022. LPA officials largely attributed this to delays caused by miscommunication between the LPA and HCR. For example, one LPA provided documentation to HCR to release their funds in November 2021, with the expectation of receiving the release within 2 weeks. This expectation was based on communication from HCR staff stating that their initial review of the documentation submitted found the LPA had provided all the required information. However, while HCR contends that it did not delay in responding, HCR staff took about a month to respond further to the LPA that more information was needed – although LPA officials stated they repeatedly followed up with HCR during that month to confirm whether HCR had all the information needed.

During the preceding month, the LPA incurred costs up front itself, at the risk of not being reimbursed, to ensure the project continued its pace to meet the 12-month deadline. Had they not, LPA officials were concerned that they might not have been able to meet the deadline. Funds were finally approved for release to the LPA in February 2022 and backdated to allow the LPA to incur costs from December 2021.

According to HCR officials, LPAs are allowed to cover costs before HCR releases funds to them. However, this is less desirable because it shifts financial risk to the local agencies, which could potentially jeopardize their financial stability if reimbursement is denied or significantly delayed for any reason. LPAs may have to divert funds for other services, crucial to residents across the State, to cover delayed or denied reimbursements. We interviewed five LPAs administering CDBG grants and found they often covered costs of projects up front, not just for CDBG-CV funded projects but also for standard CDBG projects. Generally, LPA officials stated they did this to provide prompt payments to Contractors. While HCR officials said it is acceptable under federal regulations to give LPAs autonomy over how vendors are paid, HCR should work with LPAs to determine if there are alternative avenues to avoid putting local funds at risk, where practicable.

Between 2017 and 2021, HUD awarded \$244 million outside the COVID-19 relief aid. None of these grants were due to expire before June 2022. In addition, for the five LPAs we visited, we tested a sample of 84 payments totaling approximately \$1.4 million to vendors to ensure the LPAs were remitting payment to vendors within 5 days of receiving funding from HCR. LPAs were generally meeting this requirement.

HOME

As of May 27, 2022, none of the \$93 million in HOME-ARP funding obligated to HCR from HUD has been expended. However, this funding period doesn't expire until September 30, 2030. HCR is still developing the HOME-ARP allocation plan required to be submitted and approved by HUD before it can begin spending HOME-ARP funds. Officials stated they had planned to submit the allocation plan during summer 2022, and were taking several steps to prepare the plan, including participating in required HUD training and collecting and analyzing certain programmatic data. While officials believed the plan would be ready by summer 2022, if they do not make a

concerted effort to distribute funds quickly, activities and services may be delayed or ultimately lost if not spent by the federal deadlines – similar to what may occur with the CDBG-CV funds. As a result, State residents may not receive assistance that should be available to them. For grant years 2017 through 2021, HCR did not lose out on any standard HOME funding for failure to expend funds.

Internal Control Weaknesses

Monitoring of Subrecipients

Under federal regulations, HCR and LPAs are responsible for monitoring CDBG and HOME activities to ensure compliance with federal requirements and that performance expectations are being achieved. This responsibility extends to the monitoring of designated Subrecipients and Contractors. For the five LPAs we visited that received CDBG grants (both standard funded and under CDBG-CV), we selected eight CDBG grants totaling about \$5 million for review. We found problems with oversight of three grants totaling \$2 million at three of the five LPAs. HCR conducts less stringent monitoring of LPAs' use of Contractors than it does for other parties such as Subrecipients, which led to the various issues found. HCR staff are required to obtain evidence of LPAs' monitoring activities for Subrecipients but are only required to describe the oversight procedures used by LPAs to monitor Contractors. This increases the risk that Contractor non-compliance with State and federal requirements goes undetected. Additionally, we found a breakdown in HCR's monitoring of the LPAs' oversight function.

At one LPA, the Contractor prepared a monitoring report on the sufficiency of its own work for a project totaling \$750,000. There was no evidence that the LPA reviewed or approved the report, and HCR staff did not request any evidence of the LPA's review. Further, the Contractor stated the LPA would not have been familiar enough with the CDBG programmatic procedures to conduct adequate monitoring. HCR staff only requested a description of the LPA's procedures for monitoring the Contractor (which included the receipt of the report). HCR staff reviewed the report and considered it sufficient support of the LPA's review of the Contractor's work.

At the other two LPAs, we reviewed two grants totaling \$1.25 million and found insufficient documentation to support that the LPAs monitored the Contractors. In both cases, the LPAs stated they were in regular contact with the Contractor, but had no support of this in their grant files. HCR staff reviewed the grants but did not note the insufficiency of documentation or request the LPA to provide any evidence that it was monitoring the Contractor's compliance with federal requirements. Furthermore, at one of the LPAs, officials stated that, although they regularly subgrant with another entity to administer their typical CDBG projects, they generally do not document monitoring activities. While officials contend that they maintain strong oversight, merely looking at the procedures LPAs used to oversee Contractors is not sufficient as there is no assurance that the procedures were actually implemented.

Furthermore, HCR's process to oversee LPAs' CDBG projects is ineffective for

identifying problems and correcting performance issues. To be an effective tool for avoiding problems and improving performance, monitoring should not be a one-time event at the end of the project but rather an ongoing process. While HCR officials conducted reviews of four of the eight CDBG projects we selected, those reviews were always conducted after the project was complete. We also identified one grant that was completed in September 2021 and still had not been reviewed by HCR as of May 2022. The remaining three grants are currently ongoing and have not yet been reviewed by HCR.

We also reviewed 26 HOME projects across six grants administered by five LPAs. We found nearly all grant and project files were complete for the 26 HOME projects we reviewed. Of the five LPAs we visited, only one contracted with a Contractor to assist in managing their grants.

Security of Potentially Sensitive Information

During our audit, we identified a weakness in controls over confidential information that needs to be corrected to ensure the LPAs' PPSI data is not at risk. Due to the confidential nature, we reported this matter to officials in our preliminary report and, consequently, do not address it in detail in this report. In response to our preliminary findings, HCR officials acknowledged the importance of securing sensitive information and stated they will explore options for this information.

Recommendations

1. Work with LPAs to ensure the timely obligation and spending of CDBG-CV and HOME-ARP funded projects. This may include but not be limited to:
 - Improving communication with LPAs regarding, and/or adjusting flexibility of, performance completion requirements.
 - Identifying and reducing delays in releasing funds to LPAs for work completed.
2. Improve internal controls over the administration of the CDBG, including:
 - Developing methods to better monitor Subrecipients and Contractors used by LPAs to administer CDBG grants.
 - Helping LPAs to reduce the use of local funds to cover project costs before reimbursement from the State, where practicable.
 - Correcting weaknesses in controls over confidential information.

Audit Scope, Objectives, and Methodology

The objectives of this audit were to determine whether HCR established and maintained adequate internal controls to oversee and monitor the federally funded CDBG and HOME programs to ensure they met requirements, and whether HCR was obtaining federal reimbursements on time and in a manner that recovers all eligible costs. The audit covered the period from April 2017 through June 2022.

To accomplish our objectives and assess related internal controls, we reviewed relevant policies, procedures, laws, regulations, and program instructions. We conducted interviews with HCR and LPA officials to gain an understanding of their role in administering the CDBG and HOME programs, including their system of internal controls and management of federal funds. Additionally, we reviewed the grant agreements between HCR and LPAs as well as the agreements between LPAs and any Subrecipients and Contractors they used. HCR conducts annual internal risk assessments for the CDBG and HOME programs. However, officials refused to share the details of those assessments with us, stating that disclosing the details would pose a security risk to HCR's business practices. As a result, auditors were unable to assess the adequacy of these internal risk assessments or whether they would have had an impact on our audit. In addition, officials stated they have not conducted any internal audits of the CDBG or HOME programs during our audit scope.

We also interviewed officials and conducted testing at a judgmentally selected sample of five out of 231 CDBG LPAs and five out of 72 HOME LPAs that were awarded funding during our scope to determine whether internal controls were appropriate and functioning as intended and to evaluate LPA financial management practices. We selected LPAs that generally had the greatest number of projects for each grant type. At each LPA, we selected a sample of grants and reviewed documentation, including grant agreements, monitoring activity, and draw-down transactions. We selected a judgmental sample of six standard CDBG grants (out of a population of 43) received by the five CDBG LPAs we chose, amounting to awards of about \$3.4 million (from a population of about \$19.7 million) and six standard HOME grants (out of a population of 28) received by the five HOME LPAs we chose, amounting to awards of approximately \$2.6 million (from a population of about \$9.3 million) that covered performance periods during our scope, some of which were awarded prior to our scope. We judgmentally selected grants within the selected LPAs based on various factors, including the size, age, and status (e.g., completed or in progress) of the grant. In addition, for the five LPAs we visited, we reviewed documentation for a judgmentally selected sample of 84 CDBG payments totaling approximately \$1.4 million (out of a population of approximately \$3.3 million) to vendors to ensure LPAs were remitting payments to vendors within 5 days of receiving funding from HCR. We selected payments to include older invoices and high dollar amounts. The total number of standard CDBG grants with a performance period during our scope was 757 totaling about \$323.3 million, whereas the total population of standard HOME grants with a performance period during our scope was 235 totaling \$152.5 million. In addition to the standard CDBG grants selected, we also reviewed the only two CDBG-CV grants awarded to two of the five CDBG LPAs selected as part of our sample to determine whether internal controls were appropriate and functioning as intended and whether COVID-19 relief funds were

used in a timely manner. We reviewed two CDBG-CV grants totaling approximately \$1.7 million (out of 67 grants totaling about \$92 million). The results of our sample selections and audit tests cannot be projected to the population as a whole. We tested the data used to select our samples and conduct our audit work and determined it was sufficiently reliable for the purposes of our audit objectives.

Statutory Requirements

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State, including some duties on behalf of public authorities. For the HTFC, these include operating the State's accounting system, reporting HCR as a discrete component unit in the State's financial statements, and approving selected contracts. These duties could be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent audit of HTFC's oversight and administration of the CDBG and HOME programs.

Reporting Requirements

A draft copy of the report was provided to HCR officials for their review and comment. Their comments were considered in preparing this final report and are attached in their entirety at the end of it. In general, officials agreed with our recommendations and noted steps they are taking to implement them.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner/CEO of Homes and Community Renewal shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Agency Comments



KATHY HOCHUL
Governor

Homes and
Community Renewal

Housing
Trust Fund
Corporation

RUTHANNE VISNAUSKAS
Commissioner/CEO

August 26, 2022

Ms. Nadine Morrell
Audit Director, Division of State Government Accountability
Office of the State Comptroller
110 State Street
Albany, NY 12236

Re.: 2021-S-10, Internal Controls Over and Maximization of Federal Funding for Community Development Block Grant & HOME Investment Partnerships Programs

Dear Ms. Morrell:

This shall serve as our response to the reported results of the above-referenced audit. Following are our responses to the reported audit observations and recommendations:

Recommendation 1: Work with LPAs to ensure timely obligation of CDBG-CV and HOME-ARP funded projects. This may include but not be limited to:

- **Improving communication with LPAs regarding, and/or adjusting flexibility of, performance completion requirements.**
- **Identifying and reducing delays in releasing funds to LPAs for work completed.**

Agency Management's Response:

HTFC acknowledges the importance of timely obligation of CDBG-CV and HOME-ARP funds. Since concluding this audit, the HOME-ARP Allocation Plan has been prepared and submitted to HUD for review and approval. The anticipated timeline for approval is 45 days. While the Plan is under review, HTFC is preparing materials for launch of the program and will be ready to expeditiously distribute funds and meet the expenditure requirement and period of performance ending in 2030.

At the time of this response, HTFC has committed over \$110 million in CDBG-CV funds and expended approximately \$8.3 million. HTFC continues to process CDBG-CV payment requests daily, and approximately \$11 million more in CDBG-CV commitments is anticipated in early September 2022 pending HTFC Board approval of additional awards. Once committed, projects must complete a federal environmental review and procurement process before funds can be released. With more than 90% of the CDBG-CV funds committed, spending will increase significantly as projects complete the required reviews. Program staff will continue to

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work with new and existing grantees to commit the remaining CDBG-CV funds and meet HUD expenditures deadlines.

During OSC's audit, HTFC incorporated additional language in grant agreements to help further promote LPAs' timely completion of projects and expenditure of funds. This added language highlights and outlines critical milestones and corresponding schedules for submission of key documents to HTFC required for timely contract execution, project start-up and implementation. Additionally, HTFC's CDBG Grant Administration Manual provides specific guidance for grantees on monitoring their project schedules and requesting additional time to complete proposed activities if necessitated by extenuating circumstances that might compromise timely project completion and expenditure of funds. Staff will continue to conduct monthly outreach to existing grantees to identify barriers to spending and completion of all activities and provide technical assistance as appropriate. These outreach efforts to LPAs include exploring extensions for grant agreements as determined appropriate. Staff will also continue working with LPAs to expedite release of funds with respect to requests for payment, including prompt follow up with LPAs for required documentation needed to approve their payment requests.

Recommendation 2: Improve internal controls over the administration of the CDBG, including:

- **Developing methods to better monitor Subrecipients and Contractors used by LPAs to administer CDBG grants.**
- **Helping LPAs to reduce the use of local funds to cover project costs before reimbursement from the State, where practicable.**
- **Correcting weaknesses in controls over confidential information.**

Agency Management's Response:

- **Developing methods to better monitor Subrecipients and Contractors used by LPAs to administer CDBG grants.**

HTFC maintains a robust monitoring process that is ongoing throughout the term of each CDBG project. Monitoring activities include:

- Collaborative review with recipients of their required administrative plans outlining roles and responsibilities to be utilized throughout each project, including a description of third-party oversight procedures;
- Review of supporting documentation with each payment request to confirm eligibility of costs, regulatory compliance and consistency with program policy;
- Routine contact with LPAs and technical assistance to encourage project timeliness and address barriers to completion; and
- End of project monitoring conducted for detailed review of financial management and regulatory compliance.

Third-party responsibilities are reviewed with recipients as required by federal regulation (i.e., 24 CFR570.501) to ensure that their subrecipients or consultants are completing the project according to the grant agreement, executed contract, and project design. Recipients are provided some autonomy in conducting this review, but must include, at a minimum, a description of responsibilities, fees, and timelines within the consultant contract.

Consistent, routine local monitoring is required regardless of recipients' prior relationships or familiarity with the subrecipient or consultant.

To improve compliance and HTFC monitoring of Subrecipients and contractors, HTFC will make the following adjustments:

- NYS CDBG Grant Administration Manual, "Chapter 10 – Monitoring," will be updated to outline requirements for improved oversight of third-party consultants.
- HTFC will prepare a template subrecipient and consultant monitoring plan for use by recipients. The template plan will include procedures for review of program and financial management, timeliness of reimbursements, and any other relevant program areas. LPAs will be required to prepare monitoring reports using the available template or similar format and provide these for program staff review.
- HTFC monitoring materials and procedures will be modified to prompt program staff to examine subrecipient and consultant monitoring more closely. These modifications will include additional reviewer guidance related to monitoring of third parties.

Project monitoring will continue to include an examination of the record of communication between the recipient and its subrecipient/consultants. In particular, CDBG staff will continue to require that the primary grant recipient formally document dates and times of local monitoring of any subrecipients and/or consultants.

- **Helping LPAs to reduce the use of local funds to cover project costs before reimbursement from the State, where practicable.**

HTFC provides flexibility for recipients to make local decisions over how vendors are paid; that is, some recipients choose to "front" the expenses and then request reimbursement while others submit costs incurred to HTFC for payment. The method chosen is a local decision based on local availability of resources and what is considered appropriate at that time. Similarly, this flexibility is available to participating subrecipients. These flexibilities are acceptable practice and allow HTFC to exercise oversight as required by federal regulation, while providing options and support to recipients.

- **Correcting weaknesses in controls over confidential information.**

As previously mentioned in response to OSC's preliminary reporting of this matter, HTFC had requested independent, authoritative guidance for the handling of sensitive data that we understood would afford an appropriate level of protection. As OSC correctly observes, HTFC acknowledges the importance of securing sensitive information and we have identified an alternative tool for transmitting and accepting documents securely. HTFC is in the process of implementing a new procedure.

Please contact Ron Dickens, Director of Internal Audit and Quality Control, at (518) 486 – 6367 if you have any questions or require anything further.

Sincerely,

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