



Doug Adkins
 U.S. Department of Housing and Urban Development
 Columbus Field Office
 Office of Community Planning and Development
 200 North High Street
 Columbus, Ohio 43215-2499

SEP 11 2009

Ms. Judy Gilliland
 City Manager
 City of Middletown
 One Donham Plaza
 Middletown, OH 45042

Dear Ms. Gilliland:

SUBJECT: Onsite Monitoring Review – June 10-12, 2009
 Community Development Block Grant (CDBG) Program
 Grant Number: B-07-MC-39-0013

This letter reports the results of the subject monitoring visit, including a review of further documentation that was received from Community Revitalization staff on July 28, 2009. This review was conducted by Ms. Trevia Thomas, Community Planning and Development (CPD) Representative, and Ms. Gretchen Garland, Senior Financial Analyst, of my staff.

The CDBG Programmatic Review was conducted by Ms. Thomas, and the CDBG Program Financial Management compliance was reviewed by Ms. Garland. The monitoring included meeting with Messrs. Kyle Fuchs and Skip Batten of the Community Revitalization Department. The results of our review, including Findings and Concerns, are contained herein and covered the following:

- National Objective
- Review of Eligibility
- Limited Civil Rights Review
- Financial Management

CDBG --- PROGRAMMATIC REVIEW

NATIONAL OBJECTIVE COMPLIANCE

An assessment of the following randomly selected CDBG activities was conducted to determine the adequacy of the city's system for ensuring and demonstrating National Objective compliance for benefit to low- and moderate-income (LMI) individuals with the applicable regulations at 24 CFR 570.208 (a) (1-4):

<u>ACTIVITY NAME</u>	<u>NATIONAL OBJECTIVE</u>
Emergency Home Repair	LMH
People Working Cooperatively	LMH
Housing Code Enforcement	LMA
Facade Improvements Program	LMA
City Health and Social Services	LMC
Demolition and Clearance	SBS

CONCERN #1 -- Lack of National Objective Documentation

After careful review of the city's Consolidated Annual Performance and Evaluation Report (CAPER) and files, all activities selected appeared eligible. However, several of the files did not include sufficient information to make the determination of which National Objective the activity met as required in 24 CFR 570.208 (a) (1-4).

Suggestive Corrective Action: In accordance with 24 CFR 570.506, the city must maintain sufficient documentation to determine whether the recipient has met the requirements of this part. At a minimum, the files need to include: (1) for all LMI persons, income limits applied; (2) for LM Area, boundaries of the service area or data showing that the area qualifies; (3) for LM Clientele, documentation that describes how the location of the facility or service is presumed to serve LMI persons; (4) for LM Housing, how many units will be occupied by LMI persons after assistance; and (5) for LMI Jobs, a commitment by the business that it will make at least 51 percent of the jobs available to LMI persons. For Slum/Blight, please include the boundaries of the area, the local definition of substandard, and a description of the conditions that qualified the area at the time of its designation in sufficient detail.

ELIGIBILITY

A random file review was done to check the eligibility determination on projects and programs to compare them to the IDIS reports and against program regulations set forth in 24 CFR 570.200(a) and 570.201 through 570.206. Both program files and individual project files were reviewed. For every funded activity, an initial determination of eligibility has to be made as well as an evaluation after the project completion. File review was done on two randomly selected activities: City Health and Social Services Center and the Emergency Repair Program. Five individual files were randomly selected within the Emergency Repair Program.

CONCERN #2 -- Insufficient Recordkeeping Practices

It appears that at the time of the onsite review, the city did not have a written process or written procedures to determine the eligibility of CDBG-assisted activities. Although the individual's files of the Emergency Repair Program appeared to be eligible, the recordkeeping was insufficient. The files were not consistent in containing the same information, some of the files had paperwork from different individuals and addresses, and the dollar amounts expended on each activity could not be determined. The funding for the City Health and Social Services Center did not appear to be an eligible expenditure.

NOTE: The files reviewed were initially established by prior staff members who are no longer employed with the city. The staff that is now responsible for overseeing the files has since created a checklist to be included in every file that ensures consistency and that files have the correct information included; i.e., how the activity and the individual files meet eligibility, back-up documentation, and management approval, etc.

LIMITED CIVIL RIGHTS REVIEW

In cooperation with our Office of Fair Housing and Equal Opportunity (FH&EO), the Office of CPD is conducting limited reviews of Civil Rights issues during routine monitoring visits. A checklist was completed during the review, and an open discussion of pertinent Civil Rights issues was conducted with staff members. This review was divided into two separate areas:

- Section 504 of the Rehabilitation Act of 1973
- Section 3 of the Housing and Urban Development Act of 1968

During this portion of the review, we found that the city had completed an Analysis of Impediments to Fair Housing Choice (AI). They also maintain data on persons that applied for, participated in, or benefited from programs and activities funded in whole or in part with CDBG funds by racial and ethnic groups and, for single heads of households, by gender characteristics. The city also updates the list of contractors every 2 years and requests MBE/WBE contractors in the newspapers.

CONCERN #3 -- Reasonable Accommodation Policy

The city does not have a Reasonable Accommodation Policy, nor do they perform the Section 504 Self-Evaluation and Transitional Plan. Also, although information is submitted in the CAPER, the city does not complete the HUD-27061, Racial and Ethnic Data Form. In addition, there is no evidence that the city is monitoring its subrecipients to ensure compliance with the required regulations.

Suggestive Correction Action: The city was given a copy of the Reasonable Accommodation Policy, the Self-Evaluation and Transitional Plan forms, and the website to download the HUD-27061 Racial and Ethnic Data Form. The city needs to provide this office with a copy of their completed Reasonable Accommodation Policy, as well as complete the missing forms and submit them to this office.

CDBG --- FINANCIAL MANAGEMENT REVIEW

A review of the financial management system was performed to determine compliance with 24 CFR Part 85.20, Standards for Financial Management Systems. This was accomplished through overall system accountability testing of CDBG financial transactions from July 1 through September 30, 2008. In addition, we conducted staff interviews with employees that are responsible for processing CDBG-funded financial transactions. The staff members interviewed were the staff responsible for administering draw requests from the City of Middletown's Neighborhood Stabilization Program (NSP-1) and Community Development Block Grant-Recovery (CDBG-R) funds. Our review found the city to be in compliance with the required regulations.

FINANCIAL REPORTING

We examined financial records to ensure the city was adhering to 24 CFR Part 85.41, Financial Reporting. The following finding was disclosed:

FINDING #1 - Failure to submit Federal Cash Transaction Reports.

During our review, we found that the city had not been submitting Federal Cash Transaction Reports to our office. The condition of not submitting these reports is a violation of 24 CFR Part 85.41(c), which states that "for grants paid by letter of credit, Treasury check advances or electronic transfer of funds, the grantee will submit the Standard Form 272, Federal Cash Transactions Report, and when necessary, its continuation sheet, Standard Form 272a, unless the terms of the award exempt the grantee from this requirement".

Our office does not exempt any grantee from this requirement. The cause of this violation occurred because city staff failed to submit the Standard Form 272, Federal Cash Transaction Report. Therefore, the city will have to begin submitting this form quarterly to our office.

Required Corrective Action: During our review, the city was made aware of this Finding. On July 30, 2009, the city submitted an electronic version of the Standard Form 272 for the period of April 1, 2009, through June 30, 2009. In order to clear this finding, the city must submit the Federal Cash Transaction report for the period of October 1 - December 31, 2008, and January 1 - March 31, 2009. In addition, we ask that the city assure us in writing that future reports will be submitted within 30 days from the end of each calendar year quarter.

PROCUREMENT

A review was made regarding the city's procurement procedures to ensure compliance with 24 CFR Part 85.36, Procurement. This involved reviewing various small procurement transactions and a review of the city's procurement policy. Our review found the city to be in compliance with the required regulations.

EQUIPMENT

On November 16, 2006, the city purchased an XLP-300A Lead Paint Analyzer in the amount of \$14,495.00. The city's purchase procedures for this item appear to be acceptable under 24 CFR 85.36 (d)(4), procurement by noncompetitive proposals. At this time, we would like to advise the city of the regulation at 24 CFR Part 85.32(e) (1), which applies if the city were to dispose of the Lead Paint Analyzer. This regulation states "When original or replacement equipment acquired under a grant or sub-grant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:

1. Items of the equipment with a currently per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.
2. Items of equipment with a current per unit fair market value in excess of \$5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from the sale by the awarding agency's share of the equipment.

3. In cases where a grantee or sub-grantee fails to take appropriate disposition actions, the awarding agency may take excess and disposition actions.”

PROGRAM INCOME AND REVOLVING LOAN FUNDS (RLF's)

A review of tracking, reporting, and utilization of program income and RLF was performed to determine if the city is in compliance with 24 CFR Part 85.25, Program Income, and 24 CFR Part 570.500(a)(b), Definitions of Program Income and RLF's. The period of July 1, 2008, through August 30, 2008, was used to test the tracking, reporting, and use of program income and RLF's. Our review disclosed the following finding:

FINDING #2 – Return of Interest Earned on RLF's to the U.S. Treasury

During our review, we found that the city had not paid back interest on their RLF since April of 2007. We found that the city had earned \$24,241.36 in interest on their RLF from May 1, 2007, until December 31, 2008. This condition of not paying back interest annually on an RLF violates 24 CFR Part 570.500(b), which states “each revolving loan fund's cash balance must be held in an interest bearing account, and any interest paid on CDBG funds held in this account shall be considered interest earned on grant advances and must be remitted to HUD for transmittal to the U.S. Treasury no less frequently than annually.”

The cause of this violation occurred because city staff failed to remit the interest earned on their RLF to the U.S. Treasury. Therefore, the city will have to remit the interest earned on their RLF from May 1, 2007, until December 31, 2008.

Required Corrective Action: During our on-site review, the City of Middletown was made aware of this Finding. On June 19, 2009, the city remitted \$24,241.36 of interest earned on their RLF to the U.S. Treasury to cover the period of May 1, 2007, through December 31, 2008. Therefore, this finding is now considered closed. However, we request that, in the city's response to this report, they address procedures they will take to ensure that interest earned on RLF monies is returned annually to the U.S. Treasury.

ALLOWABILITY AND ALLOCABILITY OF COSTS

We performed sample testing consisting of 15 CDBG expenditures from the period of July 1, 2008, through September 30, 2008. The purpose was to determine if the city is in compliance with OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments. All costs reviewed during this time period were allowable under the required regulations. In addition, all costs were direct costs to the applicable program areas.

In addition, we reviewed CDBG payroll records for the month of October 2008 to ensure compliance with OMB Circular A-87, Attachment B (8), Compensation for Personal Services. Our review disclosed the following Finding:

FINDING #3 -- Failure to keep time distribution records that support salaries and wages charged to a Federal Program

During our review of payroll records for the Month of October 2008, we found that the city's time distribution records to support salaries and wages charged to the CDBG Program did not support the multiple cost objectives that employees worked on (such as CDBG Administration, CDBG Rehabilitation Program Delivery, Demolition, HOME Administration, HOME Rehabilitation Program Delivery, etc.). Moreover, payroll records did not account for vacation time utilized by an employee. The condition of not having payroll records that support these cost objectives is a violation of OMB Circular A-87, Attachment B(8)(h)(4), which states the following:

Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in Subsection (5) unless a statistical sampling system (see Subsection (6)) or other substitute system has been approved by the cognizant Federal agency.

Such documentary support will be required where employees work on:

- (a) More than one Federal award,
- (b) A Federal award and non-Federal award,
- (c) An indirect cost activity and a direct cost activity,
- (d) Two or more indirect activities which are allocated using different allocation bases, or
- (e) An unallowable activity and a direct or indirect cost activity.

Personnel activity reports or equivalent documentation must meet the following standards:

- (a) They must reflect an after-the-fact distribution of the actual activity of each employee,
- (b) They must account for the total activity for which each employee is compensated,
- (c) They must be prepared at least monthly and must coincide with one or more pay periods, and
- (d) They must be signed by the employee.

The cause of this violation occurred because city staff failed to adhere to the requirements stated above. Therefore, the city must begin to utilize time distribution sheets that meet the standards of OMB Circular A-87, Attachment B(8)(h).

Required Corrective Action: During our on-site review, the City of Middletown was made aware of this Finding. Staff from the Community Revitalization provided our staff with the time distribution system their staff currently uses for time charged Federal awards and other cost objectives. The current time distribution records met all of standards of the required regulations. Therefore, in order to clear this finding, the city must assure our office, in writing, that the new time distribution records will be utilized in the Community Revitalization Department.

Our office would like to commend the staff of the Community Revitalization Department who created the current computerized time distribution system. We found this system to be one of the finest time distribution recordkeeping systems that we have monitored.

SUMMARY

We would like to thank your staff for the courtesy that was extended during our onsite monitoring visit. We would also like to commend the city for the manner in which it is working to improve the overall management of the Community Revitalization Department. Please provide a written response to the above-identified Findings and Concerns within 30 days from the date of this letter.

If you have questions or require further information or assistance, please feel free to contact Trevia Thomas or Gretchen Gariand at (614) 469-5737, x8256 and x8269, respectively.

Sincerely,

A handwritten signature in black ink, appearing to read "Jorgelle R. Lawson". The signature is stylized and cursive, with a long horizontal flourish extending to the right.

Jorgelle R. Lawson
Director
Office of Community
Planning and Development

cc:
Doug Adkins
Kyle Fuchs