

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**OFFICE OF HUMAN CONCERN,
INC., CLAIMED ALLOWABLE
COSTS UNDER A RECOVERY ACT
GRANT**

*Inquiries about this report may be addressed to the Office of Public Affairs at
Public.Affairs@oig.hhs.gov.*



Patricia Wheeler
Regional Inspector General

August 2012
A-06-12-00028

Office of Inspector General

<http://oig.hhs.gov>

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The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

EXECUTIVE SUMMARY

BACKGROUND

The Community Services Block Grant (CSBG) program was authorized by the Community Opportunities, Accountability, and Training and Educational Services Act of 1998 (CSBG Act), P.L. No. 105-285, to provide funds to alleviate poverty in communities. Within the U.S. Department of Health and Human Services, the Administration for Children and Families (ACF), Office of Community Services, administers the CSBG program. The CSBG program funds a State-administered network of more than 1,000 local Community Action Agencies (CAA) that create, coordinate, and deliver programs and services to low-income Americans. The CAAs provide services and activities addressing employment, education, housing, nutrition, emergency services, health, and better use of available income. The CSBG program awarded \$643 million in fiscal year (FY) 2008, \$1.7 billion in FY 2009, and \$689 million in FY 2010.

The American Recovery and Reinvestment Act of 2009 (Recovery Act), P.L. No. 111-5, enacted February 17, 2009, provided an additional \$1 billion to ACF for the CSBG program. CSBG Recovery Act funds were distributed to CAAs using an existing statutory formula. The primary objective of the CSBG Recovery Act was to provide assistance to States and local communities, working through a network of CAAs and other neighborhood-based organizations, for the reduction of poverty, revitalization of low-income communities, and empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient.

Section 676(a) of the CSBG Act requires each State to designate an appropriate State agency as the lead agency for carrying out the State's CSBG program activities. In Arkansas, the Department of Human Services, Office of Community Services (the State), was the lead agency during our audit period. The State is responsible for approving Recovery Act grant applications from CAAs and monitoring them for compliance with program requirements. The State received \$13,595,871 in Recovery Act funds for Arkansas' CSBG program.

Office of Human Concern, Inc. (the Agency), is a private, nonprofit CAA providing services to the citizens of Benton, Carroll, and Madison counties in Northwest Arkansas. The State awarded the Agency \$316,847 in CSBG grant funds for FY 2010 and \$500,822 in CSBG Recovery Act funds for the period July 1, 2009, through September 30, 2010.

OBJECTIVE

Our objective was to determine whether the State claimed selected CSBG Recovery Act costs on behalf of the Agency that were allowable under the terms of the grant and applicable Federal regulations.

SUMMARY OF FINDINGS

The \$93,165 in CSBG Recovery Act costs that the State claimed on behalf of the Agency and that we reviewed was allowable under the terms of the grant and applicable Federal regulations.

However, the Agency did not obtain bids on the purchase of two vehicles, each of which cost between \$5,000 and \$25,000. This deficiency occurred because the Agency did not follow its policies and procedures related to procurement.

RECOMMENDATION

We recommend that the State ensure that the Agency adheres to the State requirement on bidding for purchases between \$5,000 and \$25,000.

OFFICE OF HUMAN CONCERN, INC., COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the Agency disagreed with our finding. The Agency said that it had received verbal approval to make the purchases but also acknowledged that the formal approval letter had indicated that bids were required. The Agency provided a copy of an email from the State that discussed the bidding requirements in the approval letter. The Agency said that, in the future, it would not deviate from established policies without detailed written instructions from the State. The Agency's comments are included in their entirety as Appendix A.

Nothing in the Agency's comments caused us to change our finding or recommendation. We previously reviewed the email from the State and concluded, after consultation with State personnel, that the State approved the use of the incentive program but did not waive the bidding requirement.

STATE COMMENTS

In written comments on our draft report, the State concurred with our recommendation. The State's comments are included in their entirety as Appendix B.

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INTRODUCTION

BACKGROUND

Community Services Block Grant Program

The Community Services Block Grant (CSBG) program was authorized by the Community Opportunities, Accountability, and Training and Educational Services Act of 1998 (CSBG Act), P.L. No. 105-285, to provide funds to alleviate poverty in communities. Within the U.S. Department of Health and Human Services, the Administration for Children and Families (ACF), Office of Community Services, administers the CSBG program. The CSBG program funds a State-administered network of more than 1,000 local Community Action Agencies (CAA) that create, coordinate, and deliver programs and services to low-income Americans. The CAAs provide services and activities addressing employment, education, housing, nutrition, emergency services, health, and better use of available income. The CSBG program awarded \$643 million in fiscal year (FY) 2008, \$1.7 billion in FY 2009, and \$689 million in FY 2010.

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Arkansas Department of Human Services

Section 676(a) of the CSBG Act requires each State to designate an appropriate State agency as the lead agency for carrying out the State's CSBG program activities. In Arkansas, the Department of Human Services, Office of Community Services (the State), was the lead agency during our audit period. The State is responsible for approving Recovery Act grant applications from CAAs and monitoring them for compliance with program requirements. The State received \$13,595,871 in Recovery Act funds for Arkansas' CSBG program.

Office of Human Concern, Inc.

Office of Human Concern, Inc. (the Agency), is a private, nonprofit CAA providing services to the citizens of Benton, Carroll, and Madison counties in Northwest Arkansas. The State awarded the Agency \$316,847 in CSBG grant funds for FY 2010 and \$500,822 in CSBG Recovery Act funds for the period July 1, 2009, through September 30, 2010.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State claimed selected CSBG Recovery Act costs on

behalf of the Agency that were allowable under the terms of the grant and applicable Federal regulations.

Scope

We reviewed \$93,165 of the \$500,822 claimed by the Agency under its CSBG Recovery Act agreement with the State of Arkansas for the period July 1, 2009, through September 30, 2010. This review is part of a series of audits planned by the Office of Inspector General to provide oversight of funds provided through the Recovery Act. We did not perform an overall assessment of the Agency's internal control structure. Rather, we reviewed only the internal controls that pertained to our objective. We performed fieldwork at the Agency's administrative office in Rogers, Arkansas, in January and February 2012.

Methodology

To accomplish our objective, we:

- reviewed relevant Federal requirements;
- confirmed that the Agency was not excluded from receiving Federal funds;
- reviewed the terms and conditions of the CSBG Recovery Act agreement between the Agency and the State;
- reviewed the Agency's policies and procedures related to the CSBG Recovery Act program;
- reviewed the minutes from the Agency's board of directors meetings and organizational charts;
- reviewed the Agency's annual Office of Management and Budget Circular A-133-mandated audit reports for FYs 2008 through 2010;
- reconciled the Agency's CSBG Recovery Act expenditures and fund requests for the fiscal year ended September 30, 2010, to its accounting records;
- judgmentally selected and reviewed 49 transactions totaling \$93,165 (\$7,737 in salary and related costs and \$85,428 in nonsalary costs) based on risk factors such as whether the transactions:
 - were high dollar,
 - were recorded near the end of or after the grant period, or

- appeared to be disproportionately allocated to the CSBG Recovery Act program; and
- discussed our findings with Agency officials.

We conducted this 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 objective.

FINDINGS AND RECOMMENDATION

The \$93,165 in CSBG Recovery Act costs that the State claimed on behalf of the Agency and that we reviewed was allowable under the terms of the grant and applicable Federal regulations. However, the Agency did not obtain bids on the purchase of two vehicles, each of which cost between \$5,000 and \$25,000. This deficiency occurred because the Agency did not follow its policies and procedures related to procurement.

BIDDING FOR PURCHASES

Federal and State Requirements

Pursuant to 45 CFR § 74.43, grantees shall conduct all procurement transactions in a manner that provides, to the maximum extent practical, open and free competition. Furthermore, 45 CFR § 74.44(a) states that all recipients shall establish written procurement procedures.

Section 3170 of the *Arkansas Community Service Block Grant Policies and Procedures Manual* requires all purchases over \$5,000 and up to \$25,000 be made only after receiving at least three informal bids. The manual further states that these bids should be either verbal or written and records should indicate the bids and how they were obtained.

Vehicle Purchases

The Agency did not obtain bids on the purchase of two vehicles, each of which cost between \$5,000 and \$25,000. State and Agency policies and procedures require bids for these purchases. Because the Agency purchased the vehicles through a manufacturer's incentive program, it did not think that bids were required.¹ While the State approved purchasing the cars through the incentive program, it did not waive the bidding requirement. As a result, there was no assurance that the vehicles were purchased at the best price.

¹ The manufacturer's incentive program provided a discount to all agencies administering the Weatherization Assistance Program. The Agency administered a grant under the Weatherization Assistance Program and was eligible to participate in the incentive program.

RECOMMENDATION

We recommend that the State ensure that the Agency adheres to the State requirement on bidding for purchases between \$5,000 and \$25,000.

OFFICE OF HUMAN CONCERN, INC., COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the Agency disagreed with our finding. The Agency said that it had received verbal approval to make the purchases but also acknowledged that the formal approval letter had indicated that bids were required. The Agency provided a copy of an email from the State that discussed the bidding requirements in the approval letter. The Agency said that, in the future, it would not deviate from established policies without detailed written instructions from the State. The Agency's comments are included in their entirety as Appendix A.

Nothing in the Agency's comments caused us to change our finding or recommendation. We previously reviewed the email from the State and concluded, after consultation with State personnel, that the State approved the use of the incentive program but did not waive the bidding requirement.

STATE COMMENTS

In written comments on our draft report, the State concurred with our recommendation. The State's comments are included in their entirety as Appendix B.

APPENDIXES

APPENDIX A: OFFICE OF HUMAN CONCERN, INC., COMMENTS



July 18, 2012

Department of Health and Human Services
Office of Inspector General
Office of Audit Services, Region VI
Attention: Patricia Wheeler, Regional Inspector General for Audit Services
1100 Commerce Street, Room 632
Dallas TX 75242

RE: Report Number: A-06-12-00028

Dear Ms. Wheeler:

We are in receipt of the draft report entitled *Office of Human Concern, Inc. Claimed Allowable Costs Under a Recovery Act Grant*.

The report states that the Office of Human Concern (the Agency) did not obtain bids on the purchase of two vehicles, each of which cost between \$5,000 and \$25,000. This deficiency occurred because the Agency did not follow its policies and procedures related to procurement.

The report further contains a recommendation that the State ensure that the Agency adheres to the State requirement on bidding for purchases between \$5,000 and \$25,000.

The Office of Human Concern does not concur with the finding. We are not arguing that the bidding procedures regarding asset acquisition were not considered, as they definitely were, we were under the auspice that the procedures were not applicable in this particular transaction. We worked closely with Tanny Harper, the ARRA CSBG Grants Coordinator, Office of Community Services, State of Arkansas, in purchasing the two vehicles. It was at Mr. Harper's recommendation that we purchased the vehicles through the Ford Weatherization Discount program. Mr. Harper, when initially suggesting this, indicated at least one other community action agency in Arkansas was purchasing one or more vehicles through this program, for their agency, utilizing CSBG ARRA funds. It was our understanding that, by the very nature of being an incentive program, the best price was, in essence, pre-negotiated. Therefore, no other auto dealer would have had a reason to price the vehicles lower than the incentive price.

We sent a formal letter requesting approval of the purchase, after submitting a budget revision request to reflect Capital Outlay funds. Approval of the budget revision and the purchase were both received from the Office of Community Services, State of Arkansas.

The Approval to Purchase vehicles letter, dated July 1, 2010, did state that OHC (Office of Human Concern) must adhere to Policy 3170 relating to Procurement Procedures. That approval letter was faxed to our office on July 1, 2010, and received via US Mail on July 6, 2010.

On July 2, 2010, I sent an email to Mr. Harper, letting him know we had received the fax of the approval letter. I noted that the letter stipulated adherence to Policy 3170 regarding procurement procedures. I

asked him if we had misunderstood – that our understanding was that by going through the Ford Weatherization Discount program, we didn't need to do three bids.

Mr. Harper promptly responded via email stating *"Your letter stated that you were going to purchase through the Ford Motor Co. program. The Policy 3170 statement is standard bs for all approval letters on purchases over \$1,000.00."* I've enclosed a copy of the email for reference.

We followed up with a telephone call to Mr. Harper, to ensure that we understood him correctly and he indicated that we could proceed with the purchase. Based upon the advice via the email from Mr. Harper, that the bidding process was not applicable in this situation, we did proceed with the purchase.

It was our intent, throughout the entire process, to adhere to all rules, regulations and policies. We submitted / requested authorizations through all steps of the process, including budget revisions, Ford fleet number as required by dealership, advance funds request to the Office of Community Services.

We followed Mr. Harper's instructions in good faith as he was viewed as an authority on this subject matter.

In conclusion, we can only say that in future, we will not allow any deviation from established policies and procedures, either our own or the State of Arkansas, Office of Community Services (OCS), without specific, detailed written instructions from the Program Manager, Assistant Director or Director of OCS, for any of the programs we provide which are funded through that office.

We hope this satisfactorily addresses the findings and recommendations.

Sincerely,

A handwritten signature in black ink that reads "Karen Jennings". The signature is written in a cursive, flowing style.

Karen Jennings
Operations Manager

It should be noted that we now have a new Executive Director, Ms. Susan Moore. The mailing address and contact telephone number are the same.

APPENDIX B: STATE COMMENTS

August 6, 2012

Report Number: A-06-12-00028

Ms. Patricia Wheeler
Regional Inspector General For Audit Services
Department of Health and Human Services
Office of Inspector General
Office of Audit Services, Region VI
1100 Commerce Street, Room 632
Dallas, TX 75242

Dear Ms. Wheeler:

Please accept this letter as a response to your correspondence, dated August 1, 2012, and the above referenced draft report entitled *Office of Human Concern, Inc., Claimed Allowable Costs Under a Recovery Act Grant*. Below are the comments on behalf of the Arkansas Department of Human Services, Office of Community Services, which administered the Recovery Act Community Services Block Grant:

OIG RECOMMENDATION: Ensure that the Agency adheres to the State requirement on bidding for purchases between \$5,000 and \$25,000.

STATE RESPONSE: The State concurs with this recommendation. Arkansas CSBG Policies and Procedures include procurement guidelines which require bids for purchases between \$5,000 and \$25,000. Correspondence to the Agency approving the purchase of vehicles through the incentive program stated that Procurement Procedures must be followed. We will follow-up with the Agency, per this recommendation, by September 30, 2012.

Thank you for giving us an opportunity to respond to this report. If you have any questions or need additional information, please contact me or Delia Anderson, CSBG Manager, at (501) 682-8715 or via email – thomas.green@arkansas.gov or delia.anderson@arkansas.gov.

Sincerely,

/Thomas Green

Thomas E. Green, Assistant Director
Office of Community Services

TEG:mb