



U.S. Department of Housing and Urban Development
Milwaukee Field Office
Suite 1380
310 West Wisconsin Avenue
Milwaukee, WI 53203-2289
<http://www.hud.gov/local/mil/>

September 3, 2015

Roxanne Schmidt, Grants Administrator
City of Appleton
City Hall - 100 N. Appleton Street
Appleton, WI 54911-4799

Dear Ms. Schmidt:

SUBJECT: CDBG Program Monitoring
Grant # B14-MC-55-0001
Housing Rehabilitation Program and Lead-Based Paint Compliance

From July 14-16, 2015, the Milwaukee Field Office conducted an onsite monitoring of Community Development Block Grant (CDBG) activities funded under the national objective of Low- to Moderate-Income Housing (LMH) in order to assess your organization's performance and compliance with applicable Federal program regulations and requirements. Program performance was assessed through a review of operations, file documentation and interviews.

This letter transmits the results of the monitoring review and contains three (3) Findings and one (1) Concern. A Finding is identified as a deficiency in program performance based on a statutory, regulatory or program requirement for which sanctions or other corrective actions are authorized. A Concern is a deficiency in program performance that is not based on a statutory, regulatory or other program requirement but is brought to the grantee's attention. Required corrective actions are identified for all Findings. Recommended actions are identified for Concerns. Findings must be responded to within **30** days of this letter. Although you are not required to respond to a Concern, a response to any actions you are taking would be appreciated. An exemplary practice is a noteworthy practice or activity being carried out by the grantee and may possibly be duplicated by another grantee.

I. OVERVIEW

Monitoring is the principal means by which HUD ensures that programs and technical areas are carried out efficiently, effectively, and that the programs comply with applicable laws and regulations. It assists grantees in improving their performance, developing or increasing capacity and augmenting their management and technical skills. Also, it provides a method for staying abreast of the efficacy of CPD-administered programs and technical areas within the communities HUD programs serve. Monitoring is not limited to a one-time review but is meant to be an ongoing process that assesses the quality of a grantee's performance over a period of

time involving continuous communication and evaluation. In determining which grantees will be monitored, the Department uses a risk-based approach to rate grantees, programs and functions, including assessing the Department's exposure to fraud, waste and mismanagement. This process not only assists the Department in determining which grantees to monitor, but also identifies which programs and functions will be reviewed. Areas reviewed may result in the identification of findings, concerns or exemplary practices.

Specifics relating to this review are as follows:

HUD Reviewer(s):

Garry Werra, Sr. CPD Representative
John Larsen, Sr. Financial Analyst

Grantee Staff:

Community Economic & Development Department
Roxann Schmidt, Community Development Specialist
Laura Bonnet, Housing Coordinator
Stephanie Rogers, Deputy Finance Director
John Hoft-March, Budget Manager

Entrance Conference:

Date
Representatives

July 14, 2015
HUD
Garry Werra, Sr. CPD Representative
John Larsen, Sr. Financial Analyst
Community Economic & Development Department
Karen Harkness, Director
Monica Klaeser, Deputy Director
Roxann Schmidt, Community Development Specialist
Laura Bonnet, Housing Coordinator
John Hoft-March, Budget Manager

Exit Conference:

Date
Representatives

July 16, 2015
HUD-CPD
Garry Werra, Sr. CPD Representative
John Larsen, Sr. Financial Analyst
Community Economic & Development Department
Karen Harkness, Director
Monica Klaeser, Deputy Director
Roxann Schmidt, Community Development Specialist
Laura Bonnet, Housing Coordinator
Tony Saucerman, Finance Director
Stephanie Rogers, Deputy Finance Director
John Hoft-March, Budget Manager

This review was based on five (5) different exhibits from the CPD Monitoring Handbook Rev. 6 and was organized into three (3) areas: Eligibility and National Objective (Exhibit 3-10 and 3-11), Lead-Based Paint Compliance (24-1) and Administrative and Financial (Exhibits 3-18 and 3-19). The handbook can be viewed or

downloaded via the following link:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/cpd/6509.2.

II. BACKGROUND

The Appleton Department of Community & Economic Development administers the CDBG-funded Housing Rehabilitation Loan Program (HRLP) program to improve housing for Low- to Moderate-Income households. The City provides home repair loans to qualified homeowners to improve the condition of owner-occupied dwellings. The HRLP offers a deferred payment, zero percent interest loans in accordance with established eligibility criteria.

During the City's 2014 Program Year, total HRLP expenditures were \$407,799 and 23 projects were completed. On average the City completes 20-25 HRLP projects per year.

III. NATIONAL OBJECTIVE

The Housing and Community Development Act of 1974, as amended requires that activities assisted with CDBG funds meet one of three objectives. Those three objectives are identified as: Benefiting Low- and Moderate-income Persons; Preventing or Eliminating Slums or Blight; and Meeting Urgent Needs. The City of Appleton funds its HRLP under the LMH national objective, which requires that the funding to provide or improve permanent residential structures to be occupied by Low- to Moderate-Income (LMI) households upon completion. An activity that does not meet a national objective is not compliant with CDBG requirements and may be subject to remedial actions.

HUD's evaluation is based on a review of five (5) HRLP client files, policies and procedures manuals, and staff interviews. This represents a 22 percent sampling of HRLP projects identified by the City as completed during the review period. The following program beneficiary files were reviewed as part of the monitoring:

Project Number*	Property Location	CDBG Amount	HH Size	HH Income	Income Limit	% CMI
22-13	South Jackson Street	\$9,509	3	\$34,919	\$52,000	53.7%
05-14	West Verbrick Street	\$10,830	4	\$52,694	\$57,750	73.0%
07-14	North Oneida Street	\$23,687	1	\$29,910	\$40,450	59.2%
19-14	West Bell Avenue	\$20,850	1	\$30,563	\$39,900	61.3%
15-02	West Franklin Street	\$17,620	2	\$43,992	\$45,600	77.2%

* Project Number assigned by the City of Appleton

The City of Appleton uses the Part 5 definition for all program participants and is calculating and documenting income correctly. Income is compared to the CDBG income limits and those CDBG income limits are updated annually. All of the sample files reviewed by HUD contained documentation to ensure that the assisted households were eligible low-income homeowners. The City collects appropriate documentation to ensure this compliance using a standard form to document household income and to show the calculations used to determine

that income limits were not exceeded. This form and supporting documentation was included in each program participant file. Based on the files reviewed, Appleton's HRLP meets the CDBG LMH national objective.

IV. OVERALL PROGRAM MANAGEMENT

The overall programmatic administration and management of the CDBG program was also assessed. HUD's assessment was based on a review of policies and procedures, staff interviews, and our office's historical knowledge of the Program. HUD found the duties and responsibilities of the Community & Economic Development staff to be clearly defined and understood by both management and staff. Information is readily available to the staff enabling them to complete tasks in accordance with the CDBG Program regulations. City staff has several years of experience with the CDBG Program and demonstrates a high degree of knowledge of CDBG regulations, housing rehabilitation, and real estate issues.

The City of Appleton maintains a HRLP manual that establishes written operating policies and procedures for the Program. These procedures are conducive to ensuring compliance with the CDBG Regulations and locally established policies.

Based on HUD's review, the City's process for eligibility determination resulted in eligible activities being funded and properly classified. The project files HUD reviewed confirmed that the properties rehabilitated were single-family, owner-occupied homes located in the City of Appleton.

The City maintains documentation to show that it cleared all contractors (general and subcontractors) through the HUD listing for debarred and suspended participants. City staff expressed familiarity with the process and indicated that they regularly review for suspended and debarred contractors.

Project files were consistently well-organized and contained appropriate records to document program compliance. Specifically, the files contained application forms, income verification documents, mortgages, promissory notes, inspection records, contractor payment records, lien waivers, lead-based paint notifications, property information, and loan documents.

During our review, HUD noted that a City employee received CDBG funding, but did not find evidence that the City requested a conflict of interest exception from HUD. As a result, HUD has made the following finding:

Finding No. 1 – Conflict of Interest

Condition: The City did not request an exception to the CDBG Conflict of Interest Regulations from HUD prior to providing assistance to a covered City employee (Activity # 05-14). The CDBG conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part.

Criteria: This is in violation of 24 CFR 570.611(b) which states that “... no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.”

Cause: City staff indicated that it was not aware the participant in question was considered a covered person under 24 CFR 570.611(c).

Effect: As a result, the City is not in compliance with the Federal Regulations and cannot ensure that the provision of CDBG assistance to the assisted household did not present a conflict of interest.

Corrective Action: The City shall implement additional internal controls to ensure that persons covered under 24 CFR 570.611(c) are not provided CDBG funding without first receiving a written exception from HUD.

In addition, the City shall submit a formal exception request to HUD’s Milwaukee Field Office that confirms the covered person assisted through project meets the threshold requirements of 24 CFR 570.611(d)(1). The City’s request shall include 1. A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and 2. An opinion of the recipient’s attorney that the interest for which the exception is sought would not violate State or local law.

Please provide this documentation to HUD within 60-days of the date of this letter.

PROPERTY STANDARDS

The City has adopted a property standard that is based on HUD’s Section 8 Housing Quality Standards (HQS) and inspects all properties to create a scope of work that addresses the identified HQS deficiencies. The City provides applicants with a letter summarizing the items that must be corrected as part of the project. Progress inspections are performed in conjunction with contractor payment requests to confirm that the necessary repairs were completed. This information is noted in the file.

On July 15, 2015 HUD and City staff viewed the properties identified as 05-14 and 19-14 to confirm that the work items identified in the initial inspection were completed and that no obvious code violations were present in the assisted-units. During these visits, HUD staff confirmed that all of the contracted work items had been completed. However, HUD staff also

noted a rehabilitation deficiency at the property identified as project # 19-14, which resulted in the following concern:

Concern No. 1 – Property Standards

Condition: The new water heater installed as part of Project 19-14 did not include an overflow pipe. An overflow pipe is required to be installed on water heaters for safety purposes and to meet local code.

Cause: Based on discussions with City staff and the homeowner during HUD's onsite visit, it was unclear why the overflow pipe was missing. The homeowner stated that she discussed the aesthetics of the pipe with the plumber after the installation was completed but was unclear about whether it was installed and then subsequently removed, or never installed at all. Because a permit was not required for the installation, a City plumbing inspector did not review the installation for code compliance.

On July 16, 2015, City staff notified the general contractor of this deficiency and requested that it be corrected. The contractor indicated that he had already terminated the person who installed this water heater for related performance issues and immediately scheduled the overflow pipe installation.

Effect: Because the cause was initially unclear and the City promptly ensured that an overflow pipe was installed, this item was identified as a concern, rather than a finding. On August 5, 2015 the City provided HUD with a photograph of the overflow pipe and a building inspector's certification that the installation was code compliant. No additional action is required to address this concern.

V. LEAD-BASED PAINT COMPLIANCE

Our review of the City's Program found that Lead Based Paint Compliance is being properly administered and documented. Based on the file review and staff interviews, it appears that appropriate City staff has a clear understanding of HUD's lead-based paint compliance requirements.

The project files reviewed contained documentation that homeowners were given the proper lead hazard information pamphlet and risk-assessments for lead-paint hazards are being performed. The City of Appleton assumes the presence of lead-based paint in all pre-1978 housing and documents this presumption in the project files. When a project disturbed painted surfaces in pre-1978 housing, the files also contained evidence of lead clearance and notification to the occupants.

VI. FINANCIAL MANAGEMENT

A focus of HUD's review was to assess the City's compliance with the general financial management requirements of the CDBG Program to ensure that funds are used consistent with applicable statutory and regulatory provisions and that they are spent only for the reasonable and necessary costs of operating programs. The financial management review included a review of

source documentation including salary and wage documentation, financial reporting, internal controls, program income, and compliance with OMB Circular A-133 requirements. The regulations regarding advances, lump sum draw downs, and indirect costs were not applicable to the City of Appleton.

Finding No. 2 — Financial Reporting

Condition: Appleton does not report program income or accomplishment data for their sub-recipient. In addition, Appleton does not submit the OMB Statement of Cash Form (SF-425) to HUD.

Criteria: 24 CFR 570.502(a) (4) applies 24 CFR 85.20 (b)(1) and states that accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant. 24 CFR 570.502 (a) (15) applies 24 CFR 85.41 (b) (4) that states that grantees must submit the SF-425 report no later than 30 working days following the end of each quarter.

Cause: Appleton had experienced turnover in both program and financial staff and worked with a consulting company that were unaware of all the CDBG financial reporting requirements.

Effect: Appleton is not meeting the federal financial reporting requirements including reporting all accomplishments of the CDBG program.

Required Action: Appleton must update IDIS for all sub-recipient activity including the receipt and expenditure of program income and accomplishment data. Appleton must also submit the SF-425 form for the first and second quarters of 2015. Finally, Appleton must update policies and procedures to ensure the reporting of all sub-recipient information and the timely submission of the SF-425 in future quarters.

Finding No. 3 – Sub-recipient Audit Review (OMB A-133 Circular Requirements)

Condition: Although Appleton does review the sub-recipients independent audit reports, Appleton does not have a sub-recipient audit review system that complies with federal regulations including OMB Circular A-133 requirements.

Criteria: 24 CFR 570.502(a) (7) states that governmental entities shall comply with 24 CFR 85.26. 24 CFR 85.26 (b) states that grantees that provide Federal awards to a sub-grantee which expends \$500,000 or more in Federal awards in a fiscal year, shall: (1) Determine whether local sub-grantees have met the audit requirements of the Single Audit Act and whether sub-grantees covered by OMB Circular A-133 have met the audit requirements of the Single Audit Act; and (3) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instance of noncompliance with Federal laws and regulations. In addition, the most recent grant agreement with sub-recipients requires sub-grantees to obtain financial and single audits including submission requirements.

Cause: Appleton staff was not aware of sub-recipient audit review documentation requirements.

Effect: Appleton is not in compliance with federal regulations.

Required Action: Appleton must establish and document a system for reviewing sub-recipient audits that meets federal requirements including the OMB A-133 Circular requirements.

VII. ENERGYSTAR

During HUD's monitoring Senior CPD Representative Garry Werra met with Roxann Schmidt and Laura Bonnet to discuss the EPA's ENERGYSTAR Program. Mr. Werra discussed the HUD/EPA Memorandum to co-promote ENERGYSTAR and how ENERGYSTAR helps to ensure long term affordability for LMI homeowners. Mr. Werra encouraged the City to continue its use of ENERGYSTAR products and processes in the HRLP and other CDBG-funded activities. Mr. Werra also provided staff with a brief overview of CPD Notice 13-01 and explained HUD's concern with the over-reporting of ENERGYSTAR units in IDIS.

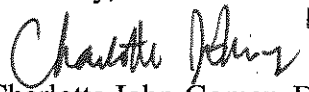
VIII. CONCLUSION

Based on the files reviewed, HUD confirmed that the activities reviewed during its visit comply with the requirements of the Low- Moderate-Housing national objective. HUD's program monitoring resulted in three (3) findings and one (1) concern. All of these issues were discussed with City staff during an exit conference at the Appleton City Hall on July 16, 2015.

If you disagree with any of HUD's determinations or conclusions in this monitoring letter, please address these issues in writing to this Department within 30-days of this letter. Your written communication should explain your reasons why you disagree along with supporting evidence and documentation. All communication should be sent to the Department of Housing and Urban Development, Milwaukee Field Office, Community Planning and Development Division, 310 W. Wisconsin Avenue, Suite W950, Milwaukee, WI 53203. Please provide a response to address these findings, including the requested documentation, as described under the corrective actions.

I would like to thank you and your staff for your professionalism and cooperation during the review. If you have any questions or need further information or assistance on program issues, please contact Senior Community Planning and Development Representative Garry Werra at (414) 935-6644. For financial matters, please contact Senior Financial Analyst John Larsen at (414) 935-6637.

Sincerely,



Charlotte John-Gomez, Director
Office of Community Planning
and Development, 5ID