Office of Inspector General

Inspection Report on the Appalachian Regional Commission's Grant to the City of Welch, West Virginia, Welch/Riverside & Woodmont Sewer Replacement Contract 7-C

The Appalachian Regional Commission

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Report 11-08

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Background

The project is part of an ongoing sewer replacement program for the City of Welch, West Virginia, for which ARC provided funding under a similar grant in 2006. Administration of the grant is provided locally by Region 1 Planning and Development Council (RPDC), which is one of 11 regional councils established by an Act of the West Virginia Legislature. ARC funds for the project are overseen by the state partner (the state CDBG administrator) of the U.S. Housing and Urban Development Agency (HUD); funds were provided through HUD's state block grant program.

The sewer system replacement program is part of an effort to reduce the discharge of untreated sewage to local streams, to improve the City's waste water treatment by eliminating infiltrates and debris, and to meet the requirements of a decade's old Federal Consent Decree requiring compliance with the 1972 Clean Water Act. Welch's outmoded sewer system transmits both sewage and storm water in the same pipes. During wet weather, this combined overflow can empty into the streets or is discharged directly to streams without treatment. To address these problems, the City has secured ARC grants and other assistance in its efforts to replace parts of the sewer system and to address other water treatment concerns.

Executive Summary

This grant project was funded to help the City of Welch, West Virginia, separate storm water from waste water and to improve water treatment activities. The state of West Virginia, through its affiliated entities; the WV Development Office (WVDO), the Region 1 Planning and Development Council (RPDC), other State entities, and the City's engineering contractor appear to be doing a good job of providing appropriate management, management support and oversight to the City's project. The project was reported complete in a report to the WVDO in early June of 2011 and came in under budget. However, two recommendations related to Welch's project contracting are necessary.

HUD, under its requirements for state grantees, requires bid protest procedures. Although no escalating bid protests were identified during this grant period, some discontent was identified on the bidding for the construction contract and the need for appropriate protest procedures exists. RPDC officials were not aware of any bid protest procedures for the City of Welch or for WVDO. We recommend a policy defining bid protest procedures be developed.

Secondly, per HUD regulations, we believe that the contract for engineering services, in effect since 1993, should be re-bid. Consultation with the HUD Block Grant Program representative is needed to determine this necessity.

Other issues concerned record keeping and tracking/reporting of entire project costs, but these did not rise to the level of requiring a recommendation and are only presented as discussion items.

Discussion of Results

The activities for the City of Welch's Sewer project grant seem to be well controlled. The Region 1 Planning and Development Council (RPDC) controls most all the administrative requirements for the project and no significant problems were noted. In addition, the state controls the flow of grant funding to coincide with the immediate needs of the project, which minimizes risks and idle funds. The WVDO (and the State EPA, to a lesser extent through their control of the *Clean Water State Revolving Loan Funds),* also seem to be operating effectively in their monitoring oversight role, requesting both information and performing onsite reviews. The day to day installation activities are monitored by Welch's contracted engineering firm, and they seem to be doing a commendable job of managing the project. We have only two recommendations and a few minor concerns which are addressed below.

One finding concerns that neither the City of Welch nor the WVDO could identify procedures to be utilized in the event of a bid protest. During the course of the inspection, no bid protest was identified, but we did identify some level of dissatisfaction by a bid respondent that could have morphed into a formal bid protest. In addition, HUD has a requirement that bid protest procedures be established. See 24CFR 85.36 b (12). With every bid competition comes the risk of a bid protest; we recommend an appropriate policy be developed to detail procedures to be utilized in that event.

Another possible non- compliance issue concerns re-bidding the engineering services contract. Engineering services related to the sewer renovation project have been provided by one contractor since 1993. Welch does not have a city engineering department and relies totally on the contractor for its daily project management, that coupled with the terraced land formations on which Welch resides and other complexities of the Welch drainage and sewer system make the project unique and the need for continuity of activities important. On the other hand, HUD regulations, 24CFR 85.36 C., call for competition of this contract, but there are some caveats, e.g., state laws if mirroring federal competition requirements, as in The Federal Acquisition Regulations which allow for the needs of the public interest. Because of the unusual situation in which Welch finds itself, we believe that it should discuss this situation with State HUD Block Grant Program Manager (and their legal counsel) to determine whether the engineering contract must be re-bid.

Generally the record keeping was good. The project revenue and expenses and banking activity were separated from other projects and the review was unencumbered. However, we believe that a few record keeping items could be improved. The following pertain to RPDC: a few deposits were not recorded or were not carried over to the GL totals; some entries were not

carried over to other columns, as often happens in a manual book keeping system[1]; and expenses incurred with matching funds, totaling $300,000[2], were not spread to cost categories (expense object classifications) for the project as a whole or tracked in the budget to actual comparison reports. A budget to actual comparison showing total project costs were reported by Welch in its final fund CDBG accounting to the WVDO. We believe interim reports capturing total program costs, in addition to the ARC grant fund expenditures, would help improve overall monitoring. Below is a chart that shows the project expenses as tracked in the General Ledger, and a revision column showing the incorporation of matching funds to show total project costs.

Welch Woodmont 7C- Project Expenses as of May 31, 2011

	Original GL	Re-compiled GL
Construction	$954,019.00	1,238,160.00
Permits & Insurance Bonds	3,221.00	3,221.00
Administration	37,373.00	41,439.00
Legal (Ads)	942.00	7,242.00
Acquisition and Miscellaneous	66.00	140.00
Engineering	152,842.00	158,263.00
Total	1,148,463.00	1,448,465.00*

*Includes $300,000 of City Matching and Revolving Loan Funds

The Welch/Riverside & Woodmont Sewer Replacement was reported complete to the WVDO by Welch's Mayor on June 6, 2011 and excess of funds in the amount of $42,842 were to be returned.

1. Because the financial manager responsible for maintaining the records for RPDC project will be retiring, and because of the difficulty in maintaining manual records, we believe RPDC would be well served to begin implementing a computerized accounting system.

2. The expenses paid for by matching funds were separated from the other project expenses and were tracked only for the purposes of ensuring a proper match, but not for monitoring of project expenses as a whole.

Recommendations

1. We recommend that Welch city officials, with the assistance of the RPDC, develop policies defining procedures to be used in the event of a bid protest.

2. We recommend Welch city officials contact the HUD State Block Grant Program representatives to determine whether it should re-bid its engineering services contract.

Management's Response

The grantee's management and Region 1 Planning and Development Council both agreed to both our recommendations and stated:

> We will work with our Counsel and WVDO to develop formal bid protest procedures having already alerted our Counsel of the need. We will also work with WVDO and the West Virginia Department of Environmental Protection as to their decision concerning the need to re-advertise for engineering services.

Auditor's Comment

We consider management's comments responsive and the issues resolved and closed.

Appendix

Objectives, Scope and Methodology

The objectives of the inspection were to determine that program funds were managed in accordance with ARC and federal grant terms, and requirements, that grant funds were expended as provided for in the ARC approved budget and in accordance with other contract documents, and to determine that internal grant guidelines and best practices, including program controls, were appropriate and operating effectively. Lastly, one of our goals was to determine that accounting and reporting requirements were implemented in accordance with generally accepted accounting principles (or other applicable accounting and reporting requirements). Overall, a determination was made as to whether the goals and objective of the grant were met (if the grant was finalized).

We conducted our inspection in accordance with the *Quality Standards for Inspection and Evaluation,* issued by Council of Inspectors General on Integrity and Efficiency in January 2011. Our inspection was conducted at the offices of Region 1 Planning and Development Council in Princeton, West Virginia, and at the City of Welch's offices in Welch, West Virginia, during the period from June 28 through June 30, 2011. Our inspection encompassed activity from October 2008 through May 2010. Our work was concluded on September 2, 2011 at ARC offices with the initial draft report completed that day.

We performed preliminary background work by consulting with ARC program management, reviewing ARC's project files, and discussing issues with Welch and WVDO officials. We also notified HUD's Office of Inspector General and other regulatory parties before beginning our work activities.

We met and interviewed RPDC's Executive Director and Financial Manager to gain an understanding of work they perform for the grantee and what records were kept at RPDC offices and what records were kept in Welch. We reviewed the files and obtained copies of records to document our review. We also interviewed the Clerk for the City of Welch, met the Mayor, and attended a project board meeting, in order to understand their interaction in the project process. We also collected project records maintained by Welch.

In the visit to Welch we also interviewed the engineering representative from the contractor to understand what oversight was provided the construction activities, what records were kept, and to tour the sewer renovation. We obtained samples of the daily reports of the Construction Contractor's activities maintained by the engineer.

We continued our review of the records at our offices in Washington, DC, so that we could: detail our understanding of the project's operations, more fully document our work, perform research into the rules and regulations governing the project, and prepare this report. The initial draft report was provided to RPDC for their comments and for corrections. The final report was issued to RPDC and a copy provided to ARC.