Appalachian Regional Commission
Office of Inspector General
Audit of Grant Award

Garrett County Board of Commissioners
McHenry Business Park Project
Oakland, Maryland

Project Number: MD 15388-R1-063
February 2012

Prepared by:
Leon Snead & Company, P.C.

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February 13, 2012

Appalachian Regional Commission
Office of the Inspector General
1666 Connecticut Avenue, N.W.
Washington, D.C. 20009

Leon Snead & Company, P.C. has completed an audit of grant number MD-15388 awarded by the Appalachian Regional Commission (ARC) to Garrett County Board of Commissioners (County). The audit was performed to assist the OIG in carrying out its oversight of ARC grant activities.

The primary objective of the audit was to determine if program funds were managed in accordance with the ARC and federal terms and requirements; grant funds were expended as provided for in the ARC approved budget; internal grant guidelines and internal controls were operating effectively; accounting and reporting requirements were implemented in accordance with generally accepted accounting principles and the goals and objectives of the grant were met.

The audit determined that the County's financial management and administrative procedures and related internal controls were adequate to manage the funds provided under the ARC grant. However, we identified two issues regarding the costs charged to the grant. The first one deals with advance payments made by the grantee and the second deals with inspection fees paid by the grantee. In addition, we determined that the goals and objectives of the grant had not been met, but the County had taken steps to address this matter. These areas are discussed in the Findings and Recommendations section of this report.

A draft report was provided to County on January 25, 2012. The Project Manager for Garrett County provided a response to the report on February 6, 2012 and a second response on February 13, 2012 addressing our audit recommendations. These comments are included in their entirety in Appendix I.

Leon Snead & Company appreciates the cooperation and assistance received from the County personnel and the ARC during the audit.

Sincerely,

Leon Snead

Leon Snead & Company, P. C.

Background

Leon Snead & Company, P.C. completed a limited scope review of a grant awarded by the Appalachian Regional Commission (ARC) to the Garrett County Board of Commissioners (the County). The review was made at the request of the ARC, Office of the Inspector General, to assist the office in its oversight of ARC grant funds.

In June 2006, ARC awarded Grant No. MD-15388 to the County, which provided funding of $500,000 to assist in the design and construction of the infrastructure for a new business park, the McHenry Business Park (Park) located near McHenry, Maryland. In March 2008, ARC provided additional funding of $300,000 to help defray the cost for a water tank and suppression system. Additional Federal funding of $2.2 million was provided by the Department of Commerce, Economic Development Administration (EDA). The final approved project budget was $4,858,036, which was to be funded as follows:

Funding Source	Amount	Percent
ARC Grant	$ 800,000	16.5%
EDA Grant	2,200,000	45.3%
State of Maryland	1,400,000	28.8%
Garrett County	458,036	9.4%
Totals	**$4,858,036**	**100.0%**

Under a management agreement between ARC and EDA, EDA served as the lead agency for the project, responsible for the administration and obligation of all Federal funds. The full amount of the project budget has been spent and ARC closed out the grant in August 2011. We noted, however, that the total cost to complete the design and construction of the infrastructure exceeded the project budget by at least $224,000. This amount includes about $214,000 for completing the upgrade of the off-site electrical system to the Park (which was funded, in part by another ARC grant) and about $10,000 related to the construction of the water storage tank (that was incurred during the project period, but not charged to the project because of a contractor billing error). Also, additional funds were to be provided by the State, the County, and ARC to fund the construction of an access road.

Objectives, Scope, and Methodology

The review objectives were to determine whether: (1) program funds were managed in accordance with the ARC and federal grant terms and requirements; (2) grant funds were expended as provided for in the approved budget; (3) internal grant guidelines and best practices, including program (internal) controls, were appropriate and operating effectively; (4) accounting and reporting requirements were implemented in accordance with generally accepted accounting principles (or other applicable accounting and reporting requirements); and (5) the goals and objectives of the grant were met.

We reviewed the costs incurred by the County and claimed for reimbursement. All costs charged to the project were incurred during the period June 2008 through August 2010, and the final request for reimbursement was submitted in October 2010. We reviewed the County's financial

and other reports, drawdown requests, and a sample of costs charged to the project to determine if they were properly supported and allowable. We reviewed the County's solicitation and award process for the design and construction contracts for the project to determine whether the process complied with County and Federal procurement requirements and sound business practices. We also reviewed the County's administrative procedures and related internal controls to ensure they were adequate to manage and account for the ARC grant funds. In addition, we reviewed the most recent Single Audit report to determine whether there were any issues that affected the ARC grant.

As a basis for determining whether the costs charged to the grant were allowable and whether the County had complied with applicable Federal requirements, we used the provisions of the grant agreement, applicable Office of Management and Budget Circulars, and the ARC Code. The review was performed in accordance with the *Government Auditing Standards*. Our fieldwork was performed at the County's offices in Oakland, Maryland, during the period of October 25-27, 2011.

Overall, the County's financial management and administrative procedures and related internal controls were adequate to manage the funds provided under the ARC grant reviewed. However, we identified two issues regarding the costs charged to the project. In addition, we determined that the goals and objectives of the grant had not been met, but the County had taken steps to address this matter. These issues and our recommended corrective actions are discussed in the Results of Review section of the report.

RESULTS OF REVIEW

A. Advanced Payments

The County paid about $250,000 to a power company for upgrading and installing electrical lines to and within the Park. This amount included $126,871 paid to the company in August 2010 for extending the three-phase primary underground line extension throughout the Park. According to County officials, this work has not been performed and will not be started until the County has sold or leased some of the Park sites. We were also told that the power company required prepayment for this work before it undertook other work to upgrade and/or install overhead lines to the Park site. The County does not have a written agreement covering this work (other than the paid invoice) or addressing the disposition of the $126,871 advance payment in the event that the Park remains unoccupied or cannot be fully utilized as planned and the work is not performed or needs to be substantially reduced/modified. If the County receives a refund for all or part of this payment, ARC may be due a refund of up to $20,934 for its share of any refund, based on its funding percentage for the project (16.5 percent of $126,871= $20,934).

Recommendations

The County should:

1. Obtain a signed agreement from the power company regarding the disposition of the $126,871 advance payment in the event that the work is not performed or that the County determines that the work required is less than planned because of changes in the planned utilization of the Park.

2. Ensure that ARC receives reimbursement for its share of any refund from the power company.

Grantee Response

The County stated in its response that the power company now plans to go ahead with the electrical work in the Park since it is doing the off-site work to the Park under another ARC grant. In addition, the County stated that there is no possibility of any refund from the power company.

Auditor's Comments

The County's response addressed the recommendations adequately and they should be closed out at this time.

B. Inspection Fees

We classified payments of $43,703 for inspection services as unsupported costs because we could not determine whether the County's approval of the engineering firm's request to use a billing rate that exceeded the rate specified in the contract was reasonable and justified.

The contract awarded to the engineering firm included a fee not to exceed $187,000 for the services of a Resident Project Representative (primarily for inspection services during the construction phase) at a rate of $60 per hour. However, subsequent to the award of the contract, the engineering firm advised the County's Project Officer that it needed to have a more senior inspector at the site, at a higher rate of $90 per hour, "...that would have the experience to oversee all facets of the project, including the soils work, utility line, tank construction, and road...." According to the Project Officer, the request to use a more senior inspector was based on concerns regarding one of the construction contractors; however, there was no documentation in the files identifying those concerns.

The Project Officer notified the firm that the higher rate was approved "...but with the clear understanding that the inspection services and testing ...would not exceed $187,000...." There was no documentation in the files explaining the circumstances that required the firm to use a different inspector or why this work could not be performed by the inspector that the firm planned to use at the time of its proposal. In addition, no documentation was available showing that the County had performed a cost or price analysis to determine if the higher rate was reasonable, as required by the OMB cost principles.

Payments for inspection services totaled $157,932 and were less than the not-to-exceed amount of $187,000, in part, because the firm was not required to perform some contract tasks. However, the use of the higher rate resulted in additional charges totaling $43,703, of which ARC's portion was 16.5 percent (based on ARC's percentage of funding of the project budget), or $7,211. In addition, some of these additional charges resulted from the use of rates higher than $90 on some invoices, which were not questioned or adjusted by the County to comply with the approved rate.

We could not determine whether the higher rates and additional charges were reasonable and justified because there was no documentation explaining the change in conditions that necessitated the use of a higher paid inspector or the basis for the $90 rate. Furthermore, the $187,000 contract fee for inspection services was higher than the amounts in the other 10 proposals received and the initial $60 per hour rate was higher than the proposed rate in eight of the other 10 proposals.

Recommendation

The County should ensure that the basis for any changes to the cost terms of contracts on future ARC projects is adequately documented, including a written cost or price analysis, and that the contract is amended to reflect the changes.

Grantee Response

County officials indicated that they concur with the recommendation and stated, if we have a similar project in the future we will ensure the costs are properly documented and approved.

Auditor's Comments

The County's response addressed the recommendation adequately and it should be closed out at this time.

C. Project Goals and Objectives

The goals and objectives of the project had not been met. It was expected that the development of the Park would benefit approximately 5-10 businesses and create a minimum of 100 jobs for Garrett County and surrounding areas. Although construction of the infrastructure was essentially completed about a year ago, the Park remains unoccupied and none of the sites had been sold or leased at the time of our review. County officials attributed this situation to the current economic conditions in the area.

The County's Department of Economic Development has developed a marketing plan for the Park. The plan includes: (1) making low-cost loans available to potential occupants through revolving loan fund programs; (2) upgrading the Department of Economic Development's website to include information on available resources; and (3) enhancing marketing efforts by working closely with other organizations, such as the Garrett County Development Corporation (which consists of prominent business leaders and elected officials who volunteer their time to help promote business in Garrett County), the Tri-County Council for Western Maryland (which consists of representatives of Allegany, Garrett, and Washington Counties who work together to promote economic development in the region), and the Garrett County/Deep Creek Lake Chamber of Commerce. It appears that the County is taking steps to attract businesses to the Park.

Recommendation

The County should continue its efforts to attract business for the Park and in the interim, consider looking at alternative uses of the facility.

Grantee Response

County officials indicated that they concur with the recommendation. The response further stated that The Department of Economic Development would continue to market the Park to prospects. We dropped the comment related to recreation areas based on the response and further discussion with Project Manager.

Auditor's Comments

The County's response addressed the recommendation adequately and it should be closed out at this time.

Appendix I
Grantee Response

Leonsnead _company

From: [redacted]@garrettcounty.org]
Sent: Monday, February 06, 2012 9:09 AM
To: Leonsnead & company
Cc: [redacted]
Subject: FW: MBP Draft Report - Garrett County Board of Commissioners
Attachments: ARC Draft Report - Garrett County Board of Commissioners.pdf

Importance: High

Thank you for the opportunity to comment on the audit.

1. Under Background, the paragraph under the table. The auditor is referencing the off site electric to the Park. This is a new ARC project now underway.
2. A. Advanced Payments: It is true we have paid Potomac Edison for the installation of the electric in the conduit within the MBP boundaries. We do not have anything more than a work order to back this up, but they will give us nothing more. PE did not want to run electric until there was a need, like a tenant or the need to start the sewer pump. As an aside, PE has changed their minds since they are doing the off site electric under another ARC grant, they are going to go ahead and run the electric in the conduit. So there will not be a possibility of any refund from PE.
3. Inspection Fees: Auditor's statement is accurate. I could not locate the detailed correspondence. EDA approved the invoices as submitted with the higher rate for inspection. As an aside, I believe the more senior inspector was warranted and he did hold the contractor to the original scope of work and limited change orders significantly. I think the additional cost was warranted. Do I need to get something in writing from Thrasher?
4. Project Goals and Objectives: Agree that we have not met the goals YET. I'm sure the Department. will continue to market the MBP to prospects. However, the Recommendation to consider "...alternative uses of the facility. For example, utilization as a recreation area if appropriate." This suggestion would be in violation of the EDA grant agreement and the ARC scope of work which clearly is a business park.

THANKS

[redacted]
Project Manager
Garrett County
Economic Development Department
203 South Fourth Street, Room 208
Oakland, MD 21550
[redacted]

From: Leonsnead & company [redacted]
Sent: Wednesday, January 25, 2012 2:04 PM
To: [redacted]
Subject: Draft Report - Garrett County Board of Commissioners

[redacted]

Attached is a copy of the draft report that completed on the McHenry Business Park Project for your review and comments. Please review the findings and recommendation and provide your response to the recommendations

by February 6, 2012. Thanks very much for your assistance with the review. If you have any questions please email or call me.

[redacted]

[redacted]

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Garrett County Government,
203 South Fourth Street, Courthouse, Oakland, Maryland 21550 www.garrettcounty.org

Leon Snead _Company

From: [redacted]s@garrettcounty.org]
Sent: Monday, February 13, 2012 9:04 AM
To: Leonsnead & company
Cc: [redacted]
Subject: RE: MBP Draft Report - Garrett County Board of Commissioners

Per our discussion. See revisions below.

[redacted]
Project Manager
Garrett County
Economic Development Department
203 South Fourth Street, Room 208
Oakland, MD 21550
[redacted]

From: [redacted]
Sent: Monday, February 06, 2012 9:09 AM
To: 'Leonsnead & company'
Cc: [redacted]
Subject: FW: MBP Draft Report - Garrett County Board of Commissioners
Importance: High

Thank you for the opportunity to comment on the audit.

1. Under Background, the paragraph under the table. The auditor is referencing the off site electric to the Park. This is a new ARC project now underway.
2. We concur with the recommendation. If we have a similar project in the future we will insure the costs are properly document and approved.
3. Inspection Fees: Auditor's statement is accurate. I could not locate the detailed correspondence. EDA approved the invoices as submitted with the higher rate for inspection. As an aside, I believe the more senior inspector was warranted and he did hold the contractor to the original scope of work and limited change orders significantly. I think the additional cost was warranted. Do I need to get something in writing from Thrasher?
4. Project Goals and Objectives: We concur with recommendation except for the example sited; all recreation may not be eligible.

THANKS

[redacted]
Project Manager
Garrett County
Economic Development Department
203 South Fourth Street, Room 208
Oakland, MD 21550
[redacted]

From: Leonsnead & company [redacted]
Sent: Wednesday, January 25, 2012 2:04 PM