State of Florida, Tallahassee, FL

Office of Community Planning and Development, Community Development Block Grant Disaster Recovery

Office of Audit
Atlanta, GA

Audit Report Number: 2022-AT-1001
March 30, 2022

To: Kevin Bush, Deputy Assistant Secretary, Office of Deputy Assistant Secretary for Grant Programs, H

//signed//

From: Kilah S. White
Assistant Inspector General for Audit, GA

Subject: The State of Florida Administered Its Housing Repair and Replacement Program Effectively but Not Always in a Cost-Efficient and Prudent Manner for the Projects and Activity Delivery Costs Reviewed

Attached are the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our audit of the State of Florida's Housing Repair and Replacement Program that used Community Development Block Grant Disaster Recovery funds.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, appendix 8M, requires that OIG post its reports on the OIG website. Accordingly, this report will be posted at https://www.hudoig.gov.

If you have any questions or comments about this report, please do not hesitate to call Nikita N. Irons, Audit Director, at (404) 331-3369.

★ ★ OFFICE *of* ★ ★
INSPECTOR GENERAL
UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

Highlights

What We Audited and Why

We audited the State of Florida's Housing Repair and Replacement Program (HRRP), one of the programs that the State developed to address its unmet disaster recovery housing needs because of Hurricane Irma in 2017. We audited this program due to the large amount of Community Development Block Grant Disaster Recovery (CDBG-DR) funding allocated of $346.2 million. Our audit objective was to determine whether the State administered its 2017 CDBG-DR funds for its HRRP effectively and efficiently. Specifically, we focused on determining whether the State (1) effectively used funds for eligible homeowners and properties, (2) effectively ensured that homeowners did not receive duplication of benefits, and (3) administered this housing program in a cost-efficient and prudent manner.

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The State of Florida Administered Its Housing Repair and Replacement Program Effectively but Not Always in a Cost-Efficient and Prudent Manner for the Projects and Activity Delivery Costs Reviewed

What We Found

The State administered its HRRP effectively for the seven projects reviewed by ensuring that funds were used for eligible homeowners and properties and duplication of benefits did not occur. However, the State did not have cost reasonableness analyses for the overhead and profit amounts paid to contractors totaling $107,036 and allowed percentages up to 65 percent of the contract price. The State also misclassified $134,383 in activity delivery costs that were not eligible to be classified to the HRRP activity. These deficiencies occurred because the State did not have adequate policies and procedures to ensure the cost reasonableness of overhead and profit and proper classification of expenditures. As a result, the State could not provide assurance that disaster recovery grant funds were used in a cost-efficient and prudent manner and funds were properly classified in the reporting system for the projects and activity delivery costs reviewed.

What We Recommend

We recommend that the Deputy Assistant Secretary require the State to (1) support or reimburse its HRRP for $107,036 in overhead and profit expenditures from non-Federal funds, review the remaining contracts executed under similar circumstances, and support or reimburse overhead and profit expenditures; (2) update policies and procedures to ensure that cost reasonableness analyses are performed on overhead and profit percentages charged by contractors for future contracts; (3) develop and implement procedures to carry out recent changes made to the State's policy manual; and (4) train staff to ensure the proper classification of expenditures.

For more information, visit www.hudoig.gov or contact
Nikita N. Irons at (404) 331-3369 or nirons@hudoig.gov.

Table of Contents

Background and Objective

On September 10, 2017, category 4 Hurricane Irma made landfall in the middle of the Florida Keys, turned northward, and progressed through the center of the State, impacting nearly the entire Florida peninsula with strong winds, rain, and storm surges. In response, the U.S. Department of Housing and Urban Development (HUD) allocated more than $812 million in Community Development Block Grant Disaster Recovery (CDBG-DR) funds to the State of Florida to assist in its long-term recovery efforts. The CDBG-DR funds were made available to address unmet disaster recovery needs related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the most impacted and distressed areas resulting from the major disaster. Table 1 below lists the three funding allocations that comprise the $812 million[1] and the amount disbursed as of December 31, 2021.

Table 1

Allocation[2]	Date grant executed	Grant award amount	Amount disbursed	Amount remaining
1	August 6, 2018	$615,922,000	$200,081,182	$415,840,818
2	September 24, 2019	157,676,000	9,651,4544	148,024,546
3	August 14, 2020	38,637,745	0	38,637,745
Totals		**812,235,745**	**209,732,636**	**602,503,109**

The State's Department of Economic Opportunity is the lead agency and responsible entity for administering the CDBG-DR funds. Since the awarding of the grant, the State had increased the number of staff members administering its CDBG-DR grants from 10 in April 2018 to 50 in April 2019 and then to 79 in February 2020. In January 2019, the State also created a separate office, the Office of Disaster Recovery, which solely manages the CDBG-DR grants awarded to the State, and it directly answers to the executive director of the Department of Economic Opportunity.

The State assessed its unmet needs in the areas of housing, infrastructure, and economic development and determined that its largest unmet need related to housing, particularly the need to repair single-family homes, reduce vulnerability through buyout programs, and obtain new

1 The audit scope of September 2017 through February 2020 covered the first two allocations totaling nearly $774 million.

2 The first grant allocation, published via Federal Register Notice 83 FR 5844 on February 9, 2018, allocated CDBG-DR funds appropriated by the Supplemental Appropriations for Disaster Relief Requirements, 2017. The second grant allocation, published via Federal Register Notice 83 FR 40314 on August 14, 2018, allocated funds appropriated by the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018. The third grant allocation, published via Federal Register Notice 85 FR 4681 on January 27, 2020, allocated funds appropriated by the Supplemental Appropriations for Disaster Relief Act, 2018, and the Additional Supplemental Appropriations for Disaster Relief Act, 2019.

affordable rental stock. Based on this assessment, the State allocated its CDBG-DR funds for housing programs (the Housing Repair and Replacement Program (HRRP), Workforce Housing Program, and Voluntary Home Buyout Program), economic development programs, infrastructure programs, and administration and planning.

Consistent with its unmet needs assessment, the State budgeted 42.6 percent, or $346 million, of its CDBG-DR funds to the housing repair program, known as HRRP. Managed by the State, this program sought to address unmet housing needs of those affected by Hurricane Irma, to include single-family owner occupants, owners of rental properties, and public housing agencies and multifamily property owners.

Table 2

HRRP activities	Budget
Single-family owner occupied	$314,044,300
Small rental (1- 4 units)	16,547,447
Public housing agencies and multifamily rental (5 or more units)	15,594,400
Total	**346,186,147**

The State worked with a pool of contractors to repair, reconstruct, or replace housing units or mobile homes, which included bringing the home into code compliance and mitigating against future storm impacts. As of December 31, 2021, the State had drawn down from HUD's Disaster Recovery Grant Reporting (DRGR) system[3] more than $183.9 million of the $346 million budgeted for HRRP and $19.3 million for planning and administration.

Our audit objective was to determine whether the State administered its 2017 CDBG-DR funds for its HRRP effectively and efficiently. Specifically, we focused on determining whether the State (1) effectively used funds for eligible homeowners and properties, (2) effectively ensured that homeowners did not receive duplication of benefits, and (3) administered this housing program in a cost-efficient and prudent manner.

3 The grant reporting system was developed for CDBG-DR and other special appropriations, to be primarily used by grantees to access grant funds and report performance accomplishments for grant-funded activities.

Results of Audit

Finding: The State Administered Its HRRP Effectively but Not Always in a Cost-Efficient and Prudent Manner for the Projects and Activity Delivery Costs Reviewed

The State administered its HRRP effectively for the seven projects reviewed by ensuring that it used CDBG-DR funds for eligible homeowners and properties and homeowners did not receive duplication of benefits. However, it did not always use these funds efficiently and in a prudent manner for the projects and activity delivery costs reviewed. The State did not have cost reasonableness analyses for the overhead and profit amounts paid to contractors totaling $107,036 and allowed percentages up to 65 percent of the contract price. In addition, the State misclassified $134,383 in activity delivery costs that were not eligible to be classified under the HRRP activity in HUD's DRGR system. These deficiencies occurred because the State did not have adequate policies and procedures to ensure the cost reasonableness of overhead and profit and proper classification of expenditures. As a result, the State could not provide assurance that CDBG-DR funds were used in a cost-efficient and prudent manner and funds were properly classified in the reporting system for the projects and activity delivery costs reviewed.

The State Verified the Eligibility of Homeowners and Properties

The State was effective in ensuring that homeowners and properties assisted met the eligibility criteria established by the HRRP Single Family Owner-Occupied Housing Guidelines. Specifically, for each of the seven[4] projects reviewed, the State maintained records to show that the (1) property was damaged by Hurricane Irma, (2) property was located within HUD- or State-identified most impacted and distressed areas, (3) property was the homeowner's principal place of residence, (4) homeowner was a U.S. citizen or lawful permanent resident, (5) property taxes were current, and (6) homeowner's household was income eligible.

The State Verified That Homeowners Did Not Receive Duplication of Benefits

The State was effective in ensuring that homeowners did not receive duplication of benefits as required by Section 312 of the Robert T. Stafford Act.[5] For the seven projects reviewed, the State had sufficient evidence to show that it identified and verified additional funds paid to the homeowners from other funding sources and that these funds were considered when calculating the HRRP assistance award. In addition, the State had all homeowners sign a subrogation agreement, which required the homeowner to report any additional funding received for the same purpose as the HRRP award, even after the HRRP award was executed or construction was completed.

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[4] See the Scope and Methodology section for a discussion of the seven projects reviewed for eligibility, duplication of benefits, and overhead and profit (support of expenditures).

[5] This Act prohibits the use of Federal disaster assistance to pay a person or entity twice for the same disaster loss.

The State Did Not Ensure the Reasonableness of Overhead and Profit Percentages

For the seven projects reviewed, the State chose the most cost-efficient option of repairing, replacing, or reconstructing the damaged property. For these projects, the State conducted cost reasonableness assessments for the repair, replacement, and reconstruction. However, it did not ensure that the overhead and profit percentages paid to the contractors were cost reasonable. The seven projects reviewed contained an overhead and profit percentage that ranged from 14 to 65 percent of the project cost. (See table 3 below.)

Table 3

Location ID	004471	000870	000703	004109	004384	005301	000355
Overhead and profit percentage	14	28	30	30	40	50	65

Given the considerable range in percentages, we asked how the State determined the reasonableness of the overhead and profit charged by the contractor. It explained that the overhead and profit percentage was based on what was submitted by the winning contractor in the bid for the project. The housing program allowed the contractors to include overhead and profit in their bid submissions. However, the State did not perform cost analyses on the overhead and profit percentages to ensure cost reasonableness. Regulations at 2 CFR (Code of Federal Regulations) 200.404 state that a cost is reasonable if the cost is incurred specifically for the Federal award and, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

The State has since established a maximum overhead and profit percentage of 30 percent, effective with the execution of the master agreement with the contractors under its new invitation to bid,[6] issued in February 2020. The State based the 30 percent overhead and profit limit on a 2017 study from the National Association of Home Builders, which reflected a national average of 22.9 percent for overhead and profit. However, the State sought to provide an upper cap of 30 percent for overhead and profit to account for seasonal and geographic market fluctuations.

Table 4 below identifies all cost elements paid for the seven projects reviewed, including overhead and profit. Based on the State's action plan, the State would use a cost analysis process to review each cost element to determine allowability, reasonableness, and necessity. Each project reviewed had scope of work estimates, which included amounts for material, labor, and taxes, but not overhead and profit. Hence, these estimates could not serve as a point of reference to conduct a cost analysis for the overhead and profit proposed by contractors. During the audit, management officials overseeing the CDBG-DR program could not address why prior management officials did not perform the cost reasonableness analyses for the overhead and profit cost element.

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6 Invitation to bid solicitation number 20-ITB-001-WM

This deficiency occurred because the State did not have adequate policies and procedures to ensure that cost analyses were performed on the overhead and profit. The State's written policies and procedures required that scope of work be reviewed and documented for cost reasonableness; however, the policies did not specify cost reasonableness for overhead and profit. Therefore, the $107,036 in overhead and profit paid for the seven projects was unsupported. (See table 4 below.)

Table 4

	a	b	c	d
Location ID	**Material, labor, and taxes**	**Overhead and profit**	**Contract price (a + b)**	**Overhead and profit percentage (b ÷ a)**
000355	$32,678	$21,241	$53,919	65
005301	32,726	16,363	49,089	50
004384	34,862	13,945	48,807	40
004109	49,351	14,805	64,156	30
000703	40,358	12,026	52,384	30
000870	43,487	12,175	55,662	28
004471	114,218	16,481	130,699	14
		107,036		

As mentioned above, in February 2020 management capped the overhead and profit percentage. However, the State should also perform cost reasonableness assessments of all cost elements, including overhead and profit percentages, to prevent payments that are not cost reasonable. This deficiency applied to 460 contracts that were under the old invitations to bid,[7] with an award amount totaling more than $23 million,[8] and future contracts. By not having adequate policies and procedures that require the cost reasonableness of overhead and profit, the remaining 453 contracts and all future contracts, could be subject to excessive overhead and profit percentages until a review of these contracts is performed and the policies are updated.

The State Did Not Always Ensure the Eligible Classification of Expenditures to the HRRP Activity

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7 Invitation to bid solicitation numbers 19-ITB-001-LAJ, 19-ITB-002-WM, and 19-ITB-004-WM

8 The number of contracts and total award amount included the seven projects reviewed.

For the 19 activity delivery costs reviewed, the State did not always ensure that expenditures were eligible to be charged to HRRP and classified as such in HUD's DRGR system.[9] According to Federal Register Notice 83 FR 5852 (February 9, 2018) and 2 CFR 200.302, grantees are required to enter accurate information into the DRGR system to permit HUD's review of grantee performance. Based on the DRGR report for expenditures as of December 31, 2019, which was within the scope of this review, all program costs were charged to HRRP. However, during our review, we identified work that was performed for other programs, including the Workforce Housing Program, and not charged to the appropriate program in DRGR. (See table 5 below.)

Table 5

Housing programs		
Project ID	**Description**	**Expenditures as of December 31, 2019**
100	Housing Repair and Replacement Program	$20,768,274
200	Workforce Housing Program	0
300	Voluntary Home Buyout Program	0

Of the 19 sample items selected for review of activity delivery costs,[10] 2 had portions of their total amount that were not eligible to be classified under the HRRP activity, yielding a misclassification of $134,383. There was an additional sample item that was initially unsupported but later resolved. However, it raised concerns regarding the need for clarification in the contract regarding classification of expenditures. These three sample items were for payments made to one contractor that provided services for multiple programs funded with CDBG-DR funds for Hurricane Irma.[11]

- *Transaction ID[12]286695* – This payment of $1.5 million was for program and contract administration, housing services, and intake and eligibility operations. The State classified the $1.5 million to the HRRP single-family activity. However, the monthly reports supporting this payment showed that some of the work items were related to HRRP activities other than the single-family activity and to other non-HRRP activities, such as the Workforce Housing Program and the Voluntary Home Buyout Program. The State acknowledged that $74,383 was incorrectly classified, of which $52,926 was related to the program and contract administration for a non-HRRP

9 In DRGR, the State created projects to represent the major types of programs, such as housing, economic development, and infrastructure. Each project is further categorized into activities to distinguish different national objectives, categories, and multifamily properties.

10 See the Scope and Methodology section for a discussion of the 19 sample items selected for our review of activity delivery costs, which are related to implementing and carrying out the housing program.

11 These payments were related to contract number C2284.

12 This is the transaction ID from the State's general ledger system, FLAIR.

activity and $21,457 should have been charged to administration. During our review, the State reclassified $74,383 to the appropriate activity.

- *Transaction ID 711238* – This $150,000 payment was for the Florida Disaster Recovery manual written by the contractor. The State drew down the amount solely from the HRRP activity, although the manual covered other activities under this grant, not just HRRP activities. In response to our inquiry, the State contacted the vendor and determined that the cost should be split, with 60 percent going to HRRP and 40 percent, or $60,000, going to administration due to the amount of time spent on the housing program guidelines. The State provided support for the reclassification.

- *Transaction ID 160517* – This $144,047 payment was for construction and project management services (invoice identifies contract deliverable 9, task 6), including the monthly status reports. During our review of supporting documentation, we identified monthly status reports for both HRRP and the Workforce Housing Program. The State explained that the contractor accidentally included the Workforce Housing Program monthly report. However, based on our review of the contract, the description for deliverable 9, task 7, states that it is for non-HRRP activities but does not include monthly status reports, while deliverable 9, task 6, requires at a minimum, monthly status reports and does not state that it is for HRRP activities only.[13] The State provided the correct monthly report to support the payment and indicated that these tasks had expired.

This deficiency occurred because the State's policies and procedures at the time were not adequate to ensure that payments made to contractors that worked on multiple programs were classified to the correct activity in DRGR. The State explained that it charged $134,383 to HRRP because most of the work performed by the contractor at that time was related to this program. However, the inaccurate reporting in DRGR resulted in a transparency issue. It gave the appearance that more work was accomplished in one program compared to another, which further resulted in HUD having incorrect information when evaluating the grantee's performance. Due to our review, the State made changes to its policy manual and acknowledged the need to train its staff to ensure proper classification of expenditures. However, the State did not have procedures to accompany the changes made to the policy manual to ensure proper implementation of the policy.

The overall issue of misclassification was also cited in prior reviews. In September 2018, we issued an audit report,[14] which determined that the State classified some costs incorrectly between administration and planning. This matter was resolved with adjustments to the DRGR system and its general ledger. Then in 2019, HUD's April monitoring review expressed concerns that the State was at risk of exhausting its grant administration funds. To address

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[13] Both tasks 6 and 7 refer to section 6.9 of the scope of work, which includes all housing programs, such as HRRP, the Workforce Housing Program, and the Voluntary Home Buyout Program.

[14] Audit report 2018-AT-1010.

HUD's concern, the State identified expenditures originally classified as administration and reclassified them more appropriately to activity delivery costs.

Concerns With the Timeliness of Grant Expenditures

During our review of HUD's April 2019 monitoring report, we noted that HUD included a concern regarding the State's not being on pace with its expenditures for the Hurricane Irma grant to meet the 6-year deadline. The State certified that it had procedures in place to ensure timely expenditures. HUD mentioned in the monitoring report that the concern might be elevated to a finding if the State did not improve expenditures. Based on this information, we determined that as of December 31, 2021, the State had drawn down more than $183.9 million of the total $346 million budgeted for HRRP. This amount is about $164 million more than the amount drawn as of December 31, 2019. The State also provided support to show that it had completed 186 homes as of September 30, 2020, which is a significant increase from 6 homes completed as of December 31, 2019. Further, in its response to the audit report, the State indicated that as of December 31, 2021, it had completed 1,544 homes through the Hurricane Irma HRRP.

Conclusion

The State administered its HRRP effectively for the seven projects reviewed, but it did not have cost reasonable analyses for the overhead and profit of $107,036 paid for the seven projects reviewed, and it did not always ensure eligible classification of expenditures to the HRRP activity. By not having adequate policies and procedures in place to prevent or detect these deficiencies, the State could not provide assurance that it did not overpay for overhead, and profit and it properly classified expenditures in the DRGR system for the projects and activity delivery costs reviewed. In addition, inaccurate reporting hinders HUD's ability to appropriately assess the grantee's performance.

Recommendations

We recommend that the Deputy Assistant Secretary require the State to

1A. Provide support for the reimbursement to its housing program of $107,036 from non-Federal funds if justification cannot be provided to support that the overhead and profit amounts paid to the contractors were reasonable.

1B. Perform a review of the remaining 453 contracts[15] and any additional contracts issued under the old invitations to bid to ensure that overhead and profit amounts charged by contractors were reasonable. The State should either provide justification or support for the reimbursements to its housing program from non-Federal funds for the unsupported amounts.

1C. Update policies and procedures to ensure that a cost reasonableness assessment is performed on all cost elements, including the overhead and profit percentages charged by contractors for future contracts.

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[15] This number of contracts is as of February 29, 2020.

1D. Develop and implement procedures to ensure the execution of newly developed policies that require contractors that work on multiple programs to provide adequate support to distinguish the proper amount of time and cost spent on each program. The State should also be required to provide procedures that implement the policy changes.

1E. Train staff to ensure that expenditures, including payments made to contractors, are classified to the proper project activity in the DRGR system and provide support for training conducted.

Scope and Methodology

We performed our audit work in March 2020 at the State's Department of Economic Opportunity located at 107 East Madison Street, Tallahassee, FL, and from March 2020 to January 2022 in Miami, FL. Our audit period was from September 2017, when Hurricane Irma struck Florida, through February 2020.

To accomplish our audit objective, we

- reviewed relevant public laws and Federal Register notices;
- reviewed the State's HRRP Single Family Owner-Occupied Housing Guidelines;
- reviewed the State's Disaster Recovery Policies and Procedures;
- interviewed HUD and State staff and reviewed HUD's monitoring report;[16]
- accessed the State's System of Records to obtain records about homeowner and property eligibility, duplication of benefits, and project costs;
- reviewed invoices, contracts, monthly reports, and other supporting documents related to activity delivery costs; and
- reviewed quarterly performance reports and drawdown reports from the DRGR system.

We also reviewed direct project costs[17] and activity delivery costs[18] as follows:

Project Costs

We conducted a review of direct project costs related to a specific homeowner's property to determine (1) whether funds were awarded to eligible homeowners on eligible properties and that homeowners did not receive duplication of benefits and (2) whether funds were used in the most reasonable manner. The universe included a total of $1.13 million spent on 41 projects from June 2019 through February 2020. Of the total 41 projects, we reviewed 7 projects totaling $387,573, or about 34 percent of the universe amount. Due to the small number of projects in the universe, we did not conduct statistical sampling. We selected 7 projects, as shown in the table 6 below, based on the high dollar amount of disbursements, focusing on completed projects (5) and projects underway (2).

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16 The monitoring report expressed a concern for the State's timeliness of expenditures, resulting in limited audit work to address that concern. Because timeliness was not included in the audit scope, limited detail was included in the finding.

17 Project costs are direct costs of undertaking a project. For our review, these costs were all construction costs tied to each property.

18 Activity delivery costs are related to implementing and carrying out the housing program.

Table 6

Location ID	City	Amount disbursed
004471	Orlando	$130,700
000870	Palm Bay	55,823
000355	Lehigh Acres	53,919
005301	Fort Myers	49,089
004384	Lake Wales	48,807
004109	Miami	25,662
000703	Winter Haven	23,573
	Total	**387,573**

For our review of homeowner eligibility and property eligibility, we accessed the State's System of Records to determine whether the State maintained records to show the properties' damage, location, taxes, and ownership as well as homeowners' income documentation.[19] Records reviewed included but were not limited to damage assessment reports, insurance claims, property tax records, warranty deeds, government-issued identification, tax returns, and income documentation.

For our review of duplication of benefits, we examined whether the State had evidence to show that it identified and verified additional funds paid to the homeowners from other funding sources, such as the Small Business Administration, National Flood Insurance Program, and Federal Emergency Management Agency, and that these funds were considered when calculating the HRRP assistance award.

For review of expenditures, we determined whether the State had cost analyses to support that it chose the most cost-efficient option among repairing, replacing, or reconstructing the homes. In addition, we determined whether the State had invoices, inspection reports, and cost analyses to support that payments made to contractors were eligible and reasonable.

Activity Delivery Costs

We also conducted a review of HRRP activity delivery costs for eligibility and support to determine whether the State administered its program effectively. The universe included 7,404 transactions[20] totaling more than $20.6 million in activity delivery costs as of

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[19] In accordance with the action plan, for the projects reviewed, the State assisted homeowners with total household annual gross income that did not exceed 80 percent of the area median income, adjusted for family size, as published annually by HUD.

[20] The universe of activity delivery costs is different from the universe of project costs.

December 31, 2019.[21] Due to the volume of transactions, we used statistical sampling to select 60 samples. Of the samples selected, we reviewed 19 samples totaling more than $9.1 million in expenditures, or about 45 percent of the universe amount.[22] We reviewed invoices, contracts, and other documentation supporting these expenditures.

The results of this audit apply only to the items reviewed and cannot be projected to the universe of activities.

Computer-processed data generated by the State were not used to materially support our audit findings, conclusions, and recommendations. Thus, we did not assess the reliability of these computer-processed data.

We conducted the 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 finding and conclusion based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding and conclusion based on our audit objective.

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[21] Our initial scope was December 31, 2019; however, for the review of project costs, we extended it to February 29, 2020, to include more projects.

[22] Based on the 19 samples, we had sufficient evidence to show that the State did not ensure proper classification of expenditures. Therefore, we did not review the remaining 41 samples and could not project our results to the universe of activities.

Appendixes

Appendix A

Schedule of Unsupported Costs

Recommendation number	Unsupported 1/
1A	$107,036
Total	**107,036**

1/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation **Auditee Comments**

Ron DeSantis
GOVERNOR

DEO
FLORIDA DEPARTMENT of ECONOMIC OPPORTUNITY

Dane Eagle
SECRETARY

January 28, 2022

Nikita N. Irons, Audit Director
Office of Inspector General
U.S. Department of Housing and Urban Development
75 Ted Turner Drive SW, Room 330
Atlanta, GA 30303

RE: Draft Audit Report January 14, 2022
Community Development Block Grant – Disaster Recovery Program
Grant Numbers B-17-DM-12-0001, B-18-DP-12-0001

Dear Ms. Irons:

The Florida Department of Economic Opportunity (DEO) received the U.S. Department of Housing and Urban Development Office of Inspector General (HUD-OIG) draft audit report, which details the results of the onsite and virtual audit of DEO's Hurricane Irma Housing Repair and Replacement Program.

DEO would like to thank HUD-OIG staff for their continued support and detailed feedback, which helped us further develop our program and inform our staff so they are better equipped to implement controls and processes that further safeguard taxpayer dollars. The following information addresses the one finding noted in the draft report.

We appreciate the opportunity to comment on the report. If you have any questions regarding the information provided, please contact me at (850) 717-8426.

Sincerely,

Drew F. Winters, Director
Office of Long-Term Resiliency

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www.twitter.com/FLDEO | www.facebook.com/FLDEO

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Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Overview

The U.S. Department of Housing and Urban Development's Office of Inspector General (HUD-OIG) completed a review of the Rebuild Florida Hurricane Irma Housing Repair and Replacement Program (Irma HRRP) administered by the Florida Department of Economic Opportunity (DEO). HUD-OIG identified seven construction projects under the initial Invitation to Bid (ITB) process utilized by DEO. As part of that review, HUD-OIG identified seven projects for further review. The following table was provided to document HUD's initial review of Overhead & Profit (O&P) for the seven identified projects:

Table 1: ITB Project Calculations for Further Review

	a	b	c	d
Location ID	Material, labor, and taxes	Overhead and profit	Contract price (a + b)	Overhead and profit percentage (b ÷ a)
000355	$32,678	$21,241	$53,919	65
004384	$34,862	$13,945	$48,807	40
005301	$32,726	$16,363	$49,089	50
004109	$49,351	$14,805	$64,156	30
000703	$40,358	$12,026	$52,384	30
000870	$43,487	$12,175	$55,662	28
004471	$114,218	$16,481	$130,699	14
		$107,036		

The cause for this secondary review was noted as follows:
"…deficiency occurred because the State did not have adequate policies and procedures to ensure that cost analyses were performed on the overhead and profit. The State's written policies and procedures required that scope of work be reviewed and documented for cost reasonableness; however, cost reasonableness was not specified for overhead and profit. Therefore, the $107,036 in overhead and profit paid for the seven projects was unsupported."

Further, HUD-OIG indicates the following potential impact resulting from the cause of deficiency stated:
"…, the State did not perform cost reasonableness analyses on the overhead and profit percentages. Regulations at 2 CFR (Code of Federal Regulations) 200.404 state that a cost is reasonable if the cost is incurred specifically for the Federal award and in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost."

DEO respectfully disagrees with several of the indications conveyed in HUD-OIG's review of these projects and the ITB process utilized by the Irma HRRP leading to the determination that funds were not used in a cost-efficient manner. DEO submits the following information and justification for the processing of construction projects under the initial ITB system:

Comment 1

DEO Comment #1: The Evolution of Programs Do Not Support Applying After-the-Fact Policy Decisions to Prior Processes or Decisions

DEO submits that it has acted in compliance with its policies and procedures regarding construction project bidding since inception. At the start of the Irma HRRP, and as outlined in the HUD-approved

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation	Auditee Comments

State of Florida Action Plan for Disaster Recovery for Hurricane Irma,[1] DEO opted to use the ITB sealed bid process for procuring residential construction contracts. Subsequently, DEO reviewed alternate project award and distribution methodologies, and determined that project bundling provided significant benefits for accelerating the program forward. Upon switching to the current methodology for bundling projects, as the Irma HRRP evolved in order to maintain the highest level of efficiency in administering the construction projects and getting disaster-affected homeowners back into decent, safe, and sanity housing, a maximum overhead and profit percentage of 30 percent was established. All seven projects identified in this sample for further review were processed under the antecedent policy for sealed bidding. Therefore, DEO disagrees with the notion that the costs for these seven projects – including overhead and profit – were excessive and unreasonable in light of a policy and process shift that was established after-the-fact and due to each project being procured in a competitive bid process, as a result of a lowest bid submission by the lowest responsive and responsible bidder.

1. Typically, for construction projects, a prudent person relies on the sealed bid method of procurement to hire a contractor. This method requires the evaluation of bids and award of the contract based on the lowest price submitted by a responsive and responsible contractor. The forces of competition provide evidence that the costs are reasonable.

   Per 2 CFR 200.320(b)(1), sealed bids is the preferred method for construction – "*A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price.* ***The sealed bids method is the preferred method for procuring construction***."

   All 460 contracts referenced by HUD-OIG were procured by DEO through the sealed bid method, where an invitation to bid solicitation was issued by DEO and a firm fixed-price contract was awarded to the lowest responsive and responsible bidder. The forces of competition provide evidence that all construction costs, including overhead and profit, are reasonable.

2. HUD-OIG states that the State did not ensure that cost analyses were performed on the overhead and profit. In many situations, bidders supply only a single amount in response to an Invitation for Bids (IFB) or an ITB. That bid amount includes the bidder's cost for labor, material, equipment, overhead and profit. A bidder in this situation is not asked to deconstruct the bid in order for the purchaser to analyze the separate elements of the bid.

Comment 2

   In this instance, for transparency, DEO requested bidders provide their bids in a format where each bidder provided a breakdown of labor, material, equipment, taxes, overhead and profit. However, the only number of true significance was the total bid amount. A firm fixed-price contract award was made to the lowest responsive and responsible bidder based on the total cost of the project, as required by 2 CFR 200.320(b)(1)(ii)(D).

Comment 3

   There is no requirement in 2 CFR 200 that the individual components of a bid (e.g., labor, material, equipment, overhead and profit) have to be analyzed when two or more bidders effectively compete for the contract. The contract is awarded to the lowest responsive and responsible bidder based on the total amount of each bid. To engage in an analysis of overhead and profit under these conditions would be a vain and useless act.

[1] State of Florida Action Plan for Disaster Recovery- Hurricane Irma, p. 81

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation	Auditee Comments

3. Additionally, 2 CFR 200.324(a) and (b) reinforce the requirements for establishing cost reasonableness in relation to a cost or price analysis.

Comment 4

As it relates to 2 CFR 200.324(a), the Simplified Acquisition Threshold was not exceeded. 2 CFR 200.324(a) states "*The non-Federal entity must perform a cost or price analysis in connection with every procurement action* ***in excess of the Simplified Acquisition Threshold*** *including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.*"

While there was no explicit requirement to conduct a cost of price analysis, DEO applied certain actions to ensure costs were necessary and reasonable. DEO, through its contracted implementation vendors, prepared work write-ups and a cost estimate for each project. When bids were received, they were compared by the vendor to their internal cost estimate for reasonableness. If there was a significant variation between the lowest bid and the cost estimate, DEO was consulted prior to award.

Even if 2 CFR 200.324(a) were applicable in this scenario, the regulations recognize the method and degree of analysis is dependent on the facts surrounding each particular procurement situation. DEO believes that given the totality of review and oversight conducted by DEO and its vendors, that DEO has carried out its responsibilities to ensure all costs are necessary and reasonable.

Comment 5

As it relates to 2 CFR 200.324(b), there was price competition when bids were originally received. 2 CFR 200.324(b) states "*The non-Federal entity must negotiate profit as a separate element of the price for each contract in* **which there is no price competition** *and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.*"

As previously addressed, all 460 contracts were awarded with price competition using the sealed bid method where an ITB was issued by DEO and a contract awarded to the lowest responsive and responsible bidder. Therefore, there was no requirement to analyze and negotiate profit as a separate element of price.

In summary:

- All 460 projects were competitively bid;
- There was price competition for each project;
- A firm fixed-price contract award was made for each project;
- There is no requirement in 2 CFR 200 to separately analyze each component of a bid when award is based on the total bid amount;
- Contract amounts were less than the Simplified Acquisition Threshold, which mandates a cost or price analysis for every procurement action; and,
- DEO had a process in place to review the bids received for each project to determine if costs were reasonable.

By utilizing the sealed bid method where award was made, after review, to the lowest responsive and responsible bidder, DEO established cost reasonableness for the entire bid amount.

4 January 28, 2022

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation	Auditee Comments

Subsequent to the original procurement of construction bids, certain projects required change orders to include additional, unforeseen scope. A cost analysis was performed with each change order to ensure the scope was valid and necessary in order to maintain a compliant, complete project. In all cases, the change orders did not exceed the Simplified Acquisition Threshold and thus a cost analysis was not required to establish cost reasonableness. Particularly as it relates to overhead and profit, the cost reasonableness was established during the original procurement of construction bid through price competition and lowest bid award.

DEO Comment #2: Cost Analysis

Comment 6

HUD-OIG states that "Based on the State's action plan, the State would use a cost analysis process to review each cost element to determine allowability, reasonableness, and necessity. Each project reviewed had scope of work estimates, which included amounts for material, labor, and taxes, but not overhead and profit. Hence, these estimates could not serve as a point of reference to conduct a cost analysis for overhead and profit proposed by contractors."

As used in this one instance in the Action Plan, the meaning of "cost analysis" is not the technical meaning prescribed in the Federal Acquisition Regulations (FAR) but the more general definition of "cost,"[2] – "*the amount or equivalent paid or charged for something;*" or the general definition of "price,"[3] "*the amount of money given or set as consideration for the sale of a specified thing,*" or "*the quantity of one thing that is exchanged or demanded in barter or sale for another.*" In other words, cost is that amount which is actually paid for goods or services. As such, the intent of the statement was to affirm that DEO would review all "costs" (amounts paid to vendors, contractors, etc.) to determine if they were necessary and reasonable.

Within the CDBG procurement world, cost analysis is always associated with price analysis. Depending on the circumstances of each particular procurement action, when required, either a cost analysis or a price analysis is carried out. As described in DEO's Comment #1, given that the sealed bid method was utilized, the appropriate type of analysis for the actions in question was a price analysis as conducted by DEO.

DEO Comment #3: Contract C2284, Deliverable 9, Task 6

Comment 7

DEO submits that it has performed in compliance with its contract language development for the referenced project activities. Deliverable 9 of Contract C2284 is explicitly related to "Housing Services" and Task 6 of Deliverable 9 is explicitly related to Section 6.9 of Attachment 1, Scope of Work, which corresponds to the "Housing Repair Program." Further, contracted services associated with Contract C2284, Deliverable 9, Task 7 effectively expired in July 2021, thus obviating the need for further task clarification through subsequent contract amendment.

DEO Comment #4: Grant Progress

Comment 8

DEO appreciates the financial progress updates reflecting significant increases in disbursement activity through December 31, 2021; however, the activity delivery progress updates only reflect the construction completed through September 30, 2020, at 186 completed homes. DEO submits that the actual completed homes count was 1,544 for Irma HRRP through December 31, 2021, which is a substantial increase in activity delivery and overall grant progress for Hurricane Irma. Reference attached supporting document highlighting DEO's major milestones accomplished in 2021, which includes combined HRRP performance for both Hurricane Irma and Hurricane Michael recovery.

[2] As defined in Merriam-Webster Dictionary, merriam-webster.com/dictionary/cost.
[3] As defined in Merriam-Webster Dictionary, merriam-webster.com/dictionary/price.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

DEO will continue to coordinate with HUD Community Planning and Development representatives to obtain additional technical assistance and implement further recommendations and program revisions, as appropriate.

Comments and OIG's Evaluation

Comment 1	The State disagreed with applying the "after-the-fact" policy decisions (maximum 30 percent limit for overhead and profit) to projects processed before the policy was implemented. The State also disagreed with the finding that the reasonableness for the projects, including overhead and profit, was unsupported. The State indicated that by using the sealed bid method and selecting the lowest price submitted by a responsive and responsible contractor, the "forces of competition" provided evidence that the submitted construction costs, including overhead and profit, were reasonable. We are no longer recommending that the State apply a 30 percent limit to projects processed under the old policy and have removed the related recommendation from the audit report. However, we do not agree that choosing the lowest bid supports that the overhead and profit cost component was reasonable. According to the State's action plan, the State followed a cost analysis process that included a review of each cost element to determine allowability, reasonableness, and necessity. Because the State did not provide the cost analyses for the overhead and profit for our review, we maintain that the reasonableness of the amount charged remains unsupported.
Comment 2	The State indicated that for the projects reviewed, for transparency, it requested bidders to provide the breakdown of labor, material, equipment, taxes, and overhead and profit. The State also asserted that even though it asked its bidders to provide this breakdown of bid costs, the only number of true significance was the total bid amount. We acknowledge that for the projects reviewed, the contract price had a breakdown of labor, material, taxes, and overhead and profit. However, the State's explanation is not consistent with the action plan, which indicated that the State followed a cost analysis process that included a review of each cost element. The State's review of each cost element before awarding the contracts would have supported that the State considered the reasonableness of the total bid amount.
Comment 3	The State commented that 2 CFR 200 does not require that the individual components of a bid be analyzed when two or more bidders effectively compete for the contract. The State further emphasized that it would be a "vain and useless act" to engage in an analysis of overhead and profit since the State selected the lowest responsive and responsible bidders for its projects based on the total amount of each bid. We believe that a review of overhead and profit may disclose excess costs. For example, the winning bid for property 000355 included overhead and profit of 65 percent whereas the competitor's bid included only 20 percent.

Because the State did not analyze this difference, there is a reasonable possibility that the $21,241 in overhead and profit paid to the selected bidder was unreasonable. In addition, a review of the overhead and profit for the other projects may disclose excess costs that could have been used for other unmet needs.

Comment 4 The State cited 2 CFR 200.324(a) to indicate that the sealed bid process for awarding a construction contract does not require a price or cost analysis unless the procurement action is more than the simplified acquisition threshold. The State also asserted that while it believes that there was no explicit requirement to conduct a cost or price analysis, the State applied certain actions to ensure costs were necessary and reasonable.

According to HUD's Guidebook, when the State and local requirements exceed the minimum provisions for CDBG-DR procurement, the grantee should comply with the more stringent State or local procurement standards.[23] Because the State's action plan had stricter requirements, the State should have reviewed each cost element for cost reasonableness.

Comment 5 The State cited 2 CFR 200.324(b) to indicate that profit must be negotiated as a separate element of price for each contract in which there is no price competition and stated that there was price competition when bids were originally received. The State further provided that all 460 contracts were awarded with price competition, using the sealed bid method, and a contract was awarded to the lowest responsive and responsible bidder.

Contrary to the State's assertion, project 004471, for example, involved a sole bidder for which the State was not able to provide evidence to show that it negotiated a reasonable price for the overhead and profit.

Comment 6 The State explained that the meaning of "cost analysis," as used in its action plan, was not the technical meaning prescribed in the Federal Acquisition Regulations, but rather the more general definition of "cost" provided in a well-known dictionary, which is that cost is the amount actually paid for goods or services. The State also explained that the intent of the statement in the action plan regarding the review of each cost element was to affirm that the State would review all "costs" (amounts paid to vendors and contractors) to determine whether they were necessary and reasonable.

We appreciate the State's clarification; however, the language from the State's action plan explicitly stated that "each cost element" instead of "all costs" would be reviewed for reasonableness. In addition, the State provided a response during our audit, supporting that the excess overhead and profit

[23] This is stated in HUD's Buying Right, CDBG-DR and Procurement: A Guide to Recovery, September 2017.

amount paid should be reimbursed if justification cannot be provided. Without support for the reasonableness of overhead and profit, the State could not provide assurance that it did not overpay for this cost element.

Comment 7	The State indicated that our initial recommendation to amend contract language in contract C2284 was no longer necessary because the contracted services associated with the applicable deliverable had expired. Based on the deliverable dates in contract C2284, we acknowledge the State's assertion that the services for deliverable 9, tasks 6 and 7, effectively expired in July 2021. Therefore, we removed the associated recommendation.
Comment 8	In the State's response, it indicated that it had completed 1,544 homes through its Hurricane Irma HRRP. As support, the State provided its press release highlighting the State's major milestones it had accomplished in 2021, which included combining HRRP performance for both Hurricane Irma and Hurricane Michael recovery. We acknowledge the State's reported progress accomplished in 2021 and included this updated information in the audit report.