



Town of Bolivar Community Development Block Grant

Report of Examination

Period Covered:

January 1, 2012 — October 7, 2013

2013M-353



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

March 2014

Dear Town Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Town of Bolivar, entitled Community Development Block Grant. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*

Introduction

Background

The Town of Bolivar (Town) is located in Allegany County and has a population of approximately 2,200. The Town Board (Board) consists of five elected members including the Town Supervisor (Supervisor). The Board is the legislative body responsible for the overall management of the Town, including oversight of the Town's operations and finances. The Supervisor serves as the Town's chief executive and chief fiscal officer. As chief fiscal officer, he is responsible for overseeing or performing all of the Town's financial duties. The Town Clerk is also the bookkeeper who assists the Supervisor with the maintenance of the accounting records.

The New York State Housing Trust Fund Corporation's Office of Community Renewal (OCR) oversees the New York State Community Development Block Grant (CDBG) Program. This program assists local governments with their community development needs by providing annual direct grants for revitalizing neighborhoods, expanding affordable housing and economic opportunities and improving infrastructure and community facilities. The Town was awarded \$400,000 in CDBG funds pursuant to an agreement with OCR dated August 26, 2010. The Town contracted with Cuba Community Development Corporation (CCDC) to provide administration and program delivery services for housing rehabilitation and new construction. The CCDC also provides grant administration services to other towns in the area.

Objective

The objective of our audit was to evaluate the Town's financial management of the CDBG program and addressed the following related question:

- Does the Town properly account for and monitor the administration of the Community Development Block Grant by the Cuba Community Development Corporation?

Scope and Methodology

We evaluated the Town's grant accounting and administration monitoring for the period January 1, 2012 through October 7, 2013.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit is included in Appendix B of this report.

**Comments of
Town Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials generally agreed with our recommendations and indicated they have taken corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Town Clerk's office.

Community Development Block Grant

Local government recipients of CDBG moneys may contract with a private individual, not-for-profit agency or consulting firm as a “subrecipient” to provide expertise and personnel that the recipient may not have the ability to render. Responsibility for completion of grant activities, compliance with Federal and State requirements and proper financial management of CDBG funds rests with the Town. Accordingly, the Board must enter into a detailed written agreement with the subrecipient, formally monitor subrecipient activities during the administration of the grant and establish effective controls to safeguard program funds.

We found that the Board did not develop or implement procedures to track CDBG funding and document how grant funds were spent and that the intended objectives and outcomes were accomplished. The Board entered into a written contract detailing the services to be provided by the CCDC, but did not properly monitor its progress toward meeting CDBG program goals. The CCDC submitted 31 invoices totaling \$288,968 for work not yet performed, and made \$28,117 in payments to contractors which were not submitted to or approved by the Board. This enabled the CCDC to divert \$3,000 of Town grant funds to finance other unrelated CCDC operations. Currently, the CCDC has exhausted the Town’s grant funds while still owing contractors \$8,925 for completed work and has not returned the diverted grant funds to the Town.

Grant Administration Monitoring — Board monitoring of CCDC activity is required by OCR to ensure that contract terms are followed and CDBG moneys are used as intended for the duration of the grant. The Town must maintain evidence of its monitoring of CCDC, which should include any correspondence, checklists and reports. It is the Town’s responsibility to ensure that CCDC is carrying out the project in conformance with CDBG program requirements.

The Board did not develop any formal monitoring procedures or adequately monitor the performance of the CCDC as required. The Board reviewed the nine CCDC drawdown requests totaling \$400,000, which included 77 invoices/claims from contractors performing work at low-income households as well as the CCDC for its administration costs. These invoices/claims were presented to the Board as amounts due for completed work. The CCDC requested these moneys be paid to it and then the CCDC paid the contractors and itself for grant administration. The Board’s lack of oversight allowed the mismanagement of grant funds to occur.

We compared the 77 invoices/claims with the CCDC's bank statements and canceled checks to determine if the CCDC paid itself¹ and the contractors in accordance with the approvals by the Board. We found the following:

- The CCDC overpaid itself by \$3,000. Upon our inquiry, the CCDC Director admitted this payment was inappropriate, but that the funds were needed to cover the CCDC February 2013 payroll. As of the completion of our fieldwork in October 2013 these diverted moneys had not been returned to the Town.
- In October 2012, the Town paid the CCDC \$8,925 for a contractor to drill a new water well. We confirmed with the homeowner and the contractor that the well was completed in January 2013; but as of October 7, 2013, the CCDC had not paid the contractor. We asked the CCDC director where the moneys to pay the contractor would come from now that the Town's grant funds have been exhausted. She had no response.
- In September 2012, the Town paid the CCDC \$300 based on a contractor invoice for a percolation test. As of October 7, 2013, the CCDC has not paid this contractor and a certificate of completion for the respective project was not found in the project file. Therefore, it is unclear whether this contractor's services were completed and the amount was owed.
- The CCDC paid another contractor \$286 less from Town grant funds than the amount approved by the Board. However, the CCDC paid \$286 to the contractor with Affordable Housing Grant money that was awarded to the CCDC not specific to the Town.²
- Another contractor was paid \$20,617 more than the amount approved by the Board. This contractor was paid for work approved by the Board in the amount of \$20,707, which was presented to the Board by CCDC as having been performed by two other contractors.
- The Board approved \$31,882 for another project.³ We also found that the homeowner paid CCDC \$898, apparently for additional work not covered by the grant. However, the

¹ Amount of funds paid by the Town and retained by the CCDC

² We did not review the guidelines for the Affordable Housing Grant to determine if this was an acceptable use of that grant since these were not Town grant funds.

³ This is the same contractor that was paid \$20,617.

contractor was paid \$31,892 by CCDC, only \$10 more than the approved project. Therefore, it is unclear where the CCDC diverted the other \$888 received from the homeowner.

- Another contractor was paid \$7,500 more than the Board approved for three other projects.

The significant number of discrepancies we identified, as well as the unauthorized diversion of Town grant funds raises serious control concerns regarding the CCDC's administration of the Town's program moneys.

Reports — Requiring periodic status and expenditure reports from CCDC would allow Town officials to identify and address discrepancies between approved and actual payments in a timely manner, and assist in keeping the public informed on the progress of development projects. Although the CCDC provided annual performance reports to the Town, the Board did not request periodic reports from the CCDC indicating current grant activity. Without adequate reports, the Board cannot effectively monitor the status of projects.

Since we identified instances where contractor payments differed from the claims approved by the Board, we compared the 77 invoices/claims to the certificate of work completion in the project files to determine if the claims represented work that was completed at the time they were presented to the Board for payment. We found that the CCDC submitted 28 invoices totaling \$267,961 to the Board for approval before the date⁴ listed on the certificate of completion. We also noted three invoices totaling \$21,007 for projects that did not have a certificate of completion in the project file. For two of the three projects, the work was performed by a different contractor than the one noted on the Board-approved invoice. For example, the invoice/claim submitted to the Board on July 16, 2012 was for \$10,797 to one contractor. However, the certificate of completion dated November 7, 2012 was prepared for a different contractor, who presumably performed the work, and the check to this second contractor cleared the bank on November 9, 2012.

We asked the CCDC Director why requests for funds were submitted to the Town prior to the work being completed and why work completion dates were misrepresented on the drawdown requests. She stated that this was done to ensure prompt payment to the contractors because they were small businesses that could not afford to wait six to

⁴ The number of days prior to the certificate of completion date ranged from 272 to eight and averaged 65.

eight weeks for payment. The CCDC paid contractors on average 21 days after receiving funds from the Town. The checks to the CCDC from the Town cleared an average of 16 days after the date the Town received the drawdown request from the CCDC. Therefore, had the invoices/claims for completed work been paid to the contractors directly by the Town, the delay would have been, on average, about two weeks.

We also reviewed the criteria for project selection by the CCDC as well as the approved applications and completed project documents to determine if the projects were qualified and in accordance with CDBG requirements. We determined that all five selected projects were in accordance with selection criteria.

Recommendations

1. The Board should refrain from contracting with the CCDC for the administration of future CDBG grants. Instead, the Board should request proposals from firms that can be relied upon to provide accurate claims and project documentation and ensure that the Town is in strict compliance with federal grant requirements.
2. The Board should immediately recover the \$3,000 diverted by the CCDC as well as obtain from the CCDC sufficient funds to pay contractors for all completed work.
3. The Board should establish formal procedures to monitor the performance of outside entities retained to administer the Town's CDBG funds, including Board review of periodic status reports on grant activity.
4. The Board should require that only claims for completed work be submitted for approval and payment.
5. The Supervisor should issue checks directly to the contractors for Board-approved claims.

APPENDIX A

RESPONSE FROM TOWN OFFICIALS

The Town officials' response to this audit can be found on the following page.

Town of Bolivar
252 Main Street
Bolivar, NY. 14715

585-928-1860 Phone

585-928-2045 Fax

February 27, 2014

Office of State Comptroller
Buffalo Regional Office – Robert Meller
295 Main St.
Suite 1032
Buffalo, NY. 14203-2510

Dear Mr. Robert Meller,

This is the response from the Town of Bolivar for the audit covering January 1, 2012 – October 7, 2013. (2013-353)

The Town of Bolivar Board agrees with all of the findings from your audit. The Town of Bolivar contracted with Cuba Community Development Corporation (CCDC) to administer a \$400,000.00 grant from NYS Community Development Block Grant (CDBG). The Town of Bolivar contracted with CCDC as it has in the past and many other neighboring communities have used their services as well. We had no reason to believe that they would mismanage the funds from this grant.

CCDC presented "Request for Funds" (RFF) forms to the Town of Bolivar for payments due to Vendors. The RFF was a detailed list of how their money expended. To the Town of Bolivar the RFF were bills for work that were completed, and the amount was to be paid. CCDC presented 9 RFFs totaling \$400,000.00 and the Town of Bolivar wrote checks for each of these RFFs. It is now clear to the Town of Bolivar that CCDC misled the Town of Bolivar with the RFFs. The Town of Bolivar in hind sight should have written the checks directly to the vendors.

The Town of Bolivar is now working with the DAs office to determine if there is a criminal act that was committed. They will also attempt to recover the \$3,000.00 that was bill as other work and used for CCDC payroll.

Thank you for your time and consideration in this matter.

Sincerely,



Rick Gould
Supervisor
Town of Bolivar

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls put in place by officials to safeguard Town assets. To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas: financial management, cash receipts and disbursements, purchasing, and payroll and personal services.

During the initial assessment, we interviewed appropriate Town officials, performed limited tests of transactions and reviewed pertinent documents such as Board minutes and financial records and reports. After reviewing the information gathered during our initial assessment, we determined where weaknesses existed and evaluated those weaknesses for the risk of potential fraud, theft and/or professional misconduct. We then decided upon the reported objective and scope by selecting for audit those areas most at risk. We selected financial management of CDBG moneys for further audit testing.

To accomplish our objective, we interviewed appropriate individuals regarding Town policies and procedures, and performed the following procedures:

- Reviewed the contract between the Town and CCDC to determine the responsibilities of both parties.
- Reviewed Town accounting records and determined what payments were made to the CCDC including date, check number, amount and purpose.
- Reviewed supporting documentation and determined if payments were properly supported, were for a grant purpose and were reasonable.
- Obtained the bank statements from the CCDC for the Town's program, including canceled check images for payments made to contractors during the audit period. Traced all canceled check images to claims submitted to the Board for payment. Compared dates, names, amounts and description of work.
- Reviewed project files to verify that work was performed as noted on final inspection reports.
- Reviewed five randomly selected approved applications to determine if the applicants met significant financial criteria for the CDBG program.
- Reviewed the five lowest income applications where the applicants were not selected, to determine if the reasons for disapproval were valid.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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