



The Commonwealth of Massachusetts
Office of the Inspector General

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Bonnie Galant
Community Development & Housing Program Manager
City of Pittsfield Department of Community Development
70 Allen Street, Room 205
Pittsfield, MA 01201

Dear Ms. Galant:

As you know, the Massachusetts Office of the Inspector General (OIG) has been reviewing the American Recovery and Reinvestment Act (ARRA) funded U.S. Department of Housing and Urban Development (HUD) Lead-Based Paint Hazard Control Program (LHC) grants in Massachusetts. These grants have totaled \$8,624,565 of which your department, the City of Pittsfield's Department of Community Development (Pittsfield) has received \$70,000 as a subrecipient of the Massachusetts Department of Housing and Community Development (DHCD).

The OIG is reviewing ARRA-related grants to identify potential vulnerabilities for fraud, waste, and abuse and other risks that could negatively affect the accountability, transparency, and anti-fraud mandates contained in the statutory language and interpretive guidance of ARRA. Pittsfield should not construe this review as an investigation of the program or a comprehensive programmatic review. Rather, this review is to assist the recipient in identifying risks and providing recommendations to address these risks. In addition, since the recipient is a subgrantee of DHCD and DHCD reviews all aspects of the grant program as part of its monitoring procedures, the OIG is primarily reviewing risks for fraud, waste, and abuse in the expenditure of ARRA-funded grants.

To assist grantees in reducing program risks, the OIG has issued an advisory of potential risks that it identified after a review of a sample of grantees, including the largest recipients of grant funds. Pittsfield should review these risks and the OIG recommendations to mitigate these risks for their applicability to your grant program. In addition, the OIG has identified the following issues that are specific to your agency and as such are not included in the attached advisory:

1. Pittsfield is failing to ensure the use of appropriately licensed lead abatement contractors.

Pittsfield is failing to ensure that deleading contractors are licensed pursuant to Massachusetts law and DHCD's rules. According to M.G.L. c.111, §197 and 105 CMR 460.110, only licensed deleaders can perform abatement and containment activities. Also, according to DHCD's *Massachusetts Lead Abatement Program Policies and Procedures*, a duly licensed contractor must conduct lead abatement work.

However, Pittsfield does not require contractors to have a Massachusetts deleading license. Pittsfield only requires deleading contractors to attend a HUD-certified Lead-Safe Work Practices Training and to receive certification under the U.S. Environmental Protection Agency's (EPA) Lead-Safe Certification Program. The OIG review found that seven out of the ten contractors on Pittsfield's pre-qualified contractor list do not have a Massachusetts deleading license or an executed Contractor Licensing Waiver, including a contractor who has completed deleading work with ARRA-funding.

In some cases licenses are not required if the contractor is in possession of an executed Contractor Licensing Waiver, as specified in 454 CMR 22.04(3). According to 454 CMR 22.03(1)(c), contractors who perform only "low-risk deleading work" do not need licenses. 105 CMR 460.175(A) defines low-risk deleading work as (a) applying encapsulants over suitable surfaces, (b) removing doors, cabinet doors, windows on hinges (such as wooden storms) and shutters by disengaging hinge pins or removing hinges, (c) covering surfaces with approved coverings, (d) capping baseboards, and (e) removing cabinet drawers and shelves which are not glued, nailed or otherwise affixed to supports. The OIG has been informed that this low-risk deleading work would not be applicable to LHC grant programs.

Recommendation: Pittsfield must only use contractors that the Massachusetts Division of Occupational Safety (DOS) licenses to do lead abatement work. Under state law and regulation, federal certifications are insufficient to perform deleading work. A contractor must have a state-issued license as well.

2. Pittsfield has failed to use a competitive process for hiring lead inspectors.

According to Pittsfield, it currently uses only one private lead inspector and according to LHC program records, this same inspector has performed all LHC related work during this grant cycle. Pittsfield previously used a second inspector, but stated that it no longer uses this inspector because of prior "performance issues." Pittsfield informed us that they are aware of five inspectors in the Pittsfield area but only use one. They informed the OIG that their outreach efforts have been unsuccessful in developing interest by other inspectors. Use of only one inspector is a potential problem because a lack of competition allows the sole vendor to set the market price, and Pittsfield may be unable to take advantage of lower costs that it

could obtain from a free and open market-driven competition. Moreover, the use of one vendor makes Pittsfield overly dependent upon the schedule, knowledge, and whims of one vendor. This creates a situation where the vendor, in effect, controls the contract. This constitutes a poor business practice.

Recommendation: Since the state has only licensed 13 lead inspectors in western Massachusetts, the OIG recommends that Pittsfield inform the state licensing agency, the Massachusetts Department of Public Health (DPH), of the lack of a competitive environment for licensed lead inspectors. Pittsfield and DPH should request local workforce investment boards, contractor associations, and other groups to encourage individuals in western Massachusetts to obtain licensure. Also, Pittsfield should not restrict its outreach to the Pittsfield area alone.

3. Pittsfield recommends private contractors to unit owners.

Some unit owners choose to use their own lead inspectors to determine the amount and location of lead in their homes. Pittsfield officials stated they recommend the LHC inspector if asked for a recommendation by the owner. This recommendation is inappropriate because it gives the appearance that Pittsfield is advocating for a particular vendor and approves of the work, price, and service of the vendor. Additionally, this practice is vulnerable to fraud, waste, and abuse because unscrupulous vendors could coerce Pittsfield officials to recommend the services of a particular vendor in exchange for something of value or simply because of a business or personal relationship between the vendor and the official.

Recommendation: Pittsfield should stop the practice of recommending the use of certain lead inspectors to owners. Instead, Pittsfield should provide to the homeowner a list of currently licensed lead inspectors in western Massachusetts. Pittsfield can obtain this list from the Childhood Lead Poisoning Prevention Program's website at: <http://www.mass.gov/dph/clppp>.

4. Pittsfield violated its own policies regarding applicant eligibility.

Pittsfield's LHC procedures state that it will consider applications to the program according to the following priorities:

- Priority 1: A dwelling unit in which a lead poisoned child resides.
- Priority 2: A dwelling unit in which a child under age 6 resides and a lead paint determination has been made.
- Priority 3: A dwelling unit in which more than one child under age 6 resides and there is a likelihood that lead paint is present.
- Priority 4: A dwelling unit in which a child age 6 or under resides and there is a likelihood that lead paint is present.

Priority 5: Properties in the Westside or Morningside neighborhoods.

However, despite a waiting list of seven units all containing children under the age of six, two out of the three units completed under the program contained no children. Of these seven units on the waiting list, one contains a child under the age of six with an elevated blood lead level, making it the highest priority according to program guidelines.

Recommendation: Pittsfield should adhere to its eligibility criteria when reviewing applicants for the program. Lead poisoning is a life-threatening health and safety issue, so Pittsfield must first abate higher-priority units. To ensure that high-priority units are delead first, Pittsfield should consider creating a list of units based on the following steps: (1) conduct outreach (either directly or through another organization); (2) compile a list of units that need deleading based on the results of outreach efforts; and (3) prioritize units based on the previously-established criteria. The current LHC grant runs for a three-year cycle, and Pittsfield plans to abate five units (including the two units already completed) with grant funds during this period. The OIG understands the mandate to spend ARRA funds quickly. However, given the number of units and the length of the grant cycle, it appears that Pittsfield can first identify priorities before committing to achieving production goals using low-priority units.

5. Pittsfield will fail to meet grant production goals.

The grant agreement's scope of work states that Pittsfield will complete lead abatement work on ten units using ARRA funds by April 14, 2012. However, Pittsfield informed the OIG that it would complete only five units before grant funds are exhausted. Pittsfield also stated to the OIG that it plans to use other funding to complete the production goals outlined in the grant agreement. However, Pittsfield's contract with DHCD states that Pittsfield would complete 10 units with LHC funds. Pittsfield's 50% reduction in the goals of the grant agreement is a major change to the grant.

Recommendation: Pittsfield should submit a revised grant proposal and budget to DHCD and seek permission for the revision to production goals. Pittsfield and DHCD should take this significant scope change and the reasons for it into consideration when preparing for the next grant cycle if Pittsfield intends to reapply for funding.

6. Pittsfield should update its agreement for relocation expenses.

In 2007, Pittsfield contracted with Yankee Suites Extended Stay Hotel to provide rooms to homeowners and tenants for short-term relocation caused by lead abatement work. The agreement provided for a fixed room rate for 2008. Pittsfield continues to use this agreement, which it has not updated since execution. For the purposes of the LHC program, Pittsfield should ensure through periodic checks of

the market that it is obtaining the best room rate possible under any license agreement.

Recommendation: Pittsfield should update its agreement with Yankee Suites Extended Stay Hotel to confirm applicability of old rates or perhaps lower rates until the end of the current grant cycle. This will help maintain the budgeted cost of relocation and avoid potential conflicts regarding rates and availability. Pittsfield should also consider “testing” the market again to ensure that Pittsfield continues to receive a competitive rate for the area.

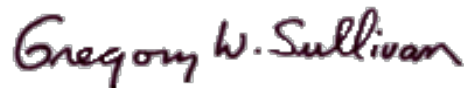
7. Pittsfield should implement an anti-fraud program.

Anti-fraud programs are important for the accountability, transparency, and maintenance of a robust control environment. Although most employees are honest, organizations are still vulnerable to both internal and external fraud. Developing an anti-fraud program makes it clear that Pittsfield will not tolerate fraud by employees and vendors and takes potential fraud seriously.

Recommendation: Pittsfield should periodically perform department-wide fraud risk assessments that address all grant programs for which it receives funding. Pittsfield should ensure that it updates its internal controls to reflect any program changes initiated by ARRA grant agreements, or other state and federal legal or regulatory changes. For internal control suggestions, please see the Comptroller of the Commonwealth’s publication, *A Toolkit for Departments to Combat Fraud, Waste and Abuse* (available at www.mass.gov/comptroller) and additional OIG-issued guidance (available at www.mass.gov/ig/igpubl_guides.htm).

Please do not hesitate to contact us for further assistance. Our point of contact for your agency is Neil Cohen, Deputy Inspector General. Thank you again for the assistance and cooperation of you and your staff during this review.

Sincerely,



Gregory W. Sullivan
Inspector General

ATTACHMENT

cc: Deanna L. Ruffer, City of Pittsfield Department of Community Development
Andrew Nelson, Department of Housing and Community Development