The Commonwealth of Massachusetts
Office of the Inspector General

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Carmen Maiocco
Executive Director, Lead Program
University of Massachusetts, Dartmouth
4 Park Place
New Bedford, MA 02740

Dear Mr. Maiocco:

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 the University of Massachusetts, Dartmouth's (UMD) Lead Program (Program) has received $745,000 as a subrecipient of the 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 impact the accountability, transparency, and anti-fraud mandates contained in the statutory language and interpretive guidance of ARRA. UMD 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, 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. You should review the advisory recommendations for their applicability to your 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.

According to program staff, the Program has leased the same office space in New Bedford since the late 1980s. Presently, it pays an approximate annual cost of $4,000 in quarterly installments of $375 a month. The program has never followed UMD's procurement policy for this lease of space under the presumption that it will not find a better price. Moreover, the program does not have a formal lease agreement with the property owner. Program staff wrote to the OIG that the program "does not have a formal lease with the owner […]. Instead, every year, [they] have a discussion with [the] landlord and [they] agree to a rent for the coming year." The owner then forwards a signed letter to the program director that memorializes the results of the negotiation. According to the program director, "most years" there is an increase of $25 per month ($300/year) per year. During the ARRA funded period, rent has increased from $325 to $375 per month. There appears to be no rationale for this increase, other than the fact that the landlord proposed it and the program accepted it.

University of Massachusetts Purchasing Policy (updated 2008) states that all campuses (in this case UMD and its constituent parts) should obtain all property at best value and ensure an open and fair competition followed by a signed lease agreement. The Program has never determined if it is receiving best value for the space. The policy also states that, "[a]ll delegation of purchasing authority shall be made in writing and forwarded to the office of the University Senior Vice President for Administration, Finance, and Technology [AFT]." The Program is in violation of university policy, not only because the "lease" has never been subject to fair and open competition, but because, according to staff from the Administrative Services Office (part of AFT), there is no file of the lease agreement or the delegation of authority to the program director to enter into this "lease."

Also, the Program renewed the "lease" arrangement in July 2010 with ARRA funding. Paying for office space procured without complying with university policy, and with little documentation amounts to a "gentleman's agreement" between the program director and a property owner. This is a violation of UMD procedures, is in violation of the accountability and transparency provisions of ARRA, is at risk for fraud, waste and abuse, and is an unsound business practice. Even though the program will only spend $8,775 for this office space with ARRA funding, this arrangement has been in place since the 1980's and tens of thousands of dollars have been spent under this poorly documented arrangement.

The OIG recommends that UMD administration, rather than the Program, determine whether the rental, lease, or purchase of off-campus office space is necessary. The OIG also recommends that the UMD general counsel, pursuant to the University of Massachusetts Purchasing Policy, examine this arrangement for possible abuse and ensure that an fair and open process is used to obtain needed office space. Despite Program presumption, without using a transparent process that "tests the market" there is no way for the Program to have complete assurance that this current arrangement is the best deal that the Program can get.

The Program should also ensure that any lease or rental arrangement is well documented and approved by the appropriate UMD officials. Written contracts provide the Program with basic legal protections and act to clearly define the terms of the agreement, price, obligations to the property, actions in case of dispute, and payment/compliance requirements. Not having a formal written contract creates an opportunity for fraud, waste, and abuse, fails to fully protect the Program's interests, and opens the door for litigation to solve even basic disputes.

Program staff stated that they follow the anti-fraud, ethics, and code of conduct policies as established by UMD. Besides completing an annual ethics report required by UMD, staff also receives a letter from UMD regarding fraud and sexual harassment controls that staff is required to read and sign for compliance purposes. Although UMD requires signatures of all program staff, the program director could not provide copies of the anti-fraud, ethics, and code of conduct policies during a visit. These documents did not appear readily available to staff. Policies and procedures are only effective tools for internal controls if they are accessible, used, and monitored. Staff signing compliance statements without having possession of the underlying policies and procedures they claim to be complying with is indicative of internal control weaknesses that should be addressed.

Besides controls placed by UMD there are no policies specific to the Program. Both as a best practice and for ARRA compliance, the OIG recommends that the Program develop more program-specific policies to ensure proper use of grant funds so that its benefits will reach the intended recipients.

Please contact us if you need 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

Gregory W. Sullivan
Inspector General

Attachment

cc: Dr. James Fein, Dean College of Nursing
Michael P. LaGrassa, Assistant Vice Chancellor of Administrative Services
Deirdre Heatwole, General Counsel
Peter Scavotto, Office of the State Comptroller