FINANCIAL AUDIT ADVISORY COMMITTEE

Agenda

Thursday, June 7, 2012 at 8:30 AM

Room 222, City Hall

Meet to review work plans of the Subcommittees:

- Accounting and Audit Sub- Committee
- Internal Controls & Financial Policies and Procedures Sub- Committee
- Risk Assessment, Monitoring and Compliance Sub-Committee
- Investment Policies Ad Hoc Sub- Committee

Discussion regarding 2010 HPRP grant

Handouts:
Work Plan
Memo from D. Wilkinson Regarding HPRP Grant

2012 Work Plan for the Financial Audit Advisory Committee

April 10, 2012

Establish four sub-committees.

Typically, policies will be drafted by City staff, reviewed by the Sub-Committee, vetted by the Auditor, reviewed by the Financial Audit Advisory Committee and forwarded to the Finance Committee.

Consider asking college students, other applicants to the Financial Audit Advisory Committee and residents with expertise to help the sub-committees.

1. Accounting and Audit Sub- Committee
   A. Review Responses by City Personnel to Specific Concerns in the Auditor's Management Letter

      <u>2011 Management Letter Concerns</u>:
      Water and Sewer Billings
      Newton Community Development Authority
      Police Details
      Student Activity Funds
      Unclaimed Checks
      Old Outstanding Checks
      Bank Account Reconciliations
      Disaster Recovery Plan
      Test Database

   B. Prepare for Accounting and Financial Reporting Requirements, including Long-Term Liabilities
      - What are the potential impacts accounting and financial reporting requirements?
      - How should Newton prepare for both reporting and communicating the financial implications?

   C. Run Process for Selecting Auditor
      - Determine what process will be used
      - Work with comptroller to develop RFP
      - Review submissions
      - Do interviews
      - Recommend Auditor

      Committee Members: Gail Deegan (chair), Howard Merkowitz, Vicky Danberg, Ruthanne Fuller (ex officio)

2. Internal Controls & Financial Policies and Procedures Sub- Committee

   A. Focus for 2012: Cash Management (Receipts and Disbursements)
      Review work by City Management as they:
      - Do a broad inventory of where cash (currency (bills and coin), checks, electronic payments) is handled currently, current procedures, current policies, current monitoring processes
      - Research best practices in other municipalities or the private sector
      - Prioritize: determine in what order to do the work, create a work plan and calendar
      - Do detailed investigations (interviews and documentation) in order of priority
      - Develop policies, procedures, and monitoring processes to insure accurate financial reporting and minimize misappropriation

      Committee Members: Tony Logalbo (chair), Scott Lennon, Ruthanne Fuller (ex officio).

3. Risk Assessment, Monitoring and Compliance Sub-Committee

   A. Initial Focus: Internal Whistleblower Policies and Procedures
      Review work by City Management as they:

      - Develop a policy
      - Develop safeguards for employees
      - Determine who receives initial reports
      - Determine procedures for how reports of concerns are followed up

   Committee Members: Bob Fox (chair), Gail Deegan, Scott Lennon, Ruthanne Fuller (ex officio)

4. Investment Policies Ad Hoc Sub- Committee

   A. Investment policies for short-term cash, medium-term (e.g., 6 months – 1 year) cash, and endowment funds
      Work with City Management as they:
      - Inventory where such funds are located, the current amounts and (if growing substantially) in the future, current investment policies and vehicles, and decision making process
      - Consider options for alternative investment policies and processes for making investment decisions (e.g., establishing an Investment Advisory Committee, having PRIT manage the OPEB funds, pooling endowment assets for investment purposes, etc.)
      - Recommend investment policies and procedures

   Committee Members: Howard Markowitz (chair), Lenny Gentile, Matt Hills, Ruthanne Fuller (ex officio)

COMPTROLLER'S OFFICE
CITY OF NEWTON, MASSACHUSETTS
dwilkinson@newtonma.gov
(617) 796-1305

May 23, 2012

TO: Ruthanne Fuller,
Financial Audit Advisory Committee Chair

FROM: David Wilkinson

SUBJECT: **State Inspector General Review of 2010 HPRP grant contracting issues**

During the Financial Audit Advisory Committee's May 10, 2012 meeting, committee member and Board of Aldermen President Scott Lennon inquired about the status of a review that the State Office of Inspector General (OIG) had conducted of certain procurement matters involved with the expenditure of 2010 federal HPRP grant funds. Neither the City's Chief Financial Officer nor I were aware of the review at the time, but subsequent conversations with both the City Solicitor and staff of the Department of Planning and Community Development confirm that such a review did in fact take place and that the City strongly disagrees with the State OIG's conclusions. Attached are copies of three communications that took place between August 2011 and January 2012 between the OIG and the City describing the disagreements between the State OIG and City of Newton.

Follow up conversations with both City Planning and Community Development staff and representatives of the public accounting firm of Melanson-Heath, who did much of the field work for the review, also confirm the fact that the State OIG's review was made of all cities and towns that received 2010 federal HPRP grant funds because the OIG was under the impression that the federal funds were grant funds awarded to the Commonwealth of Massachusetts and passed thru to individual cities and towns. Our records, along with conversations with both the City's Planning and Community Development staff and our independent auditors do not support the notion that the funds in question were state pass-thru funds. According to our records the funds in question were received directly from the U.S Department of Housing and Community Development (HUD).

Given the obvious impasse between the City of Newton and State OIG over the OIG's conclusions, we asked staff of the City's Planning and Community Development Department to contact the City's representative at the U.S Department of Housing and Community Development to determine HUD's positions on the State OIG findings. According to a May 10 e-mail communication between the City's HUD representative and staff of the Newton Department of Planning and Community Development, HUD appears to be fully satisfied with Newton's responses and "does not plan to follow up on the Massachusetts OIG's audit of the HPRP program."

The Commonwealth of Massachusetts

Office of the Inspector General

GREGORY W. SULLIVAN
INSPECTOR GENERAL

JOHN W. McCORMACK
STATE OFFICE BUILDING
ONE ASHBURTON PLACE
ROOM 1311
BOSTON, MA 02108
TEL: (617) 727-9140
FAX: (617) 723-2334

August 3, 2011

Hon. Setti D. Warren, Mayor
City of Newton
City Hall
100 Commonwealth Ave
Newton, MA 02467-3843

Dear Mayor Warren:

The Massachusetts Office of the Inspector General (OIG) reviewed a $923,339 Homeless Prevention and Rapid Re-housing Program grant (HPRP) awarded by the U.S. Department of Housing and Urban Development (HUD) under the American Recovery and Reinvestment Act of 2009 (ARRA) to the City of Newton's Department of Community Development and Planning (Newton).

The OIG is reviewing ARRA-related grants to identify potential vulnerabilities to 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. Readers should not construe this report as an investigation of the program or a comprehensive programmatic review. The OIG intends this review to assist the City of Newton to identify and address risks.

The HPRP program provides temporary financial assistance and housing relocation and stabilization services for individuals and families who are homeless or at risk for homelessness. HPRP targets two populations facing housing instability:

- At Risk - Individuals and families currently in housing, but are at risk of becoming homeless.
- Homeless - Individuals and families who are already homeless as defined by the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302).

To implement this grant, Newton used sub-grantees and chose a not-for-profit agency, Jewish Family & Children Services (JF&CS) to be Newton's "Lead Agency" for the management of this grant. JF&CS subsequently contracted with six other not-for-profit agencies to assist in providing HPRP services (See Appendix B). These sub-grantees reported directly to JF&CS. Newton staff told the OIG that they did have a clear plan for the HPRP program when hiring JF&CS. As a result, Newton granted JF&CS significant authority to design, implement, and manage the program.

The OIG review found that Newton also ceded oversight and control of the program to JF&CS as well. The OIG concluded that Newton's limited oversight also contributed to overcharges and procedural lapses that have led the OIG to question the use of $80,073 or 8.7% (See Appendix F) of the Newton HPRP grant (The highest percentage of any grantee reviewed by the OIG). The OIG review identified the following specific findings:

- In violation of HUD guidelines, Newton required sub-grantee JF&CS to use a "blended" hourly rate for case management and legal services resulting in JF&CS billing Newton for ineligible and duplicate costs totaling $27,018.

- In violation of 24 CFR §85.36(C)1, Newton arbitrarily raised the JF&CS hourly rate which increased case management costs by $15,107.

- A lack of uniform job qualification requirements for case managers resulted in Newton paying $50,964 more in salary compared to the median salary paid by other grantees.

- Based on "best practices" identified by HUD, grantees should consider establishing guidelines that require sub-grantees to negotiate with property owners for reductions in rental arrearages owed by program clients. Newton did not require sub-grantees to negotiate a reduction in rental arrearages owed by tenants, resulting in the program possibly paying $17,931 more than necessary in rental arrearage payments to property owners.

- Newton did not comply with HUD guidelines requiring use of a Request for Proposals (RFP) process.

- JF&CS disbursed over $11,224 in financial assistance to two potentially ineligible recipients.

The OIG has also issued an advisory of potential program risks identified after a review of a sample of HPRP grantees in Massachusetts (See Appendix A). The OIG issued the advisory to help agencies mitigate risk. Newton should review the advisory for applicability to its grant program. We appreciate Newton's assistance and cooperation in this review.

Sincerely,

Gregory W. Sullivan

Gregory W. Sullivan
Inspector General

Attachments

cc: Lowell Haynes, Community Development Planner, City of Newton
Seymour J. Friedland, PhD, CEO, JF&CS
Meredith Joy, Director of Basic Needs, JF&CS
Candace Havens, Director of Planning, City of Newton
Kristen Ekmalian,Assista nt Regional Inspector General for Audit,HU D
Melanson Heath & Company, P.C.

Review of the City of Newton's Recovery Act Funded Homeless Prevention and Rapid Re-Housing Program Grant

Findings

1. In violation of HUD guidelines, Newton required sub-grantee Jewish Family and Children's Service (JF&CS) to use a "blended" hourly rate for case management and legal services resulting in JF&CS billing Newton for ineligible and duplicate costs totaling $27,018.

In violation of HUD guidelines, Newton's RFP required potential sub-grantees to submit a blended hourly rate for "Housing Rehabilitation and Stabilization Services" (which includes Case Management, Legal Services, Outreach and Engagement, and Credit Repair Services). HUD guidelines specify that,

> Timesheets, activity tracking logs, etc need to document the actual time the staff worked. Salaries and wages need to have supporting documentation (job descriptions) that shows they are necessary and reasonable. Time sheets must be maintained for all personnel whose time in whole, or in part, is charged to HPRP. Those time sheets must:
>
> - Reflect "after-the-fact determination" (cannot be done ahead of time) of actual activity of each employee;
> - Account for employee's total time – and actual time, not percentages (Indicate total number of hours worked each day);
> - Be prepared at least monthly and coincide with one or more payrolls;
> - Be signed by employee and approved by supervisor.

The blended rate submitted by JF&CS combined staff time costs for fringe benefits, payroll taxes, workers compensation, professional liability insurance, occupancy, and operating expenses.

JF&CS was the only agency reviewed by the OIG to use a blended rate. The other grantees and sub-grantees reviewed by the OIG billed each employee separately based on the actual number of hours worked, versus estimating time based on a blended rate.

The OIG was concerned that the blended rate may have violated HUD guidelines and potentially included ineligible and duplicate expenses. As a result, the OIG contracted with the certified public accounting firm, Melanson Heath and Company, P.C.[1] (Melanson), to conduct an in-depth analysis of the underlying rate costs. Below is a summary of Melanson's findings (See Appendix G for additional excerpts of the Melanson report.)

> The use of a blended rate for Housing Rehabilitation and Stabilization Services is an unusual approach. The costs included in the blended rate are standard costs and not actual costs. For example, the rate for Case Management includes a fixed hourly rate for the Case Manager, Supervisor and Program Director. The blended rate also assumes 90% of the Case Manager's time, 8% of the Supervisor's time, and 2% of the Program Director's time in the blended rate. Accordingly, these allocations are based on fixed rates and percentages rather than actual costs. In addition, the allocation for Professional Liability Insurance is a set 7.5% rather than the actual premium cost allocated on a [Full-Time Equivalent] FTE basis. The cost of Professional Liability Insurance is an eligible operating cost if allocated properly. Occupancy and Operating Expenses included in the Blended rate are defined amounts and do not reflect the actual costs associated with those services. Because the costs charged to the program are based on pre-calculated amounts, rather than actual costs incurred, we do not believe that a blended rate is an appropriate vehicle to charge costs into the program.
>
> The blended rate also included an overhead charge on expenses of 16.62%. We were provided the basis for that charge which turned out to be the approved indirect cost rate available to JF&CS. Indirect costs are eligible to be charged to the program subject to the 5% cap on administrative costs for administrative costs included in the indirect cost rate calculation.
>
> The 16.62% indirect cost rate as approved [by the Cognizant Federal Agency] is an administrative cost not an overhead or operating cost eligible to be charged to the program. The blended rate already includes the cost of Supervisory and Program Director salaries as well as program occupancy and

[1] Melanson is a well-respected regional firm with vast experience in the review of municipal and not-for-profit finances, as well as expertise in federal grant requirements and federal accounting and auditing standards.

operating expenses. Accordingly, we do not believe the 16.62% rate can be added to the costs billed.

Newton's RFP, in violation of HUD guidelines, improperly required JF&CS to submit a blended hourly rate for Housing Rehabilitation and Stabilization Services. As a result, Melanson calculated that JF&CS overbilled Newton $27,018 in ineligible costs and duplicate expenses.

Recommendation: Newton should request that JF&CS repay funds received for ineligible costs and duplicate expenses back to the grant. For the remainder of the grant, Newton should ensure that JF&CS and the other sub-grantees appropriately track, document and invoice expenses including adjusting the blended rate pursuant to Melanson's findings. For future grants, Newton should require sub-grantees/vendors to provide supporting details for all direct and indirect costs to minimize the risk of overbilling and to ensure compliance with all grant requirements. Contracts should require sub-grantees/vendors to bill based on actual time incurred and not percentages.

2. Newton violated federal regulations by arbitrarily increasing payments to JF&CS by $15,107.

In response to Newton's RFP, JF&CS proposed an hourly rate of $48.48 for case management, housing search, outreach, and credit repair services and $53.73 for legal services. However, the hourly rates listed in the contract were $50 ($1.52 per hour higher) and $60 ($6.27 per hour higher) respectively. Newton staff explained to the OIG that Newton increased all the proposed rates to ensure consistency among the sub-grantees, in other words, to pay the same rounded-up rate for all sub-grantees. Newton staff could offer no other explanation for what appears to be an arbitrary decision to raise vendor prices. In the OIG's experience, municipalities usually seek to lower, rather than increase vendor pricing. (See Appendix C for listing of sub-grantee's proposed hourly rates).

Federal regulation 24 CFR §85.36(c) (1), "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments – PROCUREMENT" requires that:

> All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 85.36. Some of the situations considered restrictive of competition include:
>
> - Noncompetitive pricing practices between firms or between affiliated companies,

- Any arbitrary action in the procurement process.

By arbitrarily increasing the hourly rate after JF&CS submitted a "competitive proposal" Newton violated 24 CFR §85.36(c) (1).

The OIG requested that Melanson review the appropriateness of changing the hourly rate after the JF&CS had submitted its proposal. Melanson concluded that, "Additional cost does not represent an eligible cost and should not be included in the amount billed." Melanson calculated that changing the hourly rates resulted in JF&CS billing Newton an additional $15,107 (See Melanson Appendix III).

Recommendation: Arbitrarily changing the terms of an RFP after submission violated 24 CFR §85.36(c) (1). Newton should require JF&CS to reallocate these funds or return these funds to Newton.

3. A lack of uniform job qualification requirements for case managers resulted in Newton paying $50,964 more in salary and fringe benefits, compared to the median salary paid by other grantees reviewed by the OIG.

HUD guidelines, "strongly encourage grantees to set minimum qualifications or credentials for case managers since they are the ones who will determine participant eligibility and therefore the program's compliance with the HPRP notice." HUD added that, "Highly skilled and effective case management is a core component of HPRP services. The case manager assesses household needs, determines the best plan of action to address those needs, and facilitates access to services and resources necessary for long-term housing stabilization."

The OIG found that the educational background of case managers hired through the program across Massachusetts ranged from a high school diploma to a Master's Degree in Social Work. The salary paid to case managers varied accordingly from $16,900 to $$51,334 with a median salary of $35,000 (See HPRP Advisory Appendix A).

According to Newton staff, they were not aware of the HUD guideline to establish minimum qualifications and credentials. However, Newton staff stated that sub-grantee staff costs would be commensurate with educational background and Newton's "high cost of living." However, case managers would be employees of not-for-profit vendors and not the City of Newton. Newton staff also did not know whether vendor staff would be residents of Newton. JF&CS, the largest program sub-grantee, is located in Waltham.

The OIG reviewed the U.S. Bureau of Labor and Statistics (BLS), *May 2010 Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates* for Boston-Cambridge-Quincy (which includes Newton). BLS lists the median annual salary for "Community and Social Service Occupations" as $46,645 or $4,689 per year less than the blended salary[2] billed by JF&CS (See Appendix E-1).

The OIG does not question the qualifications or the salaries paid to JF&CS case managers. Under HPRP, Newton is obligated to define the minimum skills, educational background, and experience necessary (including salary) to perform the tasks required under the grant. The absence by Newton to establish case manager education and financial standards allowed JF&CS to employ members of their current staff irrespective of the skill sets needed to perform the services specified by the grant. By not challenging the reasonableness of the salaries proposed by JF&CS, Newton case managers salaries were 52% higher than the median wage paid by all grantees reviewed by the OIG and 15% higher than the median salary paid for "Community and Social Service Occupations" as calculated by the BLS. (See Appendix E-2 for savings calculations.)

JF&CS bills Newton a "blended" hourly rate of $24.68 for salary plus $25.32 per hour for fringe benefits, overhead, and operating costs (or 50.64% of salary). Had Newton negotiated an hourly rate commensurate with other Grantees across the Commonwealth and BLS data, they have $50,964[3] (See Appendix E-2 for savings calculations).

Recommendation: The OIG recommends that Newton work with other grantees and non-for-profit service providers to develop statewide qualifications for case managers, housing inspectors, housing search professionals, and credit counselors and other professionals employed under the HPRP program (The OIG HPRP Advisory, Appendix A contains a sample HPRP case manager job description). The OIG recommends agencies include qualification and credential requirements in RFPs when hiring service professionals. In addition, the OIG recommends agencies consult state labor rates, prevailing wage rates, and/or the U.S. Bureau of Labor and Statistics *Occupational Outlook Handbook* when developing salary ranges for these positions to ensure reasonableness and program consistency.

---

[2] Blended Salary is based on the allocated cost of a Case Manager, Supervisor, and Program Director $24.68 per hour. The annualized salary is $51,334 (2080 per year multiplied by $24.68).

[3] Savings includes salary, overhead, and operating costs.

4. Based on "best practices" identified by HUD, grantees should consider establishing guidelines that require sub-grantees to negotiate with property owners for reductions in rental arrearages owed by program clients. Newton did not require sub-grantees to negotiate a reduction in rental arrearages owed by tenants resulting in the program possibly paying $17,931 more than necessary in rental arrearage payments to property owners.

Pursuant to the authority given to HUD under Title XII of the American Recovery and Reinvestment Act of 2009 (ARRA), the HUD Secretary has issued a series of guidelines to HPRP grantees including the identification of "best practices." HUD suggests that grantees "avoid excessive funding to individual households", provide assistance to the greatest number of recipients, consider "capping" the amounts of rental assistance each household may receive, and remain flexible and creative in achieving program goals. HUD offers examples of this creativity, including a "best practice" from Virginia where program clients are helped "to negotiate with landlords to reduce or absolve rental arrears and fees." The OIG review also identified a few program sub-grantees across the commonwealth that, although not required to, have attempted to negotiate payment reductions. These sub-grantees have claimed some success in lowering program costs.

To assist individuals and families that are at-risk for homelessness, HPRP guidelines allow agencies to pay rent arrearages to stop eviction proceedings. The OIG found that sub-grantees frequently paid 100% of a tenant's rental arrearage balance. Only a small number of sub-grantees across the state have considered asking property owners to negotiate or "settle" the arrearage.

Some property owners may be unwilling to accept lower rental payments. However, a property owner involved in the HPRP program stands to avoid costly legal fees associated with tenant eviction and the potential for up to 18 months of "guaranteed" rent payments for the tenant through HPRP. This provides program sub-grantees with some advantage to negotiate for a reduction in rental arrearages. Property owners face a choice, accept a small reduction in the rental arrearage balance or run the risk of receiving nothing owed to them if they successfully evict a tenant for non-payment of rent.

HPRP permits grantees to relocate tenants if the tenant cannot sustain current rental rates. This ability to relocate applicants can also be an advantage in negotiating reductions in rent arrearages. Negotiations to reduce the arrearage balance, however slight, can provide a substantial savings to the HPRP program. Some grantees informed the OIG that their

use of rental arrearage negotiations has been successful and that property owners had been receptive to negotiating rent reductions.

The OIG conducted its own analysis to identify the potential savings obtained through negotiation. On average, Newton sub-grantees paid $2,293 for HPRP rental arrearages. Through November 2010, 52 households received rental arrearage assistance. The average arrearage payment multiplied by the number of households served makes the total arrearage payments made by Newton through November 2010 to be approximately $179,314.

Based on these averages, had Newton sub-grantees negotiated a 10% reduction in arrearage payments ($230 per household), Newton could have saved $17,931, or enough to assist eight additional households at risk for homelessness. (See Appendix D for other savings scenarios.)

Recommendation: HPRP funding is a finite resource. Reducing payments for rental arrearages allows grantees to service a greater number of individuals and families at risk of becoming homeless. The OIG recommends Newton establish written guidelines requiring negotiations for arrearages to assist sub-grantees with these negotiations.

5. Newton did not comply with HUD guidelines requiring use of a Request for Proposals (RFP) process.

Newton staff informed the OIG that the procurement procedure they used for HPRP was an "RFP in name only." HUD guidelines require grantees to inform HUD of what method they plan to use to select sub-grantees. All grantees reviewed by the OIG selected "Competitive Process" as the method they used to procure sub-grantee services. 24 CFR §85.36 states, "All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 85.36...unless procurement by noncompetitive proposals is infeasible (i.e. sole source, emergency procurement, etc.)" Grantees in Massachusetts chose to use an RFP process to meet the competitive procurement requirement. Newton staff told the OIG that they were not aware of the HUD procurement requirement.

HUD guidelines also require an RFP to include certain provisions. The OIG review found the following Newton RFP deficiencies:

- The RFP did not list in detail the types of services Newton expected sub-grantees to provide under each HPRP category. HUD recommends the description include an estimate of the average cost to provide each service and explanation of rationale of targeted households. (i.e. 30

households will receive short-term financial assistance averaging $500/month).

- The RFP did not require applicants to describe how their services fit the homeless needs in Newton.

- The budget section did not define the amount and type of eligible overhead and operating costs permitted by Newton.

- The RFP did not require applicants to list new and current positions required to implement the HPRP program. In addition, the RFP did not specify the minimum credentials and qualifications needed by sub-grantee staff.

- The RFP did not specify how Newton would measure the performance of sub-grantees and HPRP program objectives.

- The RFP did not include a standard budget template.

- Newton did not effectively evaluate the proposals received.

- Contracts with sub-grantees are with JF&CS, not with the City of Newton.

Recommendation: Unless specifically exempt by the HUD, grantees are required to follow HUD guidelines and 24 CFR §85.36 to procure services using federal grant funds. As Newton appears to have violated HUD guidelines and federal regulations, Newton must request that HUD review this process to determine if Newton appropriately awarded services under this grant.

6. JF&CS disbursed over $11,224 in financial assistance to two potentially ineligible recipients.

Melanson reviewed 20 case files at random to test for compliance with HPRP eligibility requirements. The result of their review found that JF&CS paid $11,224 in financial assistance to two potentially ineligible recipients (See Appendix G for additional excerpts from the Melanson Report). Specifically, Melanson found:

- One program participant received rental arrears aid in the amount of $1,224. The individual was in the process of being evicted from their housing; however, we did not note any formal court proceedings were in process. Documentation in the case file indicated the rental

arrears was from prior years, and was not due to current non-payment from the participant. In addition, we noted that the amount of rent for the housing unit was $610 per month. The participant was paying $307 out of pocket; the remaining portion of $294 was subsidized through Section 8 assistance. Under this program, rental assistance payments cannot be made on behalf of eligible individuals or families for the same period of time and for the same cost types that are being provided through another federal, state or local housing subsidy program. We question whether this assistance is eligible due to the fact the participant was already receiving a housing subsidy.

- We noted another program recipient moved into housing in June 2009, before the grant was actually awarded. The rental lease for this housing unit stated that the lessee was required to apply for HPRP funds once they became available. We were told by the sub-grantee that they worked with the property owner to house the family, with the understanding that HPRP funds would be provided when they became available. After the grant award was finalized, the participant applied for HPRP funds and began receiving assistance under the program. The first assistance provided to the participant was for rental arrears from June 2009 through November 2009. The payment also included a security deposit for the housing unit and utility arrears. The total initial assistance exceeded $10,000. Prior to moving into the new housing unit, the participant was living in a shelter with her two children. The shelter closed, and the participant was then forced to live out of her car, and was literally homeless. While this program is targeted for a family in this type of situation, we question the appropriateness of awarding assistance prior to grant approval.

Recommendation: Newton and JF&CS should review the files in question and consult with HUD to determine what, if any financial adjustments are required.

Conclusion

The OIG believes that Newton's oversight of sub-grantee expenditures needs improvement. Newton staff told the OIG that they did have a clear plan for the HPRP program prior to hiring JF&CS as the lead agency for the implementation and management of this plan. Newton granted JF&CS significant authority to design and implement HPRP assistance. Ceding this authority may have led to Newton paying its sub-grantees one of the highest overhead and operating cost rates reviewed by the OIG. Newton's limited oversight also contributed to overcharges and procedural lapses that have led the OIG to question the use of $80,073 or 8.7% (See Appendix F for summary

of questionable uses of fund from findings) of the Newton HPRP grant (The highest percentage of any grantee reviewed by the OIG). The OIG review identified the following specific findings:

- In violation of HUD guidelines, Newton required sub-grantee JF&CS to use a "blended" hourly rate for case management and legal services resulting in JF&CS billing Newton for ineligible and duplicate costs totaling $27,018.

- In violation of 24 CFR §85.36(C)1, Newton arbitrarily raised the JF&CS hourly rate,wh ich increased case management costs by $15,107.

- A lack of uniform job qualification requirements for case managers resulted in Newton paying $31,757 more in salary, compared to the median salary paid by other grantees reviewed by the OIG.

- Newton did not require sub-grantees to negotiate a reduction in rental arrearages owed by tenants, resulting in the program possibly paying $17,931 more than necessary in rental arrearage payments to property owners.

- Newton did not comply with HUD guidelines requiring use of an RFP process.

- JF&CS disbursed over $11,224 in financial assistance to two potentially ineligible recipients.

The OIG recommends Newton strengthen its grantee/sub-grantee management and procurement practices. The OIG hopes these findings assist your program to identify and mitigate program risks.

Appendix A: OIG HPRP Advisory

Please see: *Advisory to Grantees and Sub-Grantees of the Recovery Act Funded Homeless Prevention and Rapid Re-Housing Program (HPRP)* attached as a separate document.

Appendix B: List of Sub-Grantees

Total Grant Funds (Newton)		
Agency	**Grant Funds**	**Percent of Grant**
Jewish Family & Children Services (JF&CS)	$804,404	87.1%
Second Step	46,536	5.0%
Metropolitan Mediation Services	1,025	0.1%
Newton Community	8,455	0.9%
Metro Boston Housing Partnership (MBHP)	58,567	6.3%
NCSG Kayla House	2,584	0.3%
Community Dispute Settlement	1,768	0.2%
Total Grant	**$923,339**	**100.0%**

Appendix C: Proposed Hourly Rates Submitted by Agencies through Newton's Procurement Process[4]

Proposed Hourly Rates						
Agency	Case Management	Housing Search	Outreach	Legal	Housing Inspections	Credit Repair
JF&CS (Lead Agency Selected)	$ 48.48	$ 48.48	$ 48.48	$ 53.73	$ 35.00	$ 48.48
Newton Community Service Center	$ 49.57	$ -	$ -	$ -	$ -	$ -
Watertown Community Housing	$ 44.62	$ 44.62	$ -	$ -	$ -	$ -
Second Step	$ 50.00	$ 50.00	$ -	$ 50.00	$ -	$ 50.00
Middlesex Human Services Agency	$ 44.00	$ 44.00	$ -	$ -	$ -	$ 44.00
Advocates	$ -	$ -	$ -	$ 65.00	$ -	$ 65.00
Metropolitan Mediation Services	$ -	$ -	$ -	$ 80.00	$ -	$ -
BC Legal Assistance Program	$ -	$ -	$ -	$ 38.00	$ -	$ -
Just-A-Start	$ -	$ -	$ -	$ 80.00	$ -	$ -
Newton Elder Homeless	$ 28.00	$ 28.00	$ 28.00	$ -	$ -	$ -
Median Hourly Rate	**$ 46.55**	**$ 44.62**	**$ 38.24**	**$ 59.37**	**$ 35.00**	**$ 49.24**

[4] Source: Vendor submissions to Newton's Request for Proposals.

Appendix D: Potential HPRP Rental Arrearage Savings (Newton)

Newton HPRP Rental Arrearage Savings					
Estimated Total Arrearage Payments	Average Newton Rental Arrearage	Percent of Statewide Rental Arrearage Savings	Potential Arrearage Savings per Household[5]	Potential Arrearage Savings[6]	Potential Additional Households[7]
$179,314	$2,293	2%	$46	$3,586	2
179,314	2,293	5%	115	8,943	4
179,314	**2,293**	**10%**	**229**	**17,885**	**8**
179,314	2,293	15%	344	26,828	12
179,314	2,293	20%	459	35,771	16

5 Savings per household is determined by multiplying the "Percent of rental arrearage savings" by the "Estimated total arrearage payments."

6 Estimated arrearage savings is determined by multiplying the "Estimated Households Receiving Arrearage Assistance" by "Estimated Savings per Household."

7 Arrearage savings is determined by multiplying the "Estimated Households Receiving Arrearage Assistance" by "Estimated Savings per Household."

Appendix E-1: Community and Social Service Salaries[8] (Metro Boston)[9]

Community and Social Service Occupations May 2010 Boston-Cambridge-Quincy, MA NECTA Division		
Occupation Title	**Mean Hourly Wage**	**Mean Annual Salary**
Community and Social Service Occupations	$ 21.61	$ 44,950
Substance Abuse and Behavioral Disorder Counselors	$ 19.55	$ 40,670
Educational, Guidance, School, and Vocational Counselors	$ 29.50	$ 61,360
Marriage and Family Therapists	$ 23.24	$ 48,340
Mental Health Counselors	$ 21.12	$ 43,920
Rehabilitation Counselors	$ 18.53	$ 38,550
Counselors, All Other	$ 19.90	$ 41,390
Child, Family, and School Social Workers	$ 21.47	$ 44,660
Healthcare Social Workers	$ 24.57	$ 51,110
Mental Health and Substance Abuse Social Workers	$ 24.46	$ 50,880
Social Workers, All Other	$ 26.57	$ 55,270
Health Educators	$ 24.45	$ 50,850
Social and Human Service Assistants	$ 15.90	$ 33,070
Community and Social Service Specialists, All Other*	$ 15.27	$ 31,770
Clergy	$ 26.17	$ 54,430
Religious Workers, All Other	$ 30.71	$ 63,890
Median Wage (All Categories)	**$ 22.43**	**$ 46,645**

8 U.S. Bureau of Labor & Statistics "Community and Social Services Employment" category includes: "Substance Abuse and Behavioral Disorder Counselors; Educational, Guidance, School, and Vocational Counselors; Marriage and Family Therapists; Mental Health Counselors; Rehabilitation Counselors; Counselors, All Other; Child, Family, and School Social Workers; Healthcare Social Workers; Mental Health and Substance Abuse Social Workers; Social Workers, All Other; Health Educators; Probation Officers and Correctional Treatment Specialists; Social and Human Service Assistants; Community and Social Service Specialists, All Other; Clergy; Directors, Religious Activities and Education; Religious Workers."

9 Metro Boston includes the City of Newton

Appendix E-2: Potential Salary and Overhead Cost Savings by Establishing Salary and Credentials Standards for Case Managers

Potential Overhead Savings By Establishing Salary Guidelines for Case Managers			
Salary for Case Management and Housing Search Services			
Description	(Grantees Reviewed) Median Hourly Rate	BLS Median Hourly Rate	JF&CS Hourly Rate
Projected Hours Billed (Total Grant)[10]	$3,287.66	$3,287.66	$3,287.66
Hourly Rate	16.83	22.43	24.68
Salary Expense	55,331.27	73,742.14	81,139.37
Fringe Benefits/Overhead (Percent)[11]	50.64%	50.64%	50.64%
Total Salary Including Fringe and Overhead	109,263.95	145,620.35	160,227.83
Savings: BLS Rate			14,607.48
Savings: Grantees Reviewed			**50,963.88**

[10] Projected Hours determined by multiplying Total Hours Billed as of March 31 (3,287.66) by 0.956 (The percentage of granted funds expended)

[11] The Fringe and Overhead percentage equals the JF&CS hourly rate ($24.68 salary only) divided by the billed hourly rate of $50 per hour for case management services (50.64%).

Appendix F: Summary of Questionable Expenses from Findings

Newton: Questionable Expenses From Findings			
Category	**Finding**	**Expenditure (Dollars)**	**Percentage of Grant**
Case Manger Salaries	Reducing salary to median salary of grantees reviewed[12]	$ 8,839	1.0%
Ineligible Cost Billing	Ineligible indirect costs billed to salary	$ 27,018	2.9%
Change in Contract Terms	Impact of arbitrarily changing hourly rate	$ 15,107	1.6%
Ineligible Recipients	Financial assistance payments paid to ineligible recipients	$ 11,224	1.2%
Rental Arrearages	Negotiating reduction in arrearage balance	$ 17,885	1.9%
Summary		$ 80,073	8.7%
Total HPRP Grant		**$ 923,339**	

[12] Salary adjustment is net of ineligible cost billing and change in contract terms.

Appendix G: Independent Accountant's Report on Applying Agreed-Upon Procedures

We have performed the procedures detailed below, which were agreed to by the Office of the Inspector General, solely to assist the Inspector General's Office in reviewing the Homeless Prevention and Rapid Re-Housing (HPRP) Grant Program. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the specified users of the report identified above. Consequently, we make no representation regarding the sufficiency of the procedures described below, either for the purpose for which this report has been requested or for any other purpose. Our procedures included the following:

We reviewed various grant documents, including, but not limited to federal grant publications from OMB, grant awards HUD publications regarding the HPRP program, as well as conducted site visits at sub-grantee facilities, reviewed case files, and interviewed various employees of the sub-grantees to determine compliance with the HPRP grant for the following issues:

- We reviewed the allocated "overhead and operating" expense reported by JF&CS and HAP.
- We reviewed the "Professional Liability Insurance" included in the "blended" hourly rate charged by JF&CS.
- We reviewed the classification of "JF&CS Overhead on Expenses" charged by JF&CS.
- We reviewed the appropriateness of a "blended" hourly rate charged by JF&CS.
- We conducted sample reviews of Case files administered by JF&CS.
- We reviewed documentation supporting JF&CS overhead and operating costs.

We were not engaged to, and did not; conduct an audit, the objective of which would be to express an opinion on the specified elements, accounts or items referred to above. Accordingly, we do not express such an opinion. Had we performed additional procedures, additional matters might have come to our attention that would have been reported.

This report relates only to the accounts and items specified above, and do not extend to any financial statements of the City of Newton, Massachusetts taken as a whole. This report is intended solely for the information and use of management, and others within the Organization, and is not intended to be, and should not be, used by anyone other than those specified parties.

Overhead and Operating Costs

According to the publication, Department of Housing and Urban Development, Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of2009, "Administrative costs do not include the costs of issuing financial assistance, providing housing relocation and stabilization services, or carrying out eligible data collection and evaluation activities, as specified above, such as grantee or sub-grantee staff salaries, costs of conducting housing inspections, and other operating costs. These costs should be included under one of the other eligible activity categories."

JF&CS submitted a competitive proposal to provide Housing and Relocation Services to the City of Newton. The Request for Proposal required submission of a blended rate for Housing Rehabilitation and Stabilization Services. The proposal also required JF&CS to pay related Direct Financial Assistance Payments.

The proposal included rates for Case Management, Outreach and Engagement, Legal Services, Credit and Repair, Housing Search & Placement and Housing Inspection.

Case Management was a blended rate, which included time for a Case Manager, Supervisor, and the Program Director. In addition, the blended rate included costs for fringe, payroll taxes, workers comp, professional liability insurance, occupancy, and operating expenses.

The use of a blended rate for Housing Rehabilitation and Stabilization Services is not common practice in Sub-grantee relationships. The costs included in the blended rate are standard costs and not actual costs. For example, the rate for Case Management includes a fixed hourly rate for the Case manager, Supervisor and Program Director. The blended rate also assumes 90% of the Case Manager's time, 8% of the Supervisor's time, and 2% of the Program Director's time in the blended rate.

Accordingly, these allocations are based on fixed rates and percentages rather than actual costs. In addition, the allocation for Professional Liability Insurance is a set 7.5% rather than the actual premium cost allocated on a FTE basis. The cost of Professional Liability Insurance is an eligible operating cost if allocated properly. Occupancy and Operating Expenses included in the Blended rate are defined amounts and do not reflect the actual costs associated with those services. Because the costs charged to the program are based on pre-calculated amounts, rather than actual costs incurred, we do not believe that a blended rate is an appropriate vehicle to charge costs into the program.

The same methodology was used for other costs charged based on a blended rate.

The blended rate also included an overhead charge on expenses of 16.62%. We were provided the basis for that charge which turned out to be the approved indirect cost rate available to JF&CS. Indirect costs are eligible to be charged to the program subject to the 5% cap on administrative costs for administrative costs included in the indirect cost rate calculation.

We requested the indirect cost rate documents to determine what costs were included in the rate and if they were duplicative of costs billed elsewhere or part of administration rather than overhead and operating costs.

JF&CS submits a schedule to the Cognizant Federal Agency, in this case the U.S. Department of Justice, which allocates costs by program. These costs include salaries and wages, related benefits, operating and overhead costs for each program. There is a column for Management and General, which include salaries and wages, related benefits, operating and overhead costs. The indirect cost rate is calculated on the total Management and General costs in this column as a percentage of total program costs.

The 16.62% indirect cost rate as approved is an administrative cost not an overhead or operating cost eligible to be charged to the program. The blended rate already includes the cost of Supervisory and Program Director salaries as well as program occupancy and operating expenses. Accordingly, we do not believe the 16.62% rate can be added to the costs billed.

In addition, JF&CS billed a blended rate higher than the costs documented in their proposal or contained in the agreement. That additional cost does not represent an eligible cost and should not be

included in the amount billed. The additional costs included in this category include $1.52 per hour for Case Management and $6.27 per hour for Legal Services.

We have calculated the ineligible costs related to these issues to be $42,125 as documented in Appendix III.

Administrative Costs

According to the Publication, Department of Housing and Urban Development, Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009, "Administrative Costs may be used for accounting for the use of grant funds; preparing reports for submission to HUD; obtaining program audits; similar costs related to administering the grant after the award; and grantee or sub-grantee staff salaries associated with these administrative costs. Administrative costs also include training for staff who will administer the program or case managers who will serve the program participants as long as this training is directly related to learning about HPRP."

The publication also states that no more than 5% will be charged to the program and that the Grantees and Sub-grantees shall share the administrative fee.

JF&CS billed actual costs on a monthly basis, which are attributable to administrative costs. These costs included legal fees, provided to JF&CS, not to participants, training, administrative charges, and audit charges. We have prepared a schedule of charges applicable to the indirect costs. The City of Newton did not retain a portion of the administrative fees. Accordingly, the administrative fees charged by JF&CS and their sub-grantees are eligible up to 5%.

Based on our schedule included as Appendix IV, JF&CS and their sub-grantees have not exceeded their 5% administrative costs. As noted in the section on overhead and operating costs, JF&CS's approved indirect cost rate is primarily an administrative cost recovery. As such, JF&CS can charge indirect costs as administration to get the total administrative costs up to the 5% maximum.

Case Management Files

Eligibility Requirements

We obtained and reviewed notices from HUD regarding the HPRP grant, the A-133 compliance supplement, and various other grant documents to determine recipient eligibility and documentation requirements for the grant.

We determined the following requirements under this grant:

1. The household must receive at least an initial consultation and eligibility assessment with a case manager who can determine eligibility and the appropriate type of assistance needed;

2. The household's total income must be at or below 50 percent of Area Median Income;

3. The Household must be either homeless (to receive rapid re-housing assistance) or at risk of losing its housing (to receive homeless prevention assistance) and must meet the following circumstances:

    a. No appropriate subsequent housing options have been identified;

    b. The household lacks the financial resources to obtain immediate housing or remain in its existing housing; and

    c. The household lacks support networks needed to obtain immediate housing or remain in its existing housing.

The criteria listed above are the minimum criteria set forth by HUD to determine eligibility for HPRP. Grantees and sub-grantees are responsible for verifying and documenting the eligibility of all HPRP applicants prior to providing HPRP assistance. They are also responsible for maintaining this documentation in the HPRP participant case file once approved for assistance.

Additional Grant Requirements

Once a program participant IS determined to be eligible, the grant requires the following, in part:

1. HUD requires grantees or sub-grantees to evaluate and certify the eligibility of HPRP program participants at entrance into the program and

at least once every three months for households receiving medium rental assistance or other HPRP services lasting longer than three months;

2. A Staff certification of eligibility for HPRP assistance form must be maintained in the case file;

3. Income eligibility determination must be documented in the case file upon a program participants entry into the program, and every three months thereafter;

4. Upon entering the program, all program participants must undergo a housing status eligibility determination, and every three months thereafter.

5. Rental assistance paid cannot exceed the actual rent cost, which must comply with HUD's standard of "rent reasonableness." According to HUD, rent reasonableness means that the total rent charged for a unit must be reasonable in relation to the rents being charged during the same time period for comparable units in the private unassisted market and must not be in excess of rents being charged by the owner during the same time period for comparable non-luxury unassisted units.

6. Rental assistance in the form of security deposits is allowable under the grant. However, when the grantee or the sub-grantee recovers security deposit monies that originally came from the grant, the result is the generation of program income. HPRP generated income received by the grantee is subject to Federal regulations governing program income.

Eligibility testing

We reviewed 14 participant case files from JF&CS. JF&CS maintained an electronic database for all program participants. The hardcopy case files were maintained by either JF&CS or the sub-grantees under JF&CS.

We noted that none of the files selected for testing indicated or documented that the recipient was verified to be a US citizen, as required by the grant.

We noted that JF&CS or its sub-grantees did not have a policy regarding security deposits, nor did we note an agreement between JF&CS or its sub-grantees and the property owner or the program participant, regarding potential repayment of security deposit when a security deposit was included in the financial assistance received.

We noted that of the 14 files tested, six participants received financial aid in the form of rental arrears. Of the 14, we noted that only two of the files contained documentation that the case manager negotiated to reduce the rental arrearage balance to a lower amount.

We noted that one program participant received rental arrears aid for $1,224. The individual was in the process of being evicted from their housing; however, we did not note any formal court proceedings were in process. The financial assistance was to ensure the participant could reside in their housing unit for an additional 2 months until permanent relocation was possible. Documentation in the case file indicated the rental arrears was from prior years, and was not due to current nonpayment from the participant. HPRP is focused on housing for homeless and at-risk households. The funds under this program are to provide temporary financial assistance and housing relocation and stabilization services to individuals and families who are homeless or would be homeless ***but for*** this assistance. Given the rental arrears was due from prior years, we question whether this assistance is eligible based on the requirements of this grant. In addition, we noted that the amount of rent for the housing unit was $610 per month. The participant was paying $307 out of pocket; the remaining portion of $294 was subsidized through Section 8 assistance. Under this program, rental assistance payments cannot be made on behalf of eligible individuals or families for the same period and for the same cost types that are being provided through another federal, state or local housing subsidy program. We question whether this assistance is eligible due to the fact the participant was already receiving a housing subsidy.

We noted another program recipient moved into housing in June 2009, before the grant was actually awarded. The rental lease for this housing unit stated that the lessee was required to apply for HPRP funds once they became available. We were told by the sub-grantee that they worked with the property owner to house the family, with the understanding that HPRP funds would be provided when they became available. After the grant award was finalized, the participant applied for HPRP funds and began receiving assistance under the program. The first assistance provided to the participant was for rental arrears from June 2009 through November 2009. The payment also included a security deposit for the housing unit and utility arrears. The total initial assistance was $10,040. The grant allowed pre-award administrative expense to be incurred; however, the grant did not allow pre-award financial assistance expenses to be incurred. As such, we believe funds other than HPRP funds should have been used to assist this family. Before moving into the new housing unit, the participant was living in a shelter with her two children. The shelter closed, and the participant was then forced to live out of her

car, and was literally homeless. While this program is targeted for a family in this type of situation, we question the appropriateness of awarding assistance before grant approval.

MHCo Appendix III: Ineligible Costs Included in Hourly Rate

Newton Ineligible Costs Included in Hourly Rate		
Row #	Ineligible cost included in hourly rate	Actual Expenditure
1	$50 Case management rate includes ineligible overhead rate of $6.91	$ 17,821
2	$50 Administration rate includes ineligible overhead rate of $6.91	2,311
3	$50 Housing Search rate includes ineligible overhead rate of $6.91	3,912
4	$50 Credit repair rate includes ineligible overhead rate of $6.91	66
5	$30 Data Collection rate includes ineligible overhead hourly of $4.27	1,912
6	$60 Legal rate includes ineligible overhead rate of $7.62	996
7	$50 rate(s) also includes $1.52 over proposed rate	14,287
8	$60 rate also includes $6.27 over proposed rate	820
	Total	**42,125**
	Over Billing By Changing Hourly Rate (Sum of rows 7 & 8)	**15,107**
	Over Billing including Ineligible Indirect Costs (Sum of rows 1 through 6)	**$27,018**

This page left blank intentionally

Setti D. Warren
Mayor

City of Newton, Massachusetts

Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

October 24, 2011

Gregory W. Sullivan
Inspector General
Office of the Inspector General
One Ashburton Place
Boston, Massachusetts 02108

Dear Mr. Sullivan:

I appreciate the Office of the Inspector General's role in preventing and detecting fraud, waste, and abuse by government entities throughout the Commonwealth. Currently, your office is reviewing ARRA grants made by the federal government to municipalities throughout Massachusetts in order to assist those municipalities in identifying and assessing risks. The City of Newton's Homelessness Prevention and Rapid Re-housing Program (HPRP) was included in the review. While the review did not constitute an investigation, your office perceived the presence of risks, resulting in six findings. The City has reviewed the report and continues to confer with the grantor agency, the United States Department of Housing and Urban Development (HUD) in order to ensure that we are compliant with all governing regulations.

The City, through its partnership with Jewish Family & Children's Services (JF&CS), has operated an exemplary program, and has served the most vulnerable populations in Newton, Waltham, and Watertown. The City and JF&CS developed the program based upon strict construction of the HUD Notice of Allocations, Application Procedures, and Requirements for HPRP Grantees under the American Recovery and Reinvestment Act of 2009 [Docket No. FR-5307-N-01], hereinafter referred to as the "Notice."

The City has monitored the program in accordance with its responsibility as grantor. Due to the dollar amount of the grant, the program was also subject to an OMB-Circular A-133 Audit for financial and regulatory compliance by independent auditors. (All federal grants over $500,000 are subject to A-133 Audits.) The A-133 Audit for FY 2010 was completed in a timely manner by an independent CPA Audit firm, in which no material weaknesses were identified, no significant deficiencies were identified that were not considered to be material weaknesses, and no audit findings were disclosed that were required to be reported in accordance with Section 510 of Circular A-133.

The City of Newton would like to address each of the findings contained in your report to achieve greater clarity and total transparency concerning the use of ARRA funds.

1. In violation of HUD guidelines, Newton required sub-grantee JF&CS to use a "blended" hourly rate for case management and legal services resulting in JF&CS billing Newton for ineligible and duplicate costs totaling $27,018.

Newton did not require its sub-grantee JF&CS to use a blended hourly rate, nor were ineligible or duplicate expenses billed.

The City's RFP explained in detail the scope and nature of the program as defined in the Notice. It described the Services Being Sought, the Service Area, HPRP Guidelines, Eligible Applicants, Eligible Activities, Ineligible and Prohibited Activities, Basic Reporting Requirements, Submission Requirements, and a description of the Proposal Selection and Contract award, as well as contact information for potential applicants to make further inquiries. The RFP included an application package that required respondents to provide a proposed hourly rate for the cost of providing assistance for each eligible activity, and to provide the basis for the proposed hourly rate. JF&CS' response to the RFP included proposed hourly rates for each eligible activity in the program, and provided, with great specificity, the basis for each such rate. A "blended rate" is not mentioned in the City's RFP, nor is it mentioned in JF&CS' proposal, and thus was *not required.*

In the detail of this finding, the report states, "The OIG was concerned that the blended rate *may* have violated HUD guidelines" and "we do not believe that a blended rate is an appropriate vehicle to charge costs into a program." However, the report does not cite any such HUD guideline the City or its subrecipient purportedly *may* have violated.

As to the finding that JF&CS billed the City of Newton for ineligible or duplicate costs totaling $27,018, the City disagrees. Based upon a careful reading of your report, including "Appendix G: Independent Accountants Report on Applying Agreed Upon Procedures," it appears that the finding is based upon different interpretations of what constitutes administrative versus program costs for the purposes of HPRP.

Newton and JF&CS relied upon the Notice (which the OIG report cites in Appendix G, page 22) to identify administrative costs and costs for program delivery of eligible activities. The Notice states (on page 18, Section 4, Administrative Costs) that "Administrative costs may be used for: pre-award administrative costs, as defined in section b below, accounting for the use of grant funds, preparing reports for submission to HUD; obtaining program audits; similar costs related to administering the grant after the award; and grantee or subgrantee staff salaries associated with these administrative costs. Administrative costs also include training for staff who will administer the program or case managers who will serve program participants, as long as this training is directly related to learning about HPRP. **Administrative costs *do not include* the costs of issuing financial assistance, providing housing relocation and stabilization services, or carrying out eligible data collection and evaluation activities, as specified above, such as grantee or subgrantee staff salaries, costs of conducting housing inspections, and other operating costs. These costs should be included under one of the other three eligible activity categories.**" [Emphasis added.]

At the inception of its program, and in order to comply with the Notice, the City accepted JF&CS' proposed hourly rate, which included cost components of professional liability insurance, occupancy, operating, and an approved indirect cost charge from the cognizant agency for program activities. The City deemed these costs to be necessary and reasonable, and allocable to program activities based on the Notice cited above. Based upon the City's interpretation of the Notice, the inclusion of those costs were properly included in the eligible program activities, and excluded from the 5% administrative cap.

The City's RFP allowed proposals to include administrative activities including 1) Accounting for Grant Funds; 2) Preparation of Reports to HUD; 3) Costs of Program Audits; and 4) Staff Training Related to HPRP. Because these allowable administrative activities did include components for which hourly rates were charged, and those administrative costs had associated overhead expenses (i.e. the same costs for insurance, occupancy, operating, and overhead are incurred whether an employee is performing client services or administrative responsibilities), identical hourly rates were charged. Since the overhead expenses were associated with administrative activities performed, they were subject to the 5% cap, and were included in the administration budget line item in order to comply with that requirement.

In response to the OIG's concern regarding proper timekeeping by JF&CS staff, it is important to note that all staff members providing service to HPRP clients entered their time in the shared client database, ETO (Efforts to Outcomes). All time reimbursed for the grant was linked directly to specific clients or tasks related to the project. For JF&CS staff working on HPRP, there were two additional levels of oversight. The web-based timesheets were adapted to add an HPRP line item. Staff members were required to enter their time worked on HPRP each week. The number of timesheet hours matched the time entered in ETO. This was verified by the JF&CS Contracts Manager each month.

The City based its contract with JF&CS and its acceptance of JF&CS' hourly rates upon the City's reading of the Notice in effect, and sought to administer both program and administrative activities in a manner consistent with the statutory and regulatory intent.

2. Newton violated federal regulations, 24 CFR 85.36(C) 1, by arbitrarily increasing payments made to JF&CS by $15,107.

The City's hourly rates paid to JF&CS were within the range of hourly rates provided within lead agency and service provider agency proposals, and therefore not arbitrary.

The pertinent provision of 24 CFR 85.36(c)1 provides:

"All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 85.36. Some of the situations considered to be restrictive of competition include but are not limited to:

a) Placing unreasonable requirements on firms in order for them to qualify to do business,
b) Requiring unnecessary experience and excessive bonding,
c) Noncompetitive pricing practices between firms or between affiliated companies,

d) Noncompetitive awards to consultants that are on retainer contracts,
e) Organizational conflicts of interest,
f) Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and
g) Any arbitrary action in the procurement process."

The City of Newton reviewed all proposals, and selected JF&CS as the lead agency. It awarded an hourly rate of $50/hour for Case Management, and $60/hour for legal services. This was deemed to be reasonable in light of not only JF&CS' proposal (which included rates of $48.48/hour and $53.73/hour, respectively) but of the service provider agencies' proposals as well. Those proposals ranged from $49.57-$50.00/hour for case management and $38.00 (for student attorneys) to $100.00/hour (for legal services.) The City agreed to pay JF&CS and its partner agency rates that it deemed reasonable in light of the totality of the circumstances.

3. The lack of uniform job qualification requirements for case managers resulted in Newton paying $50,964 more in salary and fringe benefits, compared to the median salary paid by other grantees reviewed by the OIG.

The City categorically disagrees with this finding.

The City issued an RFP which clearly identified the role of the lead agency, as well as an exhaustive and detailed list of requirements that it, through its staff, would be required to accomplish in execution of its responsibilities under the grant. The report stated, "The OIG does not question the qualifications or the salaries paid to JF&CS case managers." With the exception of one full-time housing search and placement specialist that was hired on a temporary basis, no new staff members were hired to perform primarily HPRP responsibilities. The majority of staff participating in the project were employees of the participating agencies who had the qualifications to perform the functions of HPRP.

4. Based on "best practices" identified by HUD, grantees should consider establishing guidelines that require sub-grantees to negotiate with property owners for reductions in rental arrearages owed by program clients. Newton did not require sub-grantees to negotiate a reduction in rental arrearages owed by tenants resulting in the program possibly paying $17,931 more than necessary in rental arrearage payments to property owners.

JF&CS did engage in a standard practice of negotiating payment amounts with landlords.

While JF&CS did not have a written landlord negotiation policy, its standard practice was to negotiate when possible with landlords for reduced rates, particularly if there are multiple months of arrears that can be paid in full by HPRP to prevent homelessness of the individual or family. It did successfully negotiate arrearage payments and future payment plans in many situations. In fact, of the clients reviewed by the auditor, six of them included rental arrearage payments and in two cases there was a documented negotiation reducing the amount of the rental arrears owed.

The City understands that if rental arrearages of program participants were negotiated and reduced, it is possible that the program resources could reach more participants. The City also understands that there are other compelling public interests. A major component of the program includes homelessness prevention. Under this activity, it is permissible for a grantee to cure rental arrearages in order to prevent eviction and homelessness. Rental arrearages are contractual obligations that were undertaken by participants, which the participants were unable to honor; curing those contractual breaches fall squarely within the regulatory framework of the program. Because the program regulations (established by the Notice) allowed JF&CS to honor the contract deficiencies, the City disagrees with this finding. After the Notice was issued, HUD proffered periodic guidance which included the option to negotiate the reduction of arrearages, but did not require it.

5. Newton did not comply with HUD guidelines requiring use of a Request for Proposal (RFP) process.

This finding is without factual basis.

The City of Newton issued an RFP and held two open bidders' conferences to explain the HPRP and answer questions from potential applicants. Applicants were invited to participate as either service providers or as the lead agency. Two agencies, JF&CS and Rediscovery, Inc., applied to be the lead agency. The City of Newton, after reviewing the proposals, invited representatives from both lead agency applicants to present themselves. Based on the infrastructure, ability to utilize a data system for participating agencies, skills and experience in the direct client's service area, as well as experience in community collaboration, the City of Newton selected JF&CS to be the lead agency.

JF&CS was then required to present to the City of Newton Human Service Advisory Committee and to the City of Newton Department of Planning and Development Board. The selection of JF&CS as the lead agency was approved by both of these groups. The City of Newton made determinations on the additional applicants who submitted proposals to be service providers in a particular service area.

6. JF&CS disbursed over $11,224 in financial assistance to two potentially ineligible clients.

The two clients to whom this finding refers were, in fact, eligible to participate in HPRP.

The first client to whom this finding refers is a single woman who had been living in a shelter with her two children. The shelter closed, leaving the family to live in a car. The report acknowledged that, "this program is targeted for a family in this type of situation," then questioned the "appropriateness of awarding assistance prior to grant approval."

In the above instance, CAN-DO, the Newton Community Housing Development Organization (CHDO) and local non-profit affordable housing developer agreed to accept this homeless mother and her children into an apartment with the expectation that the family would be eligible for HPRP funding. The financial assistance award was <u>not</u> made prior to grant approval. The client submitted a formal application for program assistance after the grant was approved and a

contract was awarded to JF&CS. The HPRP application was reviewed by the JF&CS staff member responsible for reviewing and approving all HPRP applications. The client fit within the HPRP guidelines and the approval was made in November 2009. Documentation of the date of approval and payments are maintained in the program files.

HUD has published frequently asked questions (FAQ) that address this circumstance directly:

"Grantees/subgrantees can pay up to six months of rental and utility arrears regardless of when they were incurred, provided that the existence of the arrears prevents the eligible participant from obtaining housing, and it is likely that the participant will be able to maintain the housing."

In the first case, due to collaboration among stakeholders, a homeless family was placed in an affordable unit, and the rental arrears were incurred before the program's inception. The program was approved and placed under contract, a program application was made by the family and approved, and the rental arrears were cured to enable the family to remain in the affordable housing unit.

The second client to whom the sixth finding refers received $1,224 in financial assistance to cure rental arrearages. This client suffered from untreated mental illness and was being housed in an SRO (Single Room Occupancy) at the Newton YMCA. The report challenged "the rental arrears was from prior years," and stated that "rental assistance payments cannot be made on behalf of eligible individuals or families for the same period of time and for the same cost types that are being provided through another federal, state or local housing subsidy program." The report questioned the provision of this assistance as "potentially ineligible" rather than making a definitive statement that the client was ineligible.

HUD's frequently asked questions (FAQ) also address this circumstance directly:

"Yes, rental assistance may also be used to pay up to 6 months of rental arrears for eligible program participants facing eviction for non-payment of rent if the payment enables the program participant to remain in the housing unit for which the arrears are being paid. In cases where an eviction cannot be prevented, rental arrears can still be paid if it satisfies the grievance with the evicting landlord and thereby allows the participant to obtain different housing. Note that rental arrears can be paid on behalf of a person receiving a subsidy from another public program (e.g., Section 8) because it represents a different time period and cost type than the rental subsidy (i.e., the arrears represents a back payment of the client portion, and the current rental assistance is a forward payment)."

While there were no formal court proceedings documented in the client record, the YMCA was indeed in process with evicting the individual (primarily because of behavioral concerns.) The basis for the eviction was past rental arrears. Payment of the rental arrears prevented the client from becoming homeless until the point in time in which he was able to find an alternative housing situation.

These two clients represent examples of successful homelessness prevention that was intended by HUD and expressly permitted by the program. Accordingly, the City disagrees with this finding.

I appreciate the Office of the Inspector General's concern over the proper administration of the City's grants and other resources. The report presented an opportunity for us to revisit our program, as well as a learning opportunity to work with our partners in new ways going forward. The City will share its response with the US Department of Housing and Urban Development, and will welcome its insights and recommendations regarding the questions raised by your report, as the regulatory authority for this federal grant.

Sincerely,

Candace Havens, Director of Planning & Development
City of Newton

cc: Setti D. Warren, Mayor, City of Newton
Anne Marie Belrose, Community Development Manager, City of Newton
Lowell Haynes, Community Development Planner, City of Newton
Meredith Joy, Director of Basic Needs, JF&CS
Robert D. Shumeyko, Director of Community Planning & Development, US Dept. of Housing & Urban Development
Scott Cleveland, CPD Representative, US Dept. of Housing & Urban Development
Donnalyn Khan, City Solicitor, City of Newton
Julie Moss, Assistant City Solicitor, City of Newton

Anne Marie

The Commonwealth of Massachusetts

Office of the Inspector General

GREGORY W. SULLIVAN
INSPECTOR GENERAL

JOHN W. McCORMACK
STATE OFFICE BUILDING
ONE ASHBURTON PLACE
ROOM 1311
BOSTON, MA 02108
TEL: (617) 727-9140
FAX: (617) 723-2334

January 10, 2012

Mayor Setti Warren
City of Newton
1000 Commonwealth Ave.
Newton, MA 02459

Dear Mayor Warren:

I am in receipt of the City of Newton's October 24, 2011 response to my office's August 3, 2011 review of the City's use of a $923,339 federal Homeless Prevention and Rapid Re-housing (HPRP) grant. The U.S. Department of Housing and Urban Development (HUD) funded this grant under the American Recovery and Reinvestment Act (ARRA). Thank you for your response, signed by Candace Havens, Director of Planning and Development.

Although the Office of the Inspector General's (OIG) review offered constructive criticism of the City's HPRP program, the OIG recognizes and commends the City's on-going efforts to prevent and eliminate homelessness. The OIG hopes that the City received the findings of the program review in the same spirit that the OIG intended: to assist the City and other grantees in using grant funds as effectively as possible.

As Ms. Haven's October letter points out, the OIG's work did not constitute an investigation or audit of the program. The OIG's aim was to identify risks to fraud and abuse and to review the City's compliance with some of the basic elements of the HPRP grant. In this vein, the OIG offered a number of findings and recommendations. Unfortunately, the OIG must take issue with Ms. Haven's almost universal rejection of every point made by the OIG and the auditing firm of Melanson Heath & Co. (under contract with the OIG to assist in the review) even when Ms. Havens appears to agree with the OIG. Ms. Haven also fails to mention Melanson Heath & Co. in the response letter even though some of the findings stem directly from the financial review it performed.

The OIG appreciates that Ms. Havens and the City may disagree with some of the OIG recommendations. However, the OIG fails to understand Ms. Havens' disagreement with factual information in the OIG letter, including statements made by her own staff to OIG staff during this review.

In support of her rejection of the OIG findings, Ms. Havens states that the HPRP grant has been reviewed by the City's independent auditor under the federal single audit act requirement (the so called A-133 audit) and that this audit found no "material weakness" and "no significant deficiencies." The OIG congratulates the City for this satisfactory audit.

The OIG notes that both the City and its sub-grantee JF&CS (Jewish Family and Children's Services) were informed that our review would exceed the scope of an A-133 audit. For example, the A-133 audit would not have covered HPRP client eligibility. The A-133 audit is also not intended as a comprehensive HPRP risk assessment. As a result, the findings of the OIG and the results of the A-133 audit are not mutually exclusive. The OIG believes that it is highly likely that the A-133 auditor would have drawn the same conclusions as Melanson Heath & Co. did had the A-133 auditor reviewed the same material. Therefore, Ms. Havens' assertions regarding a satisfactory audit could be misleading to an uninformed observer.

Ms. Havens also stated that the City shared the OIG review and the City's response with HUD "as the regulatory authority for this grant" and "continues to confer with" HUD to ensure compliance with applicable regulations. The OIG believes that the City should consult with HUD as the grantor agency. As the City's disagrees with the OIG findings and since HUD is the "regulatory authority" for the grant, the OIG requests, if not already done, that the City seek a formal HUD opinion on the issues raised in the OIG review. The OIG requests that the City share any HUD response it has or will receive.

The following are the OIG's specific responses to the City's October 2011 letter:

1) Use of Blended Rates

Ms. Havens' letter states that: "Newton did not require its sub-grantee JF&CS to use a blended hourly rate, nor were ineligible or duplicate expenses billed." This statement addresses two OIG issues.

First, the OIG thinks that Ms. Havens may be arguing over semantics. Ms. Havens is correct that the City did not use the specific term "blended rate" in its request for proposal (RFP) documents. The term blended rate was used by the OIG and Melanson Heath & Co. In its RFP, the City referred to an hourly rate for services that would be inclusive of labor costs and other expenses. This type of hourly rate that blends labor costs and other expenses is commonly referred to as a blended rate. As a result, the OIG used this common phrase to describe the type of rate that the City required sub-grantees to propose through the RFP process. Unfortunately, this terminology appears to have been unfamiliar to Ms. Havens. The OIG believes that the use of a blended rate violated HUD grant guidelines "Financial Management for HPRP" readily available on HUD's website that specifically require grantees to account for employee "actual time"

rather than percentages." It should also be noted that the City is the only program grantee reviewed by the OIG that used a blended rate with sub-grantees. Melanson Heath & Co. also noted that the "use of a 'blended rate'...is not a common practice."

Second, Melanson Heath & Co. identified duplicate expenses totaling $27,018 charged by JF&CS. JF&CS embedded a number of the same expenses within the various administrative, overhead, and blended hourly "rates" charged by JF&CS. The OIG does not believe, as the City implies, that charging more than once for the same expense is the result of a differing interpretation of what constitutes an administrative expense under the grant.

2) Arbitrarily increasing payment rates

The OIG does not understand the City's dispute of this finding.

The City issued an RFP and in response JF&CS proposed a "blended" hourly rate to provide services to the City under the grant. At the time of contract award, the City increased the rate proposed by JF&CS through a competitive process. When questioned about this, City staff only offered that the City increased the rates "to ensure consistency among the sub-grantees." In other words, various sub-grantees proposed different rates and City staff wanted to have something akin to a uniform rate. So, the City arbitrarily raised the rates for JF&CS which cost more than $15,000 and gave JF&CS $15,000 it never requested. City staff also did not explain why it increased rates rather than lowering rates to create rate uniformity. In the OIG's experience, public entities usually try to negotiate for lower rates with vendors rather than increasing vendor rates, especially when the vendor did not seek an increase.

The OIG stands by its finding that the City took an arbitrary action that violated federal procurement regulations and that undermined a fair and open proposal process.

3) Salaries

The City disagreed with the OIG finding but, did not address the issues raised by the OIG. The OIG found that the City's paid the highest rate in Massachusetts for HPRP case management services; 30% more than the statewide median. The OIG suggested that, pursuant to HUD guidelines, the City develops qualifications for the staff positions it intends to pay for with grant funds and then require sub-grantees to "seek employees" that meet these qualifications or have the necessary skill set at a reasonable cost. Currently, the City appears to accept the cost-basis proposed by sub-grantees. As a result, the City may pay significantly more for services under the grant than other municipalities do.

Although the City may have ample justification for paying more than any other grantee in the state, the OIG wants to ensure that the City is able to express this justification.

With limited grant funding, the more that a grantee pays for administration and overhead costs, the less there is available for the beneficiaries of the provided services.

4) Best practice: negotiation of rent arrearages with landlords

The OIG did not state that the City was doing anything improper. The OIG suggested that as a best practice the negotiation or rent arrearages since this had been successful elsewhere in the state. The OIG suggested that the City "establish guidelines that require sub-grantees to negotiate with property owners" for reductions in rent arrearages owed by program clients to their respective landlords. The OIG also stated that the City did not require such negotiation.

Ms. Havens responded that negotiation was a "standard practice" yet disagreed with the OIG recommendation because HUD regulations do not require negotiation and because arrearages are "contractual obligations" that are allowed to be paid for under program guidelines. The OIG is at a loss to understand why Ms. Haven disagreed with an OIG recommendation to do something that Ms. Havens said the City was already doing.

The OIG does not dispute that arrearages are contractual obligations or that HUD does not require (although HUD suggests) negotiating reductions in rent arrearages. The OIG only stated that negotiating arrearage amounts is a best practice that could achieve significant savings. The OIG is recommending that the City codify through a written policy what it claims is an already existing standard (but not required) practice.

5) Compliance with HUD RFP guidelines.

Ms. Havens stated that the OIG finding that the City failed to follow HUD guidelines for an RFP is "without factual basis."

Again, Ms. Havens appears to have misunderstood the OIG finding. Contrary to Ms. Havens' response, the OIG did not question whether the City used an RFP process despite the City's own staff telling the OIG (as reported in the OIG's August 2011 report) that the City used an "RFP" process in name only.

The OIG finding refers to eight distinct RFP related elements found in 24 CFR 85 and required by HUD that the City's RFP and procurement process did not have. Ms. Havens' response failed to address these eight specific items or provide any support for its statement that the OIG finding is "without factual basis."

6) Two possible ineligible clients.

Melanson Heath & Co. identified two cases where the City may have violated grant guidelines in awarding benefits. The City responded that these clients were eligible. Again, Ms. Havens appears to have missed the point being made.

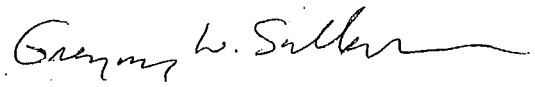
In the case of the individual facing eviction from the YMCA, the City and Melanson Heath & Co. (Melanson) appear to agree on the interpretation of HUD guidelines. However, Melanson pointed out that the case files lacked evidence of eviction proceedings and that current rent was being subsidized by other public programs. The point here is that the client could be considered ineligible by HUD if the client did not meet the "but for" provision of the grant. In other words, but for HPRP the client would face homelessness. Based on the information contained in the case files the client did not meet this test. If additional information existed to support client eligibility, then it should have been included in the case files.

In the case of the homeless family, eligibility was questioned because of the timing of the grant award. No one is disputing this family's need for housing and the OIG is thankful that this family's homelessness has been addressed. Melanson raised the point that the family was placed in housing *before* the City received the grant award. Apparently, the property owner agreed to wait for rental payments (thereby creating an arrearage) and the client family agreed not to apply for grant benefits until after the City received the grant. Once the client application was approved, the property owner received a six month rent arrearage payment.

Although apparently well-intended, entering into contractual obligations before grant funds are received and paying rent arrearages created through these obligations creates vulnerability for fraud and abuse. "Gaming the system" even with the best of intentions is still an abuse. Moreover, the City should ensure that it does not become financially responsible for a sub-grantee's "gaming the system." In this case, had the grant not been awarded, the City may have been financially responsibility for any incurred expenses.

Again, thank you for response and for your continuing commitment to use grant funds responsibly and efficiently to mitigate homelessness and to improve the lives of the citizens of Newton. Please do not hesitate to contact me if my office could be of further assistance to you with this or with any other matter.

Sincerely,



Gregory W. Sullivan
Inspector General

cc: Scott Lennon, President, Board of Alderman, City of Newton
John Dvorak, Regional Inspector General for Audit, HUD
Melanson Heath & Co.
Candace Havens, Director of Planning & Development, City of Newton