



U.S. Department of Housing and Urban Development

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New England

DEC 10 2014

Mr. Matthew Nemerson
Economic Development Administrator
City of New Haven
165 Church Street
New Haven, CT 06510

Dear Mr. Nemerson:

We monitored the City's Community Development Block Grant (CDBG) Program on April 22, April 24-25, and May 1, 2014. Community Planning and Development Representative John Post conducted the monitoring and met with Elizabeth Smith, Project Coordinator; Karyn Gilvarg, Executive Director, City Plan Department; Ronald Gizzi, Financial Manager; Erik Johnson, Executive Director, Livable City Initiative; Frank D'Amore, Deputy Director of Property Services and Property Division Specialists, Livable City Initiative; and Catherine Carbonaro-Schroeter, Deputy Director, Livable City Initiative. We thank you for the cooperation and hospitality extended to Mr. Post by these staff members and recognize Mr. D'Amore for the tour of the City and his very helpful explanation of various projects and community development efforts.

Mr. Post monitored the City's Program Year 2012 (July 1, 2012 – June 30, 2013) CDBG Program focusing on administrative management, property disposition activities, code enforcement, interim assistance activities, maintenance and management activities, and a limited review of rehabilitation projects and compliance with lead-based paint regulations. A special emphasis was placed on the extent to which the City of New Haven complied with CDBG National Objective and eligible activity category requirements.

As a result of the monitoring, we identified four Findings. A Finding is our determination that the City may have failed to comply with a regulatory or statutory requirement of the program. The enclosed report provides specific details about the areas reviewed, our Findings, and the required corrective actions. The response to the corrective actions is due within 30 days of the date of this letter.

We call your attention to the nature of the four Findings in that all relate to the eligibility of CDBG-funded activities and projects. One Finding is for noncompliance with recordkeeping standards that requires a written determination of the eligibility of CDBG-funded projects and

activities. Three Findings were determined because five activities that we examined do not meet the requirements at 24 CFR 570.201, *Basic eligible activities*.

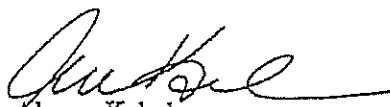
Subsequent to the monitoring, we received a letter dated May 19, 2014 in which the City of New Haven provided information in support of changes it implemented or plans to implement to address the conditions that resulted in our determination of the four Findings. We reviewed the information and considered it in the development of the corrective actions. We note that in the letter, the City acknowledges that the Emergency Repair and Property Management – Private programs do not meet regulatory requirements. Further, the letter provides that New Haven will restore its local CDBG account for ineligible charges to the CDBG program for these activities. Once this is accomplished, the Finding related to the ineligibility of Emergency Repair and Property Management – Private programs will be closed.

The corrective action for two other Findings also calls for the restoration of the City's local CDBG account for all charges to the CDBG Program for these ineligible activities. Alternatively, if the City believes the activities are in fact eligible, it may submit documentation to this office in support of its position. Should New Haven chose this course of action and we concur that the activities in question are indeed eligible under the CDBG regulations, we would examine the charges to the CDBG program to ascertain if they were allowable and allocable as required by *OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments*. If the charges are not allowable and allocable, the Department may mandate that the City restore its local CDBG account with non-federal funds in the amount of the charges.

The fourth Finding did not involve the determination of ineligibility of a specific activity; therefore, the corrective action does not require restoration of the City's local CDBG account. For this Finding, New Haven must develop a procedure to ensure that CDBG funds are not provided to an applicant unless a written determination of eligibility has been developed and includes supporting documentation.

We thank the City of New Haven for its cooperation during monitoring and for the patience staff displayed as we developed the monitoring letter and report. Please feel free to contact me or Community Planning and Development Representative Kevin O'Neill at (860) 240-4835 if you have questions regarding the monitoring visit, the Findings, or the required corrective actions.

Sincerely,



Alanna Kabel

Director
Community Planning and Development

Enc.

cc: Elizabeth Smith

Monitoring Report
CDBG Program
City of New Haven
April 22, April 24-25, and May 1, 2014

Scope of Review

The monitoring included a review of specific aspects of the City of New Haven's Program Year 2012 (PY2012) CDBG program including administrative management, property disposition activities, code enforcement, interim assistance activities, maintenance and management activities, and a limited review of rehabilitation projects and compliance with lead-based paint regulations. A special emphasis was placed on the extent to which the City of New Haven complied with CDBG National Objective and eligible activity category requirements.

The City's Office of Management and Budget (Budget Office) is responsible for general administration and oversight of the CDBG Program. The Budget Office developed and conducts the processes for creating and implementing the Annual Action Plan (Action Plan), for production of the Consolidated Annual Performance and Evaluation Report, and for general oversight and monitoring of awarded agencies and departments. The document *Guide for Review of Eligibility and Compliance with Regulations* describes a comprehensive and detailed system for managing the CDBG program. Of note is the process of developing the Action Plan which includes:

- An extensive application for funds focused on compliance with CDBG and other regulations and the applicant's performance and viability.
- A required technical assistance/orientation session for applicants.
- Participation by a number of City departments in a review of applications to ensure completeness, compliance with Federal regulations, inclusion of outcomes that are related to Consolidated Plan goals and priorities, and local regulatory and budgetary requirements. The group also develops "initial budgeting of CDBG projects on behalf of the administration prior to the Board of Alders review."
- Provision of a binder to the Board of Alders that includes application and budget materials and other information necessary to make informed decisions on City priorities and the distribution of CDBG funds.

With the exception noted below, the City's process for developing an Action Plan and awarding CDBG funds is in compliance with program requirements.

Determination of Eligibility

The requirement that activities or projects proposed for funding meet a National Objective of the CDBG Program and be included in the list of eligible activities is found at

24 CFR 570.200, *General policies*. National Objectives are defined at 24 CFR 570.208, *Criteria for national objectives*, and eligible activities are found at 24 CFR 570.201 through 24 CFR 570.206. An entitlement community must document its determination that every funded project or activity meets a National Objective and is eligible. The regulations at 24 CFR 570.506, *Records to be maintained*, state, "Each recipient shall establish and maintain sufficient records to enable the Secretary to determine whether the recipient has met the requirements of this part." The citation defines what records must be maintained and in many instances, specifies the required documentation.

While it is evident from our interviews of staff and the review of Action Plan development materials that New Haven scrutinized proposed activities and projects detailed in applications for funding for compliance with CDBG regulations, it did not develop a formal, written determination of eligibility. The City of New Haven has not met the requirements of 24 CFR 570.506, *Records to be maintained*. This is a Finding.

Program Review

It has been New Haven's practice to award CDBG funds to a number of City departments and such was the case in PY2012. The City's Elderly Services, Health, and Livable City Initiative (LCI) departments received funds totaling \$1,989,149, or 57% of the \$3,507,455 PY2012 CDBG allocation to LCI for the following activities:

- Acquisition - \$219,472
- Demolition - \$145,000
- Disposition - \$383,000
- Property Management - Public - \$250,000
- Property Management - Private - \$25,000
- Emergency Repair - \$20,000
- Anti-Blight Public Improvements - \$25,000
- Residential Rehab Anti-Blight - \$299,177
- Relocation - \$185,000
- Housing Code Enforcement - \$437,500

Given the large allocation to LCI, we determined that it would be appropriate to focus monitoring efforts on specific LCI activities. To narrow the scope, we reviewed activity descriptions and accomplishment narratives in the Integrated Disbursement and Information System (IDIS). This information raised concerns regarding eligibility; therefore, in accordance with our charge to assess compliance with CDBG National Objective and eligible activity category requirements, we chose for review activities using the CDBG matrix codes for disposition, code enforcement, and interim assistance. We used Exhibit 3-1, Guide for Review of Eligibility for this review. We also performed a limited review of a rehabilitation project and compliance with lead-based paint regulations.

Disposition

Information in IDIS shows that in PY2012, the City of New Haven allocated CDBG funds for two activities citing disposition as the CDBG eligible activity. The activities are:

- IDIS activity 2557, LCI - Disposition
- IDIS activity 2558, Property Management - Public

Activity 2557 is described in IDIS as “disposition of properties acquired for community development and urban renewal activities. Property is disposed of for rehabilitation of substandard housing units and new housing. Sliver lots are also disposed of to adjacent homeowners for off street parking and or green space in an effort to reduce blight in low income areas.” The application for funding submitted by LCI provides, “Corporation Counsel has provided legal counseling/representation on behalf of the City for property closings. This insures that the best interest of the City is being taken care of and it also reduces the cost of the disposition transaction by not hiring outside legal counsel.” The request for \$422,487 includes \$381,929 for the full salary and benefits of five staff in the Corporation Counsel’s Office. The sum of \$383,000 in CDBG funds was awarded for this activity with a City Budget Report showing \$376,698 allocated to salaries and benefits.

Narrative in IDIS states that activity 2558 is for “maintenance and upkeep of CD owned properties, removal of debris on abandoned vacant lots, rodent and pest control, boarding up and securing of vacant buildings which have been acquired by the city as part of the City’s Consolidated Plan.” The LCI application for funding indicates “the Property Management Program provides assistance in the maintenance and upkeep of abandoned buildings and lots. Buildings are secured, debris is removed and overgrowth is cut down on these blighted properties. This program provides maintenance service for privately and public owned properties that also include the equipment and warehouse used to complete the requirements of this function.” A total of \$245,399 was allocated to this activity of which \$205,034 was for the salary and benefits of two property maintainers and one neighborhood specialist.

The regulations at 24 CFR 570.201, *Basic eligible activities*, (b), *Disposition*, permit the use of CDBG funds for “disposition, through sale, lease, donation, or otherwise, of any real property acquired with CDBG funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in § 570.504.” The accomplishment narrative in IDIS for activity 2557 lists the properties that were disposed of but did not indicate if the properties had been acquired or retained with CDBG funds for public purposes or acquired under urban renewal. The accomplishment narrative for activity 2558 provides a general description of the work completed on 126 properties (addresses not provided) but as with activity 2557, there is no indication that the properties were purchased or retained in the manner required by the regulations. Further, neither LCI nor Budget Office staff was able to provide this documentation.

We have determined that IDIS activity 2557, LCI - Disposition, and IDIS activity 2558, Property Management - Public do not meet regulatory requirements at 24 CFR 570.201, *Basic eligible activities*, (b), *Disposition*. This is a Finding.

Code Enforcement

The City of New Haven allocated \$437,500 in PY2012 to its Housing Code Enforcement Program. Of this amount, \$398,256 was for the salary and benefits of three neighborhood inspectors and two neighborhood specialists. A City Budget Report shows that \$234,832 was transferred to the PY2012 Code Enforcement Program for "other contractual services."

The information in IDIS for activity 2572, LCI - Housing Code Enforcement states that the program will "provide inspection, investigations and surveys of housing units for code violations and the condemnation of those dwellings found unfit for human occupancy." The accomplishment narrative in IDIS provides "during the program year, LCI responded to 1,007 housing code complaints throughout the City. Of the 1,007 complaints, 760 received responses in the following areas: Newhallville 190, Fair Haven 260, Hill 310." A review of Housing Code Enforcement files confirms that the program is largely complaint driven with the application for funds detailing the services area as "a city wide activity, however, the following EZ are included: Fair Haven, Newhallville, Dixwell, Hill South, Hill North."

The regulations at 24 CFR 570. 202, *Basic eligible activities* (c), *Code enforcement*, permit the grantee to use CDBG funds for costs related to code inspection and enforcement "in deteriorating or deteriorated areas when such enforcement together with public or private improvements, rehabilitation, or services to be provided may be expected to arrest the decline of the area." A CDBG-funded code enforcement program must be supported by:

1. A description of the Code Enforcement Program,
2. A map of the designated code enforcement area(s),
3. Records showing that the program meets a national objective of the CDBG program,
4. Records designating the area(s) as deteriorated or deteriorating,
5. The criteria used by the City to define deteriorated or deteriorating,
6. A list of public and private investments in the area(s) that are expected to arrest the deterioration, and
7. A target date by which the City anticipates that public and private improvements are expected to arrest the decline of the area(s). Without a specific target date, the code enforcement activity is not eligible for CDBG funding because it is a regular function of government and as such, is prohibited by the regulations at 24 CFR 570.207, *Ineligible activities*, (a)(2), *General government expenses*.

As noted, New Haven has not developed a written determination of eligibility for funded projects and activities. Further, Code Enforcement Program files do not contain information necessary to conclude that the program meets eligibility criteria. For example, in the files we reviewed, it was clear that the program is designed to react to complaints rather than operating on a proactive, coordinated basis to ameliorate identified conditions of deterioration in targeted areas.

We have determined that IDIS activity 2572, LCI - Housing Code Enforcement does not meet the requirements at 24 CFR 570.201, *Basic eligible activities*, (c), *Code enforcement*. This is a Finding.

Interim Assistance

New Haven developed two activities in PY2012 that are categorized as providing interim assistance. Information in IDIS shows that activity 2562, Emergency Repair was developed "to correct any unsafe housing conditions which constitute an imminent and substantial danger to the welfare and safety of the occupants. Conditions include: lack of water, heat, electricity or gas services caused by faulty mechanical systems or property owners who are unable to carry out necessary code repairs." The description for activity 2563, Property Management - Private states "Privately owned abandoned residential and commercial properties are boarded up and/or cleaned, rodent and pest control is provided and if necessary, properties are fenced when a blighted condition exists."

The regulations at 24 CFR 570.201, *Basic eligible activities*, (f), *Interim assistance*, were promulgated to allow work to address "physical deterioration where the recipient has determined that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as soon as practicable." The activities permitted include "the improvement of private properties" however, the work is restricted to that necessary "to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the recipient determines that such an emergency condition exists and requires immediate resolution" and is "limited to the extent necessary to alleviate emergency conditions."

During our review, City staff indicated that the Mayor of New Haven had not declared an emergency condition that threatened the public health and safety. Moreover, an examination of project files revealed the completion of work under activity 2563, Property Management - Private, even on a spot basis was not related to a threat to public health and safety. For these reasons we have determined that IDIS activity 2562, Emergency Repair and activity 2563, Property Management - Private do not meet the requirements at 24 CFR 570.201, *Basic eligible activities*, (f), *Interim assistance*. This is a Finding.

The supplemental information we received from New Haven dated May 19, 2014, addressed our determination of ineligibility of the two interim assistance activities. Mr. Nemerson wrote "the City has reviewed the two interim assistance activities, property management and emergency repair and has determined that, while both activities are eligible and meet a national objective, they do not qualify as alleviating an emergency condition as determined by the City's Chief Executive Officer and/or an official determination that substantial and immediate action was needed to arrest deterioration. To rectify the concerns raised during the exit interview, the City has chosen to move the expense to a non-federal source and reimburse the CDBG letter of credit. No additional disbursement of funds will occur for these activities."

Housing Rehabilitation

The City of New Haven offers a number of CDBG-funded programs for rehabilitating private residential properties. For PY2012, the City funded the following housing rehabilitation activities in IDIS:

- Anti-blight Residential Rehab - \$348,168
- Neighborhood Housing Services - \$40,000
- Health - Environmental Rehab - \$125,231
- Beulah Land Development Corporation - \$40,000
- Marrakech, Inc. - \$19,350

Due to time limitations, we narrowed our focus to a single activity and chose the Anti-blight Residential Rehab program given that it had the largest budget.

The information entered into IDIS by the City indicates that activity 2576, LCI - Anti-blight Residential Rehab will "identify and provide loans or grants to owner occupants of properties with a vested interest in neighborhoods that require minor rehabilitation assistance, correct code enforcement and weatherization to improve utility costs by making certain improvements as allowed by the funding source. The program will complement the Neighborhood Stabilization Program. The target areas as with NSP are Fair Haven, Newhallville, Hill, West River and Dixwell."

The application for funding requested \$446,213 of which \$194,354 was for a portion of the salary and benefits of three LCI project managers with \$249,859 for rehabilitation grants or loans. The Board of Alders approved an award of \$299,177 that according to a City Budget Report dated April 23, 2014, included \$252,745 for salaries and benefits. The Budget Report also shows a transfer/adjustment of \$341,889 in "other contractual services" which, per City staff, was a transfer of the balance from the previous year. A total of \$76,038 in the other contractual services line was spent on the rehabilitation of two properties (312 Winthrop Avenue, 838 Whalley Avenue) and \$4,830 was for lead testing on other properties.

Although we were concentrating on compliance with program eligibility requirements, we performed a cursory review of the project file for 312 Winthrop Avenue, the project responsible for the largest CDBG expenditure for rehabilitation. New Haven awarded \$70,000 in CDBG funds to Continuum of Care, Inc. to rehabilitate three units and complete other work at Winthrop Avenue. The work included the installation of new windows, vinyl siding, fencing, steps, a canopy, a deck, gutters and downspouts, and landscaping work. In addition, unspecified work to make the units lead-safe was performed. The charges on invoices submitted to the City by Continuum of Care, Inc. appeared to be reasonable and executed LCI payment authorizations would imply that the work was completed to code and other requirements.

An April 15, 2014 memorandum from the New Haven Department of Health states that the exterior of the building complies with HUD lead abatement standards. Occupancy requirements were met as evidenced by a March 21, 2013 City monitoring report indicating that tenants were

low- and moderate-income. The file contained a schedule of tenant rents and all conformed to the Department's Fair Market Rents; the definition of affordable rents adopted by the City.

The accomplishment narrative in IDIS for activity 2576 states, "The following properties are in the process of being rehabbed: Putnam Street Revitalization: 197 Putnam (2 units), 181 Putnam (2 units), 138 Putnam (2 units). A total of 6 gut rehab projects currently underway. Rehab has been completed at following properties: Continuum of Care: Winthrop Ave (6 rental units). Exterior repairs for elderly residents have been completed. LCI NSP Program: Gut rehab was completed to 4 single unit homes at 97 Porter St, 166 Saltonstall, 5 Stevens and 35 Stevens. Of the 4 units, 3 are owner occupied and 1 is renter occupied. Arlow Project: 838 Whalley Ave - Code improvements to 9 renter occupied units."

The description of accomplishments is somewhat confusing because it included work completed using HOME funds and NSP funds in addition to the rehabilitation work at the Winthrop Avenue and Whalley Avenue properties supported with CDBG funds. New Haven staff said HOME and NSP-funded work was included because the three project managers partially funded by the CDBG Program work on all rehabilitation activities regardless of the funding source.

We did not develop any Findings during our review of the City of New Haven's Anti-blight Residential Rehab Program.

Eligibility of Expenditures Charged to the CDBG Program

In the preceding section, we described the CDBG-funded programs the City of New Haven categorized as disposition, code enforcement, interim assistance, and housing rehabilitation under the CDBG regulations. We highlighted the specific use of CDBG funds for these programs. As noted, because of our examination of project files and interviews with staff, we determined that the following activities did not meet the requirements at 24 CFR 570.201, *Basic eligible activities*.

- IDIS activity 2557, LCI - Disposition
- IDIS activity 2558, Property Management - Public
- IDIS activity 2572, LCI - Housing Code Enforcement
- IDIS activity 2562, Emergency Repair
- IDIS activity 2563, Property Management - Private

We based this determination on a comparison of the nature of the completed work to CDBG eligibility requirements in the regulations and not the specific charges to the CDBG Program for each activity.

The Department's monitoring protocol provides an opportunity for New Haven to present supplemental information to show that these activities did in fact meet CDBG eligibility criteria. The City may be required to restore its local CDBG account if it cannot provide conclusive documentation that the activities are eligible in accordance with 24 CFR 570.201, *Basic eligible activities*. However, if the Department concurs that the activities are indeed eligible for CDBG

funding; our office would examine the charges to the CDBG program to ascertain if they were allowable and allocable as required by *OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments*. If the charges are not allowable and allocable, the Department may mandate that the City restore its local CDBG account with non-federal funds in the amount of the charges.

Finding 1: General Management - Determination of Eligibility

Condition:

An entitlement community must determine if an activity or project proposed for CDBG funding meets a National Objective of the CDBG Program and is included in the delineation of eligible activities. A written and documented determination of eligibility is required for each activity and project awarded CDBG funds. While it was evident from our interviews of City of New Haven staff and the review of Action Plan development materials that activities and projects proposed for PY2012 funding were scrutinized for compliance with CDBG regulations, it was equally clear that the City did not develop a formal, written determination of eligibility.

Criteria:

The requirement that activities or projects proposed for funding meet a National Objective of the CDBG Program and be included in the list of eligible activities is found at 24 CFR 570.200, *General policies*. National Objectives are defined at 24 CFR 570.208, *Criteria for national objectives*, and eligible activities are found at 24 CFR 570.201 through 24 CFR 570.206. The regulations at 24 CFR 570.506, *Records to be maintained*, state, "Each recipient shall establish and maintain sufficient records to enable the Secretary to determine whether the recipient has met the requirements of this part." The citation defines what records must be maintained and in many instances, specifies the required documentation. The City of New Haven has not met the requirements of 24 CFR 570.506, *Records to be maintained*.

Cause:

We believe the cause was a lack of knowledge regarding the requirement for developing a formal determination of eligibility for proposed projects and activities.

Effect:

The absence of a written determination of eligibility indicates that the City of New Haven did not fully vet proposed activities and projects resulting in the award of CDBG funds to three ineligible programs.

Corrective Action:

The City of New Haven must take the following action within 30 days of the date of this letter. Develop a procedure, not a policy, that will prevent the City from awarding CDBG funds for a proposed activity or project until a written determination of eligibility and compliance with

CDBG National Objective and eligible activity requirements has been prepared. Submit the draft procedure to this office for review.

Review of Information in the City's Letter of May 19, 2014

The letter included documents entitled *City of New Haven CDBG Project Eligibility Checklist* (Checklist) and *Application Completeness Review and Financial Audit Review* (Review). The Checklist appears to be from the City's application for funds and describes all CDBG eligible activities in 24 CFR 570.201-204 and ineligible activities at 24 CFR 570.207. There is a checkbox next to each activity, that when checked apparently means that the applicant believes the proposed activity meets the criteria in the activity description. There is no supporting documentation, signature or date lines.

The Application Completeness section of the Review document appears to include all items required of applicants (e.g., copy of by-laws, budget) as well as lines in which to enter the amount requested, the consolidated plan objective, national objective, eligibility citation, etc. The Financial Audit Review section asks if the budget matches the grant request and if IRS 990 or comparable documents and the audit and financial statements meet requirements. Both sections of the Review document have lines for entering the date completed and by whom. There is no indication from the Review form that documentation to support the consolidated plan objective, national objective, and eligibility citation is attached or is required.

The use of the Checklist and Review documents does not constitute "a procedure, not a policy, that will prevent the City from awarding CDBG funds for a proposed activity or project until a written determination of eligibility and compliance with CDBG National Objective and eligible activity requirements has been prepared" as required by the corrective action. New Haven may wish to consult the regulations at 24 CFR 570.506, *Records to be maintained*, or resources such as Basically CDBG or Guide to National Objectives and Eligible Activities for Entitlement Communities for guidance on the documentation of eligibility for CDBG funding of proposed projects and activities.

The Finding remains open.

Finding 2: Eligibility – Livable City Initiative Disposition Program and Livable City Initiative Property Management Program - Public

Condition:

The Integrated Disbursement and Information System (IDIS) describes activity 2557, LCI - Disposition as "disposition of properties acquired for community development and urban renewal activities. Property is disposed of for rehabilitation of substandard housing units and new housing. Sliver lots are also disposed of to adjacent homeowners for off street parking and or green space in an effort to reduce blight in low income areas." Narrative in IDIS states that activity 2558, Property Management - Public is for "maintenance and upkeep of CD owned properties, removal of debris on abandoned vacant lots, rodent and pest control, boarding up

and securing of vacant buildings which have been acquired by the City as part of the City's Consolidated Plan." The Livable City Initiative (LCI) application for funding indicates, "The Property Management Program provides assistance in the maintenance and upkeep of abandoned buildings and lots. Buildings are secured, debris is removed and overgrowth is cut down on these blighted properties. This program provides maintenance service for privately and public owned properties that also include the equipment and warehouse used to complete the requirements of this function."

As a result of our review of related files and discussions with City staff, we have determined that these activities do not meet the requirements at 24 CFR 570.201, *Basic eligible activities*, (b), *Disposition*.

Criteria:

The regulations at 24 CFR 570.201, *Basic eligible activities*, (b), *Disposition*, permit the use of CDBG funds for "disposition, through sale, lease, donation, or otherwise, of any real property acquired with CDBG funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in §570.504." The accomplishment narrative in IDIS for activity 2557 lists the properties that were disposed of but did not indicate if the properties had been acquired or retained with CDBG funds for public purposes or acquired under urban renewal. The accomplishment narrative for activity 2558 provides a general description of the work completed on 126 properties (addresses not provided) but as with activity 2557, there is no indication that the properties were purchased or retained in the manner required by the regulations. Further, neither LCI nor Budget Office staff was able to provide this documentation.

Cause:

We believe the cause was a lack of program knowledge on the part of New Haven staff.

Effect:

The effect is that the City of New Haven cannot demonstrate that the use of CDBG funds for the Livable City Initiative Disposition Program and the Livable City Initiative Property Management Program - Public meet the criteria at 24 CFR 570.201, *Basic eligible activities*, (b), *Disposition*. As such, they have been determined ineligible for CDBG funding.

Corrective Action:

The City of New Haven must take the following action within 30 days of the date of this letter. Restore the City's local CDBG account with non-federal funds for charges to the CDBG Program for expenditures in IDIS activity 2557, LCI - Disposition and IDIS activity 2558, Property Management - Public. Provide an Excel spreadsheet that includes every charge to the CDBG Program for each activity and City financial records documenting the restoration of its local CDBG account.

Alternatively, if the properties assisted by the activities were acquired by New Haven through tax foreclosure, the City may wish to consider the feasibility of using the In Rem activity eligibility category in place of the Disposition activity category. HUD Notice: CPD-07-08, *Use of Community Development Block Grant (CDBG) Program Funds in Support of Housing*, states, "Although the In Rem provision has not been incorporated into the CDBG regulations, it is available to grantees for use. Specifically, this provision authorizes the use of CDBG for essential repairs and payment of operating expenses needed to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such homes in primarily low- and moderate-income neighborhoods."

Review of Information in the City's Letter of May 19, 2014

In its letter, the City states, "The City is verifying its records with regard to the properties under this program. Record research will verify that the properties receiving anti-blight treatment were acquired with CDBG funds, Urban Renewal funds or as an In Rem property through tax foreclosure and anti-blight ordinance violation foreclosure." The letter also references a review of procedures to ensure adequate documentation of the acquisition and end-use of properties in the program.

We have not received any documentation regarding the acquisition of assisted properties with CDBG or Urban Renewal funds or through tax foreclosure.

The Finding remains open.

Finding 3: Eligibility – Livable City Initiative Code Enforcement Program

Condition:

In IDIS, the City states that activity 2572, LCI - Housing Code Enforcement, will "provide inspection, investigations and surveys of housing units for code violations and the condemnation of those dwellings found unfit for human occupancy." The accomplishment narrative in IDIS provides, "During the program year, LCI responded to 1,007 housing code complaints throughout the City. Of the 1,007 complaints, 760 received responses in the following areas: Newhallville 190, Fair Haven 260, Hill 310." A review of Housing Code Enforcement files confirms that the program is largely complaint driven rather than a proactive, coordinated activity to ameliorate identified conditions of deterioration in targeted areas. Moreover, available records were devoid of other required program elements (e.g., identification of public and private improvements expected to arrest deterioration in targeted areas).

Criteria:

The regulations at 24 CFR 570.202, *Basic eligible activities (c), Code enforcement*, permit the grantee to use CDBG funds for costs related to code inspection and enforcement "in deteriorating

or deteriorated areas when such enforcement together with public or private improvements, rehabilitation, or services to be provided may be expected to arrest the decline of the area.” The documentation necessary to support a determination of eligibility must include the following:

1. A description of the Code Enforcement Program,
2. A map of the designated code enforcement area(s),
3. Records showing that the program meets a national objective of the CDBG program,
4. Records designating the area(s) as deteriorated or deteriorating,
5. The criteria used by the City to define deteriorated or deteriorating,
6. A list of public and private investments in the area(s) that are expected to arrest the deterioration, and
7. A target date by which the City anticipates that public and private improvements are expected to arrest the decline of the area(s). Without a specific target date, the code enforcement activity is not eligible for CDBG funding because it is a regular function of government and as such, is prohibited by the regulations at 24 CFR 570.207, *Ineligible activities, (a)(2), General government expenses.*

As noted, New Haven has not developed a written determination of eligibility for funded projects, nor do Code Enforcement Program files contain information necessary to conclude that the program meets eligibility criteria detailed in 1-7.

In consideration of these factors, we have determined that activity 2572, LCI - Housing Code Enforcement, does not meet the requirements at 24 CFR 570.201, *Basic eligible activities, (c), Code enforcement.*

Cause:

We believe the cause was a lack of program knowledge on the part of New Haven staff.

Effect:

The effect is that the City of New Haven cannot demonstrate that the use of CDBG funds for the Livable City Initiative Housing Code Enforcement Program meets the criteria at 24 CFR 570.201, *Basic eligible activities, (c), Code enforcement*, and has been determined ineligible for CDBG funding.

Corrective Action:

The City of New Haven must take the following action within 30 days of the date of this letter. Restore the City's local CDBG account with non-federal funds for charges to the CDBG Program for expenditures in IDIS activity 2572, LCI - Housing Code Enforcement. Provide an Excel spreadsheet that includes every charge to the CDBG Program for the activity and City financial records documenting the restoration of its local CDBG account. We note that the City has disagreed with our determination in a letter dated May 19, 2014. Our response is discussed below.

Review of Information in the City's Letter of May 19, 2014

The section of the letter on New Haven's Code Enforcement Program includes acceptable support for the designation of the CDBG funded Code Enforcement target area. However, we suggest that the City draft a more concise narrative that will satisfy the seven points listed above. Still, our monitoring found a complaint driven code enforcement program, not the proactive and coordinated effort required. It appears that the use of CDBG funds to support Code Enforcement activities is a common enough concern, nationally, to prompt a CPD Notice to be issued in October 2014. The issuance of this Notice was timely for the resolution of this Finding. We have excerpted the most salient paragraph below.

Grantees may trigger concerns about the eligibility of code enforcement if it appears that the CDBG program is being used for general government expenses or if the use of CDBG funding appears excessive in relation to the community's overall enforcement program. As fiscal stress has put pressure on local budgets, HUD has seen examples of significant increases in CDBG code enforcement budgets, while overall spending on enforcement remains the same. *Grantees should use CDBG for code enforcement as appropriate to advance the goals of the CDBG program in areas designated for such activity*; HUD is not discouraging the use of CDBG in these cases. However, § 570.207(a)(2) prohibits grantees from using CDBG funds for general government expenses. Code enforcement is an eligible cost that may be paid from local and CDBG funding sources, and grantees have been tempted to shift existing code enforcement efforts to CDBG to relieve pressure on general fund budgets. HUD will look into cases where this appears to be happening to ensure that CDBG code enforcement activities adhere to the targeting and supporting services required for CDBG eligibility. (*emphasis added*)

The City must document that the CDBG funded code enforcement activities are integral to a coordinated effort to arrest deterioration in the targeted areas. It is not acceptable to simply charge the CDBG program for the code enforcement staff costs associated with responding to code complaints in a selected target area.

At this juncture, it seems prudent to offer the City an opportunity to provide additional documentation supporting the eligibility of the code enforcement expenditures. In collecting this support, we encourage the City to review the regulations cited above, the documents on code enforcement emailed to City staff on April 23, 2014, and Notice CPD-14-016, *Use of CDBG Funds for Code Enforcement Activities*, which the Department has just issued. This Notice is available at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips

The Finding remains open.

Finding 4: Eligibility – Livable City Initiative Emergency Repair Program and Livable City Initiative Property Management - Private

Condition:

New Haven developed two activities in PY2012 that are categorized as providing interim assistance. Information in IDIS shows that activity 2562, Emergency Repair was developed “to correct any unsafe housing conditions which constitute an imminent and substantial danger to the welfare and safety of the occupants. Conditions include: lack of water, heat, electricity or gas services caused by faulty mechanical systems or property owners who are unable to carry out necessary code repairs.” The description for activity 2563, Property Management - Private states “privately owned abandoned residential and commercial properties are boarded up and/or cleaned, rodent and pest control is provided and if necessary, properties are fenced when a blighted condition exists.”

Criteria:

The regulations at 24 CFR 570.201, *Basic eligible activities*, (f), *Interim assistance*, were promulgated to allow work to address “physical deterioration where the recipient has determined that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as soon as practicable.” The activities permitted include “the improvement of private properties” however, the work is restricted to that necessary “to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the recipient determines that such an emergency condition exists and requires immediate resolution” and is “limited to the extent necessary to alleviate emergency conditions.”

During our review, City staff indicated that the Mayor of New Haven had not declared an emergency condition that threatened the public health and safety. Moreover, an examination of project files revealed the completion of work under Activity 2563, Property Management - Private that even on a spot basis, was not related to a threat to public health and safety. For these reasons we have determined that IDIS activity 2562, Emergency Repair and activity 2563, Property Management - Private do not meet the requirements at 24 CFR 570.201, *Basic eligible activities*, (f), *Interim assistance*.

Cause:

We believe the cause was a lack of program knowledge on the part of New Haven staff.

Effect:

The effect is that the City of New Haven cannot demonstrate that the use of CDBG funds for the Livable City Initiative Emergency Repair Program and Property Management – Private Program meet the criteria at 24 CFR 570.201, *Basic eligible activities*, (f), *Interim assistance*, and have been determined ineligible for CDBG funding.

Corrective Action:

The City of New Haven must take the following action within 30 days of the date of this letter. Restore the City's local CDBG account with non-federal funds for charges to the CDBG Program for expenditures in IDIS activities 2562, Emergency Repair and 2563, Property Management - Private. Provide an Excel spreadsheet that includes every charge to the CDBG Program for these activities and City financial records documenting the restoration of its local CDBG account.

Review of Information in the City's Letter of May 19, 2014

The letter addresses the ineligibility of these activities and states, "They do not qualify as alleviating an emergency condition as determined by the City's Chief Executive Officer and/or an official determination that substantial and immediate action was needed to arrest deterioration. To rectify the concerns raised during the exit interview, the City has chosen to move the expense to a non-federal source and reimburse the CDBG letter of credit."

We have not received documentation that this has been accomplished.

The Finding remains open.