


**Collier County  
Clerk of the Circuit Court  
Internal Audit Department**

## **Management Advisory 2008 – 3**

**To:** Dwight E. Brock, Clerk of Courts   
**From:** Anthony C. Fernandez, Internal Audit Manager  
**Through:** Crystal Kinzel, Finance Director  
**CC:** Marla Ramsey, Public Services Division Director  
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Audit File  
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### **Affordable Housing Payment Process**

#### **BACKGROUND**

The Collier County Housing and Human Services Department oversees all affordable housing grant and assistance programs for Collier County. Collier County receives funding from several affordable housing programs, including 1) the Home Investment Partnership (HOME) program; 2) the Community Development Block Grant (CDBG) program; 3) the Disaster Recovery Initiative (DRI) program; and 4) the State Housing Initiatives Partnership (SHIP) program. The U.S. Department of Housing and Urban Development (HUD) administers the HOME, CDBG, and DRI programs. The Florida Housing Finance Corporation (FHFC) administers the SHIP program. These programs are described as follows:

- The HOME program provides funding to state and local governments to provide housing to low/moderate income households. The HOME program covers expenses related to down payment assistance, operating expenses, and public educational/training classes.
- The CDBG program assists low/moderate income households through projects that provide decent housing; a suitable living environment; and expands economic opportunities. Eligible expenditures under the CDBG program include, but are not limited to, the acquisition of property; rehabilitation of affordable housing; operating expenses; and public services (training).

- The DRI program uses CDBG funds to assist communities in the recovery from Presidentially declared natural disasters. The availability of funds is limited to the time period of the natural disaster. Grantees are required to use 50% of the funds to assist low/moderate income households. The grantee may only use funds for long term needs such as rehabilitation of residential and commercial buildings; home ownership assistance (including down payment and interest subsidies); building new replacement housing; and making relocation payments to displaced people and businesses. Grantees are also allowed to use funds for emergency response services (including debris removal and increased public services to disaster victims).
- The State Housing Initiatives Partnership (SHIP) program provides funds to counties and municipalities as an incentive to create local housing partnerships; preserve and expand production of affordable housing; and increase housing related employment opportunities. SHIP funds may be used for expenses related to home ownership; the construction, rehabilitation, or emergency repair of affordable housing; and home ownership training to prospective home buyers and owners.

Title I of the National Affordable Housing Act requires states and local governments applying for funding under certain U.S. Department of Housing and Urban Development (HUD) programs to have a Consolidated Plan and a yearly Action Plan approved by HUD. This documentation is required in order for Collier County to maintain annual funding from HUD for programs such as CDBG and HOME. In addition, the yearly Action Plan serves as the application for and acceptance of HUD funding.

Florida Statute 420.907 requires each county or eligible municipality participating in the SHIP program to develop and implement a Local Housing Assistance Plan (LHAP). The LHAP details the local housing assistance strategies that will determine how the SHIP allocation will be used during the coming year. In order for Collier County to receive its share of SHIP funding, the LHAP must be approved by resolution by the Board of County Commissioners and a copy be submitted to the Florida Housing Finance Corporation (FHFC) for review and approval.

The Collier County Housing and Human Services Department has fostered partnerships with several community organizations involved with affordable housing projects/events throughout Collier County. These community organizations submit invoices for expenses associated with these projects/events to Housing and Human Services for payment. Housing and Human Services forwards these pay requests, along with supporting documentation, to the Clerk of Courts. The Clerk has constitutional and statutory responsibilities to ensure that each payment is valid, legal, and meets a public purpose.

In general, affordable housing programs have an inherently high amount of risk. Areas of concern range from how grant agreements are structured to non-compliance of pay requests with program requirements. The 2006 Single Audit identified 14 audit findings related to Collier County's administration of affordable housing programs. Comments made by the external auditor included:

- Controls associated with the HOME program, including the CHDO certification process, were not working effectively.
- The County was not aware that SHIP loans used as "match" must be permanently contributed to the HOME program and as such, did not have a control mechanism in place to determine proper treatment of "match" loan repayments.
- Grant expenditures must be reasonable and supported by adequate documentation ... the County clearly describe the intended use of HOME funds in its contractual agreements. The County should not approve and fund HOME expenditures that are not detailed in the contract "scope of work".

The Accounts Payable Department of the Clerk's Finance and Accounting Division reviews each pay request for compliance with grant agreement terms prior to making payment. Given the high level of risk involved with affordable housing programs, the Clerk's Internal Audit Department periodically reviews these pay requests as a supplement to the Accounts Payable Department's review process.

## **RESULTS OF ANALYSIS**

The Internal Audit Department reviewed and identified issues associated with a number of pay requests submitted by the Collier County Housing Development Corporation through the Housing and Human Services Department. In all, Internal Audit isolated ten pay requests over the period of August through December 2007 for which it appeared legal payment was not possible based on the supporting documentation or lack thereof. Internal Audit provided the results of its analysis to Accounts Payable who made the decision to deny payment in each instance. These pay requests were related to the HOME, CDBG, and SHIP programs. *Table 1: Summary of Affordable Housing Pay Requests Denied for Payment* outlines which pay requests were held up, the rationale supporting denial of payment and the outcome of each item based on dialogue with the Housing and Human Services Department.

**Table 1: Summary of Affordable Housing Pay Requests Denied for Payment**

Item	Grant/ Pay Request	Pay Request Amount/ Purpose	Reason Pay Request Denied	Status
1)	2006-2007 HOME Community Housing Development Organization (CHDO) Operating  Pay Request #1  September 8, 2007	<b>\$9,644.07</b>  Salary Expenses Related to Director	<ul style="list-style-type: none"> <li>▪ The pay request includes retroactive pay for the non-profit Director to February 2007, which is prior to execution of the Grant Agreement on July 24, 2007. As such, any retroactive pay prior to execution of the Agreement would not be legal.</li> <li>▪ Pay request does not evidence the completion of milestones.</li> </ul>	Housing and Human Services re-submitted a pay request in the amount of \$6,832.69 on September 19, 2007, however Clerk's Finance denied payment again as indicated below (Item #2).
2)	2006-2007 HOME CHDO Operating  Pay Request #1  September 19, 2007	<b>\$6,832.69</b>  Salary Expenses Related to Director	<ul style="list-style-type: none"> <li>▪ Payment request does not include supporting documentation to substantiate milestone activities, such as workshops and trainings which have specific payment thresholds associated with each activity.</li> </ul>	Housing and Human Services re-submitted two pay requests each in the amount of \$1,666.66 on December 10, 2007 however Clerk's Finance denied payment again as indicated below (Items #9 and #10).
3)	2004-2005 CDBG  Pay Request #3  September 24, 2007	<b>\$550</b>  Lawn Maintenance for Copeland Property	<ul style="list-style-type: none"> <li>▪ The executed Agreement dated June 1, 2006, in Time of Performance, specifies that all activities have to be conducted by June 1, 2007 yet the pay request calls for payment related to lawn maintenance from June 15, 2007 through August 3, 2007.</li> </ul>	Housing and Human Services has not submitted a revised pay request to date.
4)	2005-2006 HOME CHDO Operating  Pay Request #10  September 26, 2007	<b>\$623.50</b>  Purpose is Unclear	<ul style="list-style-type: none"> <li>▪ Payment request does not specify the purpose of the expenditures for water, snacks, books and software.</li> <li>▪ There is no evidence that credit card payment was actually made for the books.</li> <li>▪ The software amount claimed is a portion of the total software charge which raises the question of why the split and where the remaining expenses are being allocated.</li> </ul>	On October 8, 2007 Housing and Human Services canceled this pay request in the amount of \$623.50 and submitted a new pay request (Item #5) for separate expenditures.
5)	2005-2006 HOME CHDO Operating  Pay Request #10  October 8, 2007	<b>\$1,356.81</b>  Travel Expenses for Training Attended in Orlando, Boca Raton, and Phoenix by the Director	<ul style="list-style-type: none"> <li>▪ Reimbursement request includes rental car through 5/13 despite training ending on 5/11.</li> <li>▪ It is unclear how meal reimbursement for 4/3-4/4 trip ties to General Services Administration (GSA) Per Diem rates.</li> <li>▪ Lack of back-up documentation (e.g., certificate of completion) to support Pre-Development Process training on 4/10-4/12.</li> </ul>	On October 26, 2007 Housing and Human Services reduced the pay request to \$1,297.26 and provided back-up documentation. Clerk's Finance subsequently approved this payment.
6)	2006 – 2007 HOME CHDO Set-Aside  Pay Request #1  December 7, 2007	<b>\$5,600.00</b>  Earnest Money & Appraisals for Land Acquisition	<ul style="list-style-type: none"> <li>▪ Supporting documentation doesn't indicate intended use or reason for purchase of land and therefore public purpose of transaction is unsubstantiated.</li> <li>▪ Closing on sale is not scheduled until February 2008 so at this point County would be providing reimbursement prior to the recipient holding title to the land. In addition, per Federal regulations CHDO set-aside funds must be allocated to a developer, owner or sponsor of affordable housing. It is unclear how one of those roles could be satisfied prior to closing on land.</li> </ul>	Clerk's Finance denied pay request on December 21, 2007. Housing and Human Services responded on January 4, 2008 explaining that the Agreement specifies the intended use of the land. Clerk's Finance requested a copy of the Agreement for review. In any event, payment is not possible until after closing on the land in February 2008 at which point CHDO set-aside requirements might be met.

**Table 1: Summary of Affordable Housing Pay Requests Denied for Payment (continued)**

Item	Grant/ Pay Request	Pay Request Amount/ Purpose	Reason Pay Request Denied	Status
7)	2007-2008 SHIP  Pay Request #1  December 10, 2007	<b>\$1,500.00</b>  Homebuyers Workshops	<ul style="list-style-type: none"> <li>▪ Project Scope and Payment Schedule sections of the SHIP Agreement require a survey be completed by each class participant                             <ul style="list-style-type: none"> <li>○ 22 “graduates” from class only 15 surveys</li> </ul> </li> </ul>	Clerk’s Finance denied pay request on December 21, 2007. Housing and Human Services responded on January 3, 2008 explaining that it is difficult to achieve a one to one relationship between surveys and participants. Clerk’s Finance is still unable to make payment given the compliance issue with the terms of the Payment Schedule.
8)	2007-2008 SHIP  Pay Request #2  December 10, 2007	<b>\$3,000.00</b>  Homebuyers Workshops	<ul style="list-style-type: none"> <li>▪ Project Scope and Payment Schedule sections of the SHIP Agreement require a survey be completed by each class participant                             <ul style="list-style-type: none"> <li>○ Number of participants far exceeded number of completed surveys</li> </ul> </li> <li>▪ Discrepancy between amounts requested in Pay Request #1 (\$1,500) and Pay Request #2 (\$3,000) despite each relating to completion of one class/two workshops                             <ul style="list-style-type: none"> <li>○ Agreement is unclear whether payment is for \$1,500 per class or per workshop</li> </ul> </li> </ul>	Clerk’s Finance denied pay request on December 21, 2007. Housing and Human Services responded on January 3, 2008 explaining that it is difficult to achieve a one to one relationship between surveys and participants and that payment is based on \$1,500 per workshop. Clerk’s Finance is still unable to make payment given that a survey was not completed by each class participant as specified in the SHIP Agreement.
9)	2006 – 2007 HOME  CHDO Operating  Pay Request #2  December 10, 2007	<b>\$1,666.66</b>  Statewide Affordable Housing Conference  Orlando, FL	<ul style="list-style-type: none"> <li>▪ Pay request does not include receipts and expense reports for actual costs based upon budget items (i.e. travel/lodging, meals, mileage, taxi/airfare).</li> <li>▪ Grant Agreement stipulates that “project expenses shall be paid based on vouchers for actual expenses incurred or paid.”</li> </ul>	Clerk’s Finance denied pay request on December 21, 2007. Housing and Human Services responded on January 4, 2008 explaining that payment should be based on attending trainings not on actual expenses. Clerk’s Finance is still unable to make payment given that the Agreement calls for reimbursement based on actual expenses.
10)	2006 – 2007 HOME  CHDO Operating  Pay Request #3  December 10, 2007	<b>\$1,666.66</b>  Community Foundation’s CNE Workshop  “Writing Your Case Statement”  Naples, FL	<ul style="list-style-type: none"> <li>▪ Pay request does not include receipts and expense reports for actual costs based upon budget items (i.e. travel/lodging, meals, mileage, taxi/airfare).</li> <li>▪ Grant Agreement stipulates that “project expenses shall be paid based on vouchers for actual expenses incurred or paid.”</li> </ul>	Clerk’s Finance denied pay request on December 21, 2007. Housing and Human Services responded on January 4, 2008 explaining that payment should be based on attending trainings not on actual expenses. Clerk’s Finance is still unable to make payment given that the Agreement calls for reimbursement based on actual expenses.
<b>GRAND TOTAL</b>		<b>\$32,440.39</b>		

The Clerk's Office has also worked with the Housing and Human Services Department on a number of occasions in an attempt to rectify issues associated with grant agreements that if left unresolved would slow down invoice processing and in some cases preclude Finance from making payment. Issues identified are as follows:

**Agenda Item 16D18, September 25, 2007, SHIP Funds to CCHDC, \$35,000**

The Clerk's Office pointed out a number of issues to Housing and Human Services including the following:

- The grant agreement was originally written in the amount of \$45,000; however, the LHAP caps the annual award to a non-profit for homebuyer education at \$35,000. Consequently, Housing and Human Services changed the grant amount to \$35,000.
- The original grant agreement included milestone deadlines that were prior to the execution of the agreement. Housing and Human Services removed these milestones from the agreement.
- The milestones and payment schedule were not clear or consistent regarding which activities would trigger payment and the amount of each payment. As a result, Housing and Human Services clarified these items in the payment schedule and resolved the same issues in a grant agreement with Empowerment Alliance for \$22,200 also originally on the September 25, 2007 Board agenda. These agenda items were continued to the October 9, 2007 Board meeting due to concerns raised by the Clerk's Office.

**Multiple Agenda Items, November 13, 2007, Disaster Recovery Initiative, SHIP, HOME and CDBG Funds to Numerous Non-Profits, Approximately \$4 Million in Total**

The Clerk's Office questioned contract language on a number of agreements on the November 13, 2007 agenda relating to Disaster Recovery Initiative, SHIP, HOME and CDBG awards to multiple non-profit organizations. In some cases the agreements included boilerplate language not applicable to the agreement, such as related to Program Income. In addition, the budget section of many of these agreements was either void of line item detail or contained items of a questionable nature.

For example, several of the agreements incorporate a flat 10% of the grant amount as administrative costs with no budget breakdown to support that percentage. Per *Office of Management and Budget Circular A-122, Cost Principles for Non-Profit Organizations*, all costs are either direct or indirect in nature. Indirect costs relate to activities that benefit multiple objectives and are allocated on an equitable basis while direct costs relate to activities conducted under a specific grant. Indirect costs need to be supported by an indirect cost allocation plan submitted to and approved by the appropriate Federal agency (e.g., HUD). Direct costs, such as salaries of personnel working specifically to achieve grant-related outcomes, need to be supported by documentation to justify the allocation. To that end, the HUD publication titled *A Handbook for CDBG Subrecipients on Administrative Systems* in reference to costs charged against the program and the need for comprehensive accounting records, notes that "the source documentation must explain the basis of the costs incurred" and as illustration points out that "if an

employee's time is split between CDBG and another funding source, there must be time distribution records supporting the allocation of charges among the sources."

The grant agreements in question include language to suggest that budgeted administrative costs are considered direct expenses. Our interpretation is that automatic allocation of 10% of the grant amount for administrative expenses is inconsistent with Federal requirements which dictate that there is a basis for costs incurred, thereby ensuring that each grant bears a fair share of costs. Housing and Human Services choose not to amend the agreements despite this feedback. Moving forward, barring new information that clarifies these issues, legal payment from the Clerk's Office will be predicated on receiving source documentation from Housing and Human Services that supports the allocation of administrative expenses, such as time and attendance records, time distribution records, and bills (e.g., utility-related) supported by an allocation methodology.

#### **Agenda Item 10X, November 27, 2007, HOME Funds to Collier County Housing Development Corporation, \$350,000**

The Clerk's Office informed the County that the original agreement had lapsed as of May 30, 2007; consequently, Housing and Human Services placed this item on the agenda in order to extend the timeline of the Agreement. This contract had expired approximately six months prior to the amendment without milestones being completed, such as construction and occupation of affordable units by qualified buyers. The expiration of a contract without milestone completion is problematic as it indicates that either the County failed to take action to recover grant funds given non-satisfaction of milestones or the County failed to properly extend the agreement to allow for completion of project activities and reimbursement of project expenses. It also points to a control deficiency with respect to grant monitoring that may be indicative of broader issues.

#### **CONCLUSION**

The Clerk's Internal Audit Department identified a number of continuing issues related to affordable housing pay requests and grant agreements. For example, pay request amounts were based on a pre-set allocation of the grant award instead of actual costs incurred for an activity/event. In addition, our read is that pay requests lacked proper supporting documentation as required by the respective grant agreements. Also, it appears grant agreements: 1) were inconsistent with Federal regulations; 2) included a flat percentage for administrative expenses rather than an amount based on budgeted activities; and 3) were allowed to expire without appropriate action being taken. These issues have significant implications as the Clerk's ability to make legal payment is predicated on the County's full compliance with Federal grant requirements and the County making available necessary supporting materials as validation of work conducted and pricing.

While this analysis focused on the propriety of pay requests and contract payment terms and did not involve an evaluation of internal controls, it is apparent given the significant number of audit issues identified in the 2006 Single Audit coupled with the various concerns described above that the County's affordable housing program continues to represent a high risk area.