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June 20, 2013

TO: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

FROM: Wendy L. Watanabe
Auditor-Controller

SUBJECT: **COMMUNITY DEVELOPMENT COMMISSION – FISCAL REVIEW**

We have completed a review of the Los Angeles County Community Development Commission's (CDC or Commission) fiscal operations. Our review was intended to evaluate CDC's internal controls and compliance with fiscal policies in key areas such as contracting, procurement, and payroll/personnel, and covered Fiscal Years 2008-09 through 2010-11.

Summary of Findings

The Commission operated within its overall budget, and properly approved vendor payments. However, we noted several areas where the Commission can strengthen its controls:

- CDC staff did not always follow the Commission's contracting procedures. For example, evaluators did not always sign conflict of interest statements, and evaluator comments did not always adequately support the assigned scores. CDC should consider centralizing contract solicitations, which are currently handled by various divisions, to ensure consistency.

  CDC's attached response indicates that they are working on centralizing some of their contracting functions, although complete centralization may not be practical. CDC also indicated they will provide additional procurement training to staff.

- CDC needs to ensure staff who evaluate contract proposals sign conflict of interest statements. For two (33%) of the six solicitations reviewed, evaluators did not sign conflict of interest statements before evaluating the proposals, as required by CDC's procedures.

  CDC's attached response indicates that they are revising their procedures to clarify that all evaluators, including procurement coordinators, must sign conflict of interest forms.

- CDC needs to ensure staff adequately document contract solicitation outreach efforts. For the six solicitations reviewed, CDC staff did not document when the solicitation notices were mailed to vendors, and we could not determine if the notices were timely or, in many cases, who they were sent to.

  CDC's attached response indicates that it has not been CDC's procedure to mail notices since May 2007, when they started posting solicitations on the CDC and County websites. However, posting a contracting opportunity is not sufficient outreach, since potential bidders would only be aware of the solicitation if they check the website. CDC's system currently sends email notifications to contractors who register on CDC's website for the commodity that is being solicited. However, automated email notifications were not yet in place for the contracts we reviewed, and CDC's Board letters indicated they notified potential bidders for these contracts by mail. CDC management needs to ensure that the Commission performs adequate outreach for all solicitations, including those for which CDC does not have an established vendor list, and ensure the outreach efforts are documented.

- CDC needs to ensure that proposal scores are adequately supported. We noted numerous instances where comments did not support the assigned scores, and instances where staff evaluated proposals that did not appear to meet the minimum requirements, without written justification.

  CDC's attached response indicates they are revising the evaluation package to include instructions to evaluators that every rating must be justified with comments. In addition, CDC is revising the pass/fail checklist to require a written explanation for any unmet requirement.

- CDC management needs to ensure staff score proposals accurately. References for two (40%) of the five evaluations reviewed were not scored in accordance with CDC's procedures.

  CDC's response indicates they have revised their procedures and evaluation documents to provide detailed instructions on how to score references.

- CDC should ensure that all overtime is approved. We noted three (30%) of the ten employees reviewed claimed overtime without documentation that it was approved. In addition, for three of the ten employees, supervisors did not approve non-emergency overtime before it was worked.

  CDC's attached response indicates that the official approval of hours worked, including overtime, takes place in time cards. However, time card approval does not document that overtime was approved before it was worked. CDC needs to ensure that supervisors approve non-emergency overtime in advance, and verify that emergency overtime was necessary.

- The Commission should ensure that payroll payoffs are properly documented. CDC performed annual payoffs, but did not obtain signatures for all employees.

  CDC's attached response indicates they will provide training to emphasize the need to follow up until signatures are obtained for all active employees.

Details of these and other findings and recommendations are included in the attached report (Attachment I).

Review of Report

We discussed our report with CDC management. The Commission's attached response (Attachment II) indicates general agreement with our findings and recommendations.

We thank CDC management and staff for their cooperation and assistance during our review. Please call me if you have any questions, or your staff may contact Robert Smythe at (213) 253-0101.

WLW:JLS:RS:TK

Attachments

c: William T Fujioka, Chief Executive Officer
Sean Rogan, Executive Director, Community Development Commission
Department Heads
Audit Committee
Public Information Office

COMMUNITY DEVELOPMENT COMMISSION
FISCAL REVIEW

Background

The Board of Supervisors (Board) created the Los Angeles County Community Development Commission (CDC or Commission) in 1982. CDC is a consolidation of the Housing Authority, the former Redevelopment Agency, and portions of the Community Development Commission, with a common Executive Director. The Board serves as the governing Board of Commissioners for the CDC and the Housing Authority.

The Commission has approximately 600 employees in 11 locations. CDC's mission is to generate and use resources to provide housing and community development services to improve the quality of life and environment for individuals, families, and communities. CDC is funded primarily by grants from the U.S. Department of Housing and Urban Development (HUD).

At the Board's direction, the Commission has established its own accounting, budgeting, and personnel systems, and related policies and procedures. The Commission developed these policies with Board approval in order to comply with the operating, administrative, and fiscal requirements of its funding sources. We performed the audit under authority granted to the Auditor-Controller by the County Board and California Government Code Section 26883.

Scope

We reviewed the Commission's compliance with its policies and procedures for contracting, procurement, and payroll/personnel. Our review included examining CDC's records and interviewing CDC management and staff. Our review covered Fiscal Years (FYs) 2008-09 through 2010-11.

COMMENTS AND RECOMMENDATIONS

Contract Solicitation and Evaluation

The CDC's contracting process is governed by its Procurement Policies and Procedures Manual (Procurement Manual). CDC contracts for services such as construction, consulting, and landscaping. Under CDC's policies, contracts over $25,000 are solicited using a Request for Proposals (RFP), Request for Statement of Qualifications (RFSQ), or Invitation for Bids (IFB). For RFPs and RFSQs, an evaluation committee reviews and scores the proposals. For IFBs, the contract is awarded to the lowest cost responsive and responsible proposal that meets the minimum requirements, without the use of an evaluation committee.

We reviewed six CDC contracts, totaling $5.5 million, including five RFP/RFSQ solicitations and one IFB. We noted the Commission can improve its contracting process in the following areas:

Contracting Oversight

CDC's contracting process is largely decentralized. Each division has procurement coordinators who manage the contract solicitations. CDC also has a Central Services Unit (Central Services), which updates CDC's Procurement Manual, and provides training and guidance to the procurement coordinators. However, Central Services does not oversee the divisions' contracting process, or monitor to ensure the divisions conduct solicitations in accordance with CDC's procedures.

Based on our review, it appears that procurement coordinators outside of Central Services do not always have extensive knowledge and experience in contracting. CDC should consider centralizing contract solicitation management and oversight in Central Services. In addition, CDC should ensure procurement coordinators are trained on, and aware of, CDC's contracting policies and procedures.

Recommendations

CDC management:

1. **Consider centralizing contract solicitation management and oversight in Central Services.**

2. **Ensure procurement coordinators are trained on, and aware of, CDC's contracting policies and procedures.**

Conflict of Interest Statements

CDC's procedures require all participants in the proposal evaluation process to sign conflict of interest statements before reviewing proposals. The evaluators must certify that no conflict exists, or disclose any circumstances that may influence their evaluation of the proposals.

Procurement coordinators did not sign conflict of interest statements for four (67%) of the six solicitations reviewed. Because procurement coordinators conduct critical aspects of the solicitations, such as developing the solicitation package, contacting potential bidders, determining if proposals meet the minimum requirements, and scoring proposals for references and cost, CDC should document that the coordinators do not have any conflicts.

We also noted that proposal evaluators did not sign conflict of interest statements as required for two (33%) of the six solicitations reviewed. In one case, the evaluators did

not sign conflict of interest statements until after the proposals were evaluated; and in the other case, the evaluators did not sign statements at all.

Recommendation

3. **CDC management ensure all procurement coordinators and evaluators sign conflict of interest statements before working on solicitations or evaluating proposals.**

Outreach Efforts

CDC's procedures require publicizing contracting opportunities to ensure fair and adequate competition. For example, notices of upcoming contracting opportunities must be mailed to potential vendors at least one week before the solicitation packages are released. In addition, the solicitation packages must be available on CDC's website the same day they are released.

For all six solicitations reviewed, CDC staff did not adequately document when, or to whom, the solicitation notices were mailed. As a result, we could not verify if appropriate vendors were notified, or if the notifications were timely. For example, for one solicitation, the file contained no information on potential vendors to whom CDC planned to send notices. For another solicitation, CDC staff indicated they mailed notices to selected vendors on a list, but did not adequately document the criteria used for selecting the vendors. This is especially significant because CDC received only one proposal for this solicitation. CDC staff should document outreach efforts to ensure appropriate vendors are notified timely of upcoming contracting opportunities.

CDC's attached response indicates that it has not been CDC's policy to mail solicitation notices since May 2007, when they started posting solicitations on the CDC and County websites. However, potential vendors still need to be notified that a contracting opportunity is available on the website. CDC's system currently sends email notifications to contractors who register on CDC's website for the commodity that is being solicited. However, automated email notifications were not yet in place for the contracts we reviewed. CDC's Board letters indicated they notified potential bidders for these contracts by mail. CDC management needs to ensure that the Commission performs adequate outreach for all solicitations, including those for which CDC does not have an established vendor list, and ensure the outreach efforts are documented.

Recommendation

4. **CDC management document outreach efforts to ensure that appropriate vendors are notified timely of upcoming contracting opportunities.**

Section 3 Housing Contracting Procedures

Section 3 of the federal Housing and Urban Development Act of 1968 is intended to provide contracting and employment opportunities to low-income residents and businesses. CDC's procedures require that solicitations for Section 3 contracts include advising potential proposers that they must commit to achieving Section 3 employment/contracting goals to be considered a responsive bidder. Two (40%) of the five Section 3 contracts reviewed did not include the required statement.

Recommendation

5. **CDC management ensure Section 3 solicitation packages include the notice to potential proposers that they must commit to achieving Section 3 employment/contracting goals to be considered a responsive bidder.**

RFP/RFSQ Evaluations

Five (83%) of the six solicitations reviewed were solicited through an RFP or RFSQ, which requires that all proposals that meet the minimum solicitation requirements be formally evaluated. The evaluation is done by an evaluation committee consisting of the solicitation's procurement coordinator and a group of individual evaluators. The procurement coordinator determines whether the proposals meet the minimum requirements, and evaluates them for references, cost, and Section 3 compliance if applicable. The evaluation committee evaluates the remaining sections of the proposal, such as proposer qualifications and work plan. All evaluators must provide written comments on an evaluation scoring sheet to justify their scores. We noted the following areas where the Commission can improve its RFP/RFSQ evaluation process.

Pass/Fail Checklist

Procurement coordinators use a pass/fail checklist to determine if proposals meet the minimum requirements, and are eligible to continue to the next step of the evaluation process. For three (60%) of the five RFP/RFSQ solicitations reviewed, we noted instances where it appeared the proposals did not meet all minimum requirements (i.e., some items on the pass/fail checklist were marked "no" or left blank). However, the procurement coordinator allowed the proposals to continue to the next stage of the evaluation, without documenting a justification for doing so. In at least two cases, it appears that proposals that did not meet minimum solicitation requirements were later selected as the winning bids.

Recommendation

6. **CDC management require procurement coordinators to provide written justification for continuing to evaluate proposals that do not meet minimum solicitation requirements.**

Evaluator Comments

CDC's Procurement Manual requires evaluators to provide written comments to justify each evaluation component score. However, for all five solicitations reviewed, we noted instances where written comments did not adequately support the assigned scores.

- **Comments not sufficient -** In some evaluation documents, the comments were not sufficient to support the assigned score. For example, for one solicitation, the only evaluator comments for many sections were "meets requirements" even though some of the evaluation criteria were subjective (e.g., evaluating the proposer's description of a prior project's special or unique building technologies).

- **No written comments from procurement coordinators -** Procurement coordinators assigned up to 75% of the total score for some evaluations, but did not always provide comments to support their scores.

- **Comments do not appear to match assigned score** – Some evaluators' comments did not appear to match the assigned score. For example, in one case, an evaluator's comments for the Background and Experience section indicated the proposer did not have experience in a related area. However, the evaluator gave the proposer a score of "exceeds" in that section. In another proposal, the comments indicate the proposer "met" requirements, but the evaluator assigned a score of "exceeds."

- **No comments explaining changed scores -** On two evaluations, the evaluators initialed a change to their scores, but did not provide any comments indicating the reason for the changes.

CDC's Procurement Manual also requires that evaluations be based only on information in the proposal, and not personal knowledge or experience with the proposer. However, we noted one instance where an evaluator's comments referred to the evaluator's previous observations of the proposer's work.

CDC management should ensure evaluators include adequate written comments to support scores assigned to each section of the evaluation document, and that scores are based on information requested in the solicitation, not personal knowledge or experience with the proposers. CDC management should also consider providing additional training or instructions to evaluators and procurement coordinators.

Recommendations

CDC management:

7. **Ensure evaluators include written comments that adequately support the assigned score for each section of the evaluation document.**

8. **Ensure evaluations are based on information requested in the solicitation, not personal knowledge or experience with the proposer.**

Evaluation Scoring

CDC's Procurement Manual requires procurement coordinators to score bidders' references based on the number of favorable responses received. In addition, CDC's Procurement Manual states that, for Section 3-related RFP or RFSQ solicitations, at least 15% of the total evaluation points must be assigned to the proposer's responsiveness to Section 3 requirements. We noted instances where evaluation scoring did not comply with CDC's procedures.

- **References not scored in compliance with CDC's Procurement Manual -** For two (40%) of the five solicitations reviewed, it appears the procurement coordinator assigned scores based on the number of references provided, and not the number of favorable responses, as required. As a result, 27 of the 28 proposals received for the two solicitations were scored incorrectly. The incorrect scoring did not affect the final outcome of either solicitation.

- **Section 3 not appropriately weighted -** For one solicitation where Section 3 applied, the Commission weighted the Section 3 content at 5% of the total points, instead of 15% as required. However, because CDC did not keep the evaluation documents for the losing bid, we could not determine if this error impacted the outcome of the solicitation process.

Recommendations

CDC management:

9. **Ensure references are evaluated and scored in accordance with CDC's procedures.**

10. **Ensure Section 3 requirements are weighted and scored in accordance with CDC's procedures.**

Evaluation Documents

Procurement coordinators and evaluation committee members score proposals using scoring sheets, which include measurement standards and guides for determining the number of points to assign to each evaluation section. The scoring sheets include space for evaluators to provide written justification for their scores, and to sign certifying their final score is accurate. We noted the following:

- **Evaluation documents were not retained.** For one solicitation, CDC did not keep the evaluation documents for one of the two proposals received. As a result, we were unable to assess CDC's compliance with evaluation procedures.

- **CDC used the same evaluation document to score different types of projects.** One of the solicitations we reviewed was used to develop a list of qualified architects for four types of construction projects, including libraries, multi-family residential developments, and community gardens. Proposers could apply for one or more project types. However, although the proposers had varying levels of experience in each project type, CDC used one evaluation document to assign each proposer a single score. As a result, the scores did not reflect the proposers' relative qualifications for each type of project.

- **Evaluator signatures were not adequately documented.** For one solicitation, it appears scores were entered after the evaluators signed the document. In four other solicitations, there were no scores on the signature page, and we could not determine if the evaluators agreed with the scores. In one of those instances, some information (e.g., page numbers and/or name of contractor) did not match the rest of the evaluation document, indicating the pages may have been substituted from another document.

Recommendations

CDC management:

11. **Ensure solicitation and evaluation documents are retained for a minimum of five years.**

12. **Develop a methodology for evaluating and scoring proposals for multi-project solicitations, to ensure each project type is scored separately.**

13. **Ensure evaluation signature pages list the final/overall score, and clearly indicate that the evaluators agree with the scores.**

IFB Solicitations

One of the six solicitations reviewed used an IFB, in which procurement coordinators evaluate the bids to determine the lowest cost responsive and responsible bid that meets the minimum requirements. We noted the following issues with CDC's IFB process:

- **The evaluation document did not clearly indicate how the winning bid was determined**. For the IFB reviewed, the contract was awarded to the second lowest cost bidder, and the evaluation document did not indicate why the lowest cost bid was rejected. Although there was other documentation in CDC's file to indicate the reasons, this should be recorded on the evaluation document.

- **CDC did not have procedures for checking IFB references.** Two of the five references checked by CDC were from other CDC staff, who were familiar with the bidder's prior work, but were not on the bidder's list of references. While

CDC's procedures do not specify how reference checks should be conducted, checking internal references instead of the references provided by the bidder could present the appearance of a conflict. If CDC plans to check internal references, they should disclose this in the solicitation documents, and should use those references in addition to, rather than in place of, external references. CDC should also develop standardized procedures for evaluating references for IFB solicitations.

Recommendations

CDC management:

14. **Ensure evaluation documents clearly indicate how CDC determined the lowest cost responsive and responsible bidder.**

15. **Develop standardized procedures for evaluating references for IFB solicitations.**

Vendor Selection from List of Qualified Firms

As noted previously, CDC used an RFSQ to develop a "shortlist" of qualified architects for construction projects. We reviewed one contract for $1.2 million that CDC awarded to a vendor selected from the list, and noted the following:

- **CDC did not document their method for selecting a shortlist vendor.** CDC awarded a contract to a firm that did not receive the highest score on the RFSQ evaluation. CDC staff indicated they reviewed each firm's qualifications and selected the firm they considered most qualified for the specific project. However, CDC did not document this review. Therefore, we were unable to verify the criteria CDC used to identify the most qualified vendor on the list, or determine if the selection was appropriate.

- **The RFSQ did not clearly indicate how vendors would be selected.** The RFSQ stated that proposals would be ranked in numerical sequence from high to low, but also stated that CDC could select a firm that did not receive the highest score, if CDC determined that it would be in the Commission's best interest. However, the RFSQ did not disclose how CDC would determine this. Contracting decisions should be based on objective and verifiable criteria, which are clearly communicated to prospective contractors.

- **CDC did not have written procedures for selecting proposers from a list of qualified vendors.** Establishing written procedures would help ensure that vendors are selected in a fair and equitable manner.

CDC should develop written procedures for selecting vendors from lists of qualified vendors, disclose the selection process in the RFSQ, and document the selection process.

Recommendations

CDC management:

16. **Develop written procedures for selecting a contractor from a "shortlist" of qualified proposers.**

17. **Disclose the entire evaluation process in the RFSQ, including CDC's methodology for selecting a firm from a shortlist.**

18. **Document the process for selecting a contractor from a shortlist of qualified vendors.**

Procurement

The Commission's Procurement Manual governs purchases of goods/services. For purchases over $25,000, CDC goes through a formal solicitation process, such as an RFP or RFSQ. For purchases under $25,000, CDC staff may solicit informal price quotes. CDC follows similar requisition and payment processes for both procurement methods.

The Commission's purchasing functions are decentralized among its divisions. For example, the division that needs the services/supplies will obtain quotes from vendors or issue an RFP/RFSQ, and select a vendor. Regardless of the procurement method used, divisions must send a requisition to CDC's Central Services, along with the vendor's insurance certificates and proof that a solicitation was posted on CDC's website. Central Services generates purchase orders on CDC's procurement system based on the requisitions, and encumbers funds for the purchases.

We reviewed 19 requisitions, ten informal purchases and nine formal solicitations, totaling approximately $4 million. We also reviewed 20 payments for the 19 requisitions, totaling approximately $522,000.

Requisitions

We noted the following issues for the 19 requisitions reviewed:

- **Management approvals on requisitions not dated -** Management approvals on three (16%) of the 19 requisitions, totaling $66,093, were not dated. As a result, we could not determine if the requisitions were approved before Central Services encumbered the funds, and/or before CDC staff ordered goods/services from the vendors.

- **Insufficient support for sole-source purchase -** CDC's procedures require staff to maintain documentation justifying sole-source purchases, but the Commission did not have the required documentation for one of the two sole-source purchases reviewed.

Recommendations

CDC management:

19. Ensure requisition approvals are dated.

20. Maintain documentation justifying sole-source purchases.

Payments

We reviewed 20 payments, and noted three (15%) instances where staff did not follow CDC's payment procedures. In one case, CDC paid for a subcontractor's work, but the contractor did not obtain the required written approval to subcontract out the services. We also noted one invoice where CDC paid higher rates than specified in the contract, and one instance where CDC did not take an available discount.

Recommendations

CDC management:

21. Ensure subcontracting is approved in writing, when required.

22. Ensure contractor billing rates agree with the approved contracts.

23. Take discounts whenever they are available.

Insurance

To protect the Commission from potential liability, CDC service providers must maintain certain types and limits of insurance, as specified by CDC's Risk Management Department. We noted issues with the vendors' insurance coverage for two (40%) of the five informal purchases reviewed.

In one instance, the vendor's proof of insurance had expired before services were provided. Because CDC did not update the insurance information, it is unclear if the required coverage was in place when the services were provided. In another case, CDC awarded a contract without verifying that the vendor had the required workers' compensation insurance. CDC later found out that the vendor was uninsured.

Recommendation

24. CDC management ensure they have current proof of insurance for all service providers, and monitor for compliance throughout the service period.

Payroll and Personnel

The Commission uses PeopleSoft to process payroll and personnel data, and to submit and approve electronic time cards. The Commission also has an in-house system, CDC Messenger, to track time off and overtime requests. We reviewed data from these systems, and noted some areas where CDC can improve its controls over employee timekeeping and leave.

Employee Time Records

Planned time off is supposed to be approved in advance, through a request in CDC Messenger. Unplanned leave (e.g., sick leave, etc.) should be entered in CDC Messenger as soon as the employee returns to work. Timekeepers are supposed to compare time off requests in CDC Messenger to leave reported on time cards, and research any variances.

We reviewed time cards for ten employees over two pay periods to ensure absences and leaves were recorded accurately. We noted that nine (24%) of the 35 absences reported on the employees time cards were not recorded in CDC Messenger. Therefore, we were unable to determine if the time off reported on the time cards was accurate and/or approved. To ensure the accuracy of reported time, CDC timekeepers should compare time cards to CDC Messenger, and resolve any variances. CDC should also ensure employees enter all time off in CDC Messenger.

CDC's response indicates that they plan to revise their procedures to eliminate the requirement for time off in CDC Messenger to agree with employee time cards. As a result, CDC Messenger will no longer be useful as a tool to ensure the accuracy of hours entered on time cards. CDC management needs to ensure they have a method to ensure time entered on time cards is accurate, whether by using CDC Messenger or another system.

We also noted that salaried CDC employees only submit time cards when they have time off, or if they worked on a task that is not part of their normal work assignment. All employees should submit time cards each pay period, so employees and supervisors certify that the reported time is accurate.

Recommendations

CDC management:

25. **Ensure variances reported on employee time cards agree with time off approved in CDC Messenger, and require timekeepers to research any variances. To facilitate this procedure, CDC management should ensure staff enter all time off in CDC Messenger.**

26. **Require all employees to submit time cards each pay period.**

Overtime Controls

CDC procedures require managers to pre-approve all non-emergency overtime using CDC Messenger. When employees work emergency overtime, they are supposed to record it in CDC Messenger, and have it reviewed and approved as soon as possible after the overtime has been worked.

We reviewed overtime requests for ten employees over two pay periods, and noted the following:

- **Overtime was not approved**. Three (30%) of the ten employees claimed overtime without documentation that it was approved. In addition, we noted that five (63%) of eight employees worked more than ten hours of overtime in a work week, and did not have the Executive Director's approval, as required.

- **Overtime was not approved in advance**. Three (30%) of the ten employees submitted overtime requests before they worked the overtime, but the requests were not approved until after they had worked the overtime. In addition, we noted that supervisors did not always date their approvals. As a result, we were unable to determine if the overtime was approved in advance, as required.

- **Approved overtime requests did not agree with the time reported.** Three (30%) of the ten employees reviewed reported more overtime hours on their time card than had been requested and approved.

CDC's attached response indicates that the official approval of hours worked, including overtime, takes place on time cards. We agree that the official record of time worked is the time card. However, time card approval does not document that overtime was approved before it was worked. CDC needs to ensure supervisors approve non-emergency overtime in advance, and verify that emergency overtime was necessary, whether this is done in CDC Messenger or through another method.

Recommendations

CDC management:

27. **Ensure managers approve non-emergency overtime before it is worked.**

28. **Ensure the Executive Director approves overtime in excess of ten hours per employee per week.**

29. **Ensure employees do not work more overtime than is approved, and/or obtain approval as soon as possible after any unplanned overtime has been worked.**

Acting Appointments

CDC policy limits the time an employee can perform a higher level job without being promoted to that job ("acting" appointments) to six months or less. We noted that seven (33%) of the 21 employees reviewed were on acting appointments for an average of 9.4 months. In addition, CDC does not have procedures to set compensation for acting appointments. We reviewed a sample of five acting employees, and noted that they received increases ranging from 10% to 24% above their prior pay rate. CDC should develop a policy on compensation for acting employees, to ensure that employees are compensated fairly and consistently.

Recommendations

CDC management:

30. **Ensure that acting appointments do not exceed six months.**

31. **Develop policies and procedures to ensure acting employees are compensated fairly and consistently.**

Bilingual Compensation

CDC's Administrative & Personnel Policy Manual (Personnel Manual) permits additional compensation for employees who use a second language (other than English) to deliver services to the public. CDC's Personnel Manual indicates that bilingual compensation should be reviewed annually, to ensure that the employee's job assignment still requires the use of bilingual skills. In FY 2009-10, 119 CDC employees received bilingual compensation.

We reviewed ten employees who received bilingual compensation, and confirmed that they were eligible for the pay, and that it was approved by management. We also noted

that CDC conducted the required review to verify that bilingual pay was still appropriate for the employee's duties.

Annual Payroll Payoff

CDC's procedures require unannounced payroll distribution payoffs at least annually by personnel with no other payroll or personnel responsibilities, to ensure that employees receiving pay are bona fide.

CDC did perform the required payoffs annually. However, for the two years we reviewed, CDC staff did not always follow up on unclaimed or undeliverable checks/notices of direct deposit (NDDs), to physically inspect each employee's identification and obtain signatures. To ensure employees are bona fide, CDC staff performing payoffs should follow up on any unclaimed or undeliverable checks and NDDs.

Recommendations

CDC management:

32. Follow up on unclaimed and undeliverable checks and NDDs.

33. Provide training to staff who conduct payoffs.

Budget

The Commission has two budget units to account for its operations. The Non-Housing budget unit is used to administer programs for stimulating economic growth, such as preserving and rehabilitating homes, revitalizing communities, and assisting qualified applicants to purchase or rehabilitate a home. The Housing budget unit is used to administer the Section 8 program, and for public and affordable housing. CDC is authorized to transfer funds within the same budget unit, but must get Board approval to transfer funds between the units. The Commission's total budget for FY 2010-11 was approximately $494 million. It should be noted that our review of CDC's budget predates the State's dissolution of redevelopment agencies, which was effective February 1, 2012.

We compared the Commission's budgeted and actual expenditures for FYs 2008-09 and 2009-10. Our results are summarized below.

Expenditure Budget to Actual Financial Results
FY 2008-09

Budget Unit	Budget	Actual	Over or (Under) Budget
Non-Housing	$ 148,003,000	$ 107,801,000	$ (40,202,000)
Housing	$ 308,478,000	$ 299,265,000	$ (9,213,000)
Total	$ 456,481,000	$ 407,066,000	$ (49,415,000)

Expenditure Budget to Actual Financial Results
FY 2009-10

Budget Unit	Budget	Actual	Over or (Under) Budget
Non-Housing	$ 160,096,000	$ 114,413,000	$ (45,687,000)
Housing	$ 337,908,000	$ 327,843,000	$ (10,065,000)
Total	$ 497,998,000	$ 442,246,000	$ (55,752,000)

Overall, the Commission operated under its budgeted cost for the fiscal years reviewed. The Housing program was under budget by 3%, and the Non-Housing program was under budget by approximately 28% each year. CDC indicated that, in both fiscal years, approximately $16 million of the Non-Housing savings was due to Community Based Organizations spending less than anticipated, and construction delays for CDC projects. In addition, in FY 2008-09, approximately $10 million of the variance was due to an investor who withdrew from a project, and $5 million was due to County program implementation delays. In FY 2009-10, approximately $17 million was due to delays in State funding. Based on CDC's explanations, although the Non-Housing budget unit was significantly under budget, it appears that the reasons were beyond CDC's control.

Community Development Commission

May 30, 2013

TO: Wendy L. Watanabe, Auditor Controller

FROM: Sean Rogan, Executive Director

SUBJECT: 2010 FISCAL REVIEW DRAFT AUDIT REPORT RESPONSE

Thank you for taking the time to meet with me and my staff and on May 9, 2013, and for expediting the completion of this 2010 review. We are in receipt of your May 2013 draft response and look forward to improving our processes based on your staff recommendations.

While we acknowledge the findings that you reported and are working to put protocols in place to improve upon our current process, I think it is important to note that since the start of your audit we have proactively taken additional steps of our own accord to address some of the shortfalls found by your staff. One of the largest modifications was replacing our previous Procurement Officer. With a new hire who has a law degree and over 12 years of experience in procurement; she will be an excellent addition to the oversight of our Procurement Unit as her sole job function. We have also restructured the Procurement Unit to report directly to the Administrative Services Director to ensure additional support is available as needed.

The following comments shall serve as our response to your recommendations:

Contracting Solicitation and Evaluation

Contracting oversight

Recommendations:

1. **CDC Management consider centralizing contract solicitation management and oversight in Central Services.**

2. **CDC Management ensure procurement coordinators are trained on, and aware of CDC's contracting policies and procedures**

While we concur with the potential benefits of centralizing contract and solicitation management, complete centralization is difficult due to federal guidelines that cap our overhead administrative costs. The difficulty is increased by the number and variety of solicitations completed annually throughout the CDC. Employees issuing the solicitations are usually project managers who are funded with program costs and have excellent knowledge of the specific program and its needs.

We are, however, evaluating the process in order to bring about greater centralization in procurement. The initial step is to establish more conformity in completion of requisitions, compilation of files and templates utilized. To that end we held a CDC-wide procurement meeting on April 23, 2013 to discuss the new changes. In addition, the Procurement Unit is continuing their efforts to take over the management of master service contracts that are utilized by all divisions. The Procurement Unit will also take over the posting of all bids on the CDC website to ensure compliance with all required documents and processes. In the coming months, we will develop a more detailed plan for moving with further centralization efforts in Fiscal Year 2013-2014. This will include the Procurement Unit assuming contract solicitation management responsibilities for those Divisions that conduct procurements relatively infrequently.

The CDC is confident that with the hiring of our new Procurement Officer and proper oversight of the Procurement Unit, these policies and procedures will not only be followed but improved upon. In addition, we are hosting agency-wide procurement training from Nan McKay in mid-June 2013 to ensure proper knowledge of all Procurement and Section 3 requirements. The Commission will continue to provide regular training for procurement coordinators and contract administrators and is planning to increase the frequency of trainings. The plan is to have each training session focus on a different subject area within procurement and contract administration.

Conflict of Interest Statements

Recommendation:

3. **CDC Management ensure all procurement coordinators and evaluators sign conflict of interest statements before working on solicitations or evaluating proposals.**

The Commission's Procurement and Contracting Policies and Procedure Manual has been revised to clarify that all participants in the evaluation process, including procurement coordinators, must submit conflict of interest forms. Previously, the Manual did not specify that procurement coordinators were subject to this requirement, since they do not always act as evaluators.

The Commission's February 2011 procurement training reiterated this requirement for all participants in the evaluation process, including the Procurement Coordinator, Evaluators, Section 3 Coordinator, Living Wage Program Coordinator, and County Counsel. Upcoming trainings will continue to reinforce this requirement.

Central Services is also revising the Evaluation Package requiring the Procurement Coordinator to attest to the fact that all participants in the evaluation process have submitted conflict of interest forms. The edits will be finalized and the revised

Evaluation Package will be rolled out to those performing procurement by July 1, 2013.

Outreach Efforts

Recommendation:

4. **CDC Management document outreach efforts to ensure appropriate vendors are notified timely of upcoming contracting opportunities.**

The Auditor-Controller noted staff did not document the dates the solicitation notices were mailed to vendors. However, since May 2007, it has been the Commission's policy to not mail notices. The Commission's Procurement and Contracting Policies and Procedures Manual was updated to require procurements of $10,000 or more be posted on the Commission website and the County WebVen. The requirement is for Procurement Coordinators to print confirmation of WebVen and Commission website postings, indicating the date of postings, and to include this information in the contract file. The Manual also states specific language regarding printing the solicitation details.

Section 3 Contracting Procedures

Recommendation:

5. **CDC Management ensure Section 3 solicitation packages include the notice to potential proposers that they must commit to achieving Section 3 employment/contracting goals to be considered a responsive bidder.**

This issue was addressed in the Commission's Procurement and Contracting Policy and Procedure Manual in Section 5.11 on July 1, 2010. The Section 3 Compliance Plan was revised on April 1, 2011. This change also included providing instruction to staff to incorporate the required Section 3 statement in all applicable solicitations. Subsequent revisions were implemented on July 1, 2011 and January 1, 2012 with bulletins sent to inform all staff of the changes. The most recent Section 3 training was conducted in March 2012. The Nan McKay training scheduled for mid-June 2013 will also include Section 3 training.

RFP/RFSQ Evaluations

Pass/Fail Checklist
Recommendation:

6. **CDC Management require Procurement Coordinators to provide written justification for continuing to evaluate proposals that do not meet minimum solicitation requirements.**

In reviewing proposals to determine if they are responsive and can move on to the evaluation stage, Procurement Coordinators use a pass/fail checklist in the evaluation package which lists all the minimum requirements. The checklist is being revised to require a written explanation for any requirement that was not met by the proposer. Under most circumstances, a proposal will be determined as unresponsive if any requirements are unmet or if there is information missing. However, on a case-by-case basis, a proposal may be accepted if the unmet requirement is deemed immaterial. In each case, the Procurement Coordinator must provide a written explanation of the nature and significance or insignificance of any unmet requirement. The evaluation package will be rolled out to the Procurement Coordinators by July 1, 2013.

Evaluator comments

Recommendations:

7. **CDC Management ensure evaluators include written comments that adequately support the assigned score for each section of the evaluation document.**

8. **CDC Management ensure evaluations are based on information requested in the solicitation, not personal knowledge or experience with the proposer.**

The Commission is revising the evaluation package and evaluation sheets to include instructions to evaluators that every rating must be justified with narrative comments, regardless of the score. The evaluation sheets request at least three sentences in support of each score. The Commission's February 2011 procurement training reinforced this requirement, as will the upcoming training in June 2013. Furthermore, it states evaluators may not use personal knowledge of, or experience with, proposers. This instruction is now restated in the evaluation package. The edits will be finalized and the evaluation package rolled out to the Procurement Coordinators by July 1, 2013.

Evaluation Scoring

Recommendations:

9. **CDC Management ensure references are evaluated and scored in accordance with CDC's procedures.**

10. **CDC Management ensure Section 3 requirements are weighted and scored in accordance with CDC's procedures.**

This has been addressed in the Procurement and Contracting Policies and Procedures Manual under Section 4.4.2.2. The revised evaluation package contains step-by-step instructions on scoring references based on the number of favorable responses. The Section 3 Compliance Plan was revised on April 1, 2011. Subsequent revisions were implemented on July 1, 2011 and January 1, 2012, with bulletins to inform staff of the changes, including reminders about the proper weighting of Section 3 responsiveness. This is also addressed in the Manual under Section 4.4.2.2, in the latest revision on July 1, 2012. The most recent Section 3 training was conducted in March 2012. The Manual includes instructions on weighting Section 3. The Commission's February 2011 procurement training reinforced this requirement, as will the upcoming training in June 2013.

Evaluation Documents:

Recommendations:

11. **CDC Management ensure solicitation and evaluation documents are retained for a minimum of five years.**

12. **CDC Management develop a methodology for evaluating and scoring proposals for multi-project solicitations, to ensure each project type is scored separately.**

13. **CDC Management ensure evaluation signature pages list the final/overall score, and clearly indicate that the evaluators agree with the scores.**

We agree with the Auditor-Controller's recommendation to develop a standardized practice for evaluating multi-project solicitations. We are currently working on revising the policy to indicate that proposers should receive one score reflecting their overall qualifications; and separate scores reflecting their qualifications for specific project types. We are revising the evaluation package to require both the individual evaluator and the Procurement Coordinator to initial and date each score worksheet, and to list the overall score on the final signature page. Procurement Coordinators were trained on the new procedures in February 2011, and ongoing trainings will reinforce these requirements. The finalized Evaluation Package will be rolled out by July 1, 2013.

Invitation for Bids (IFB) Solicitations

Recommendations:

14. **CDC Management ensure evaluation documents clearly indicate how CDC determined the most responsive and responsible bidder.**

15. CDC Management develop standardized procedures for evaluating references.

The Auditor-Controller noted one case when the lowest bidder in an IFB process was rejected, the evaluation document did not indicate the reason, although other supporting documentation in the file did clearly indicate the reason. We will revise our evaluation documents for RFQs and IFBs, to ensure written justification for how the Procurement Coordinator determined the most responsive and responsible bidder is included as well as a clearly defined reason for rejecting any lower bids. The next training for Procurement Coordinators will supplement the new written instructions. The documents will be finalized and rolled out by July 1, 2013.

References for IFBs are evaluated using the same procedure as references for RFPs. The evaluation package will be revised to contain step-by-step instructions on scoring references based on the number of favorable responses. If the majority of a bidder's references result in unfavorable responses, the bidder may be disqualified. The Commission's February 2011 procurement training reinforced this requirement, as will the upcoming trainings. The evaluation package will be finalized and rolled out by July 1, 2013.

Vendor Selection from List of Qualified Firms

Recommendations:

16. CDC Management develop written procedures for selecting a contractor from a "short list" of qualified proposers.

17. CDC Management disclose the entire evaluation process in the RFSQ, including CDC's methodology for selecting a firm from a shortlist.

18. CDC Management document the process for selecting a contractor from a shortlist of qualified vendors.

The Commission's Procurement and Contracting Policies and Procedures Manual will be revised to include a written procedure for selecting a contractor from a "short list". The disclosure of the entire evaluation and selection process, including the methodology for selecting a firm from the shortlist, will be included in the RFSQ. Lastly, the process for selecting a contractor from the shortlist of qualified vendors will be documented in our revised policies and procedures and any related evaluation forms and tools will be modified and rolled out to staff by July 1, 2013.

Requisitions

Recommendations:

19. CDC Management ensure requisition approvals are dated.

20. CDC Management maintain documentation justifying sole-source purchases.

Central Services Procurement Unit will return any undated or otherwise incomplete requisitions to the requesting division. Any material revisions performed after management approval must be reapproved by management with a current initial and date. The upcoming training in 2013 will focus on filling out requisitions completely, including dating all approvals.

For all non-competitive procurements, divisions are required to submit a memo to the Executive Director justifying the use of a non-competitive process and requesting his signature of approval. The signed memo must be maintained in the procurement file. Upcoming training in June 2013 will remind division staff of this requirement. Central Services will return any requisitions for sole-source purchases to the requesting division if the signed memo is not attached.

Payments

Recommendations:

21. CDC Management ensure subcontracting is approved in writing, when required.

22. CDC Management ensure contractor billing rates agree with the approved contract.

23. CDC Management take discounts whenever they are available.

We have revised the Commission's Procurement and Contracting Policies and Procedures Manual to clarify that the Commission must approve the use of any subcontractor not originally disclosed in the bid documents, and that written documentation of this approval must be maintained in the contract file. The next training for contract administrators, in June 2013, will include this requirement.

The Manual was modified under Section 7.5 where this information is contained. Contract administrators will be reminded that invoices should always agree with the fee schedule of the contract. Payments not indicated in the fee schedule may be permitted with proper justification and prior written approval from management, provided the contract allows for such payments. Upcoming trainings will reiterate this requirement.

Contract administrators will be reminded that when making payments or negotiating fees with contractors, discounts should be taken into account and taken whenever feasible.

Insurance

Recommendation:

24. CDC Management ensure they have current proof of insurance for all service providers, and monitor for compliance throughout the service period.

This topic is addressed in the Manual under Section 5.3.3. The next training for contract administrators, in June 2013, will include the requirement to monitor insurance compliance throughout the service period to take note of any expiring coverage. Contract administrators will be instructed to generate electronic reminders for insurance expiration dates, to follow up with contractors for updated information as necessary. This function may be included as part of a potential centralization of contract administration and oversight functions in the future if an electronic procurement workflow can be established.

PAYROLL AND PERSONNEL

Employee Time Records

Recommendations:

25. CDC Management ensure variances reported on employee time cards agree with time off approved in CDC Messenger, and require timekeepers to research any variances. To facilitate this procedure, CDC Management should ensure staff enter all time off in CDC Messenger.

26. CDC Management to require all employees to submit time cards each pay period.

It is important to note that the CDC Messenger system is just a planning tool for employees to submit advance requests for time off or overtime. The system allows management to predict and plan for variations in staffing. Employees report their actual hours worked via the timecards submitted in PeopleSoft.

The current requirement is that hours requested in CDC Messenger should agree with hours reported on timecards. This means that employees sometimes need to make revisions to previous requests in CDC Messenger or generate new requests after the fact. However, as the Auditor-Controller noted, revisions to CDC

Messenger requests are made inconsistently throughout the Commission. In light of the Auditor-Controller's findings, we have reevaluated the necessity and practicality of requiring changes in CDC Messenger after the fact.

We will revise our policy to clarify that official approval of actual hours worked occurs in PeopleSoft. When making requests in CDC Messenger, employees must continue to estimate to the best of their ability the amount of time off and/or overtime needed. However, recognizing these estimates will not always be accurate, we will remove the requirement that CDC Messenger requests be revised after the fact to agree with approved timecards. This will remove the ambiguity as to where the official approval of time worked takes place.

The Auditor-Controller noted that some absences reported on employee timecards were not recorded in CDC Messenger. We will continue to ask employees to estimate to the best of their ability the amount of time off or overtime needed when they make their request. However, we recognize that making accurate requests in advance is not always possible. For example, an employee who calls in sick would not have been able to request that absence in advance via CDC Messenger. As explained above, we will no longer require that CDC Messenger requests be revised after the fact to agree with approved timecards.

We will revise the timecard entry process to require that all employees, including salaried/exempt employees, submit timecards documenting hours worked each pay period.

Overtime Controls

Recommendations:

27. **CDC Management ensure managers approve non-emergency overtime before it is worked.**

28. **CDC Management ensure the Executive Director approves overtime in excess of ten hours per employee per week.**

29. **CDC Management ensure employees do not work more overtime than is approved, and/or obtain approval as soon as possible after any unplanned overtime has been worked.**

The Auditor-Controller noted that three employees claimed overtime without documentation that it was approved. In these cases, there was no approval in CDC Messenger. In order for CDC Messenger to function properly as a tool for management to predict and plan for variations in staffing, we will continue to require employees to submit requests for overtime in advance when possible, and to estimate to the best of their ability the amount of hours needed. However, we

recognize that advance notice via CDC Messenger is not always possible in non-emergency situations, such as last-minute requests or assignments. We will revise our policy to clarify that approval of hours worked, including overtime, occurs in PeopleSoft timecards, and that CDC Messenger will not be considered the official approval of time worked.

Because an employee's timecard is approved by his or her direct supervisor, PeopleSoft also generates an Approved Time Report each pay period for approval from the Division Director. This report details the hours worked for all employees in the division, including overtime and time off, and allows the Director to monitor overtime over the course of the year. The report is currently printed for physical signature, but we will transition to an electronic approval in late 2013.

We will revise our policy to eliminate the requirement for Executive Director approval of overtime in excess of ten hours per week. Each division has a line item in their annual budget for overtime, and authority is delegated to division management to utilize their budgeted overtime as needed. The Executive Director will receive periodic reports from the Financial Management Division on overtime worked in every division.

Employees will be instructed to estimate to the best of their ability the amount of overtime needed when they make their request. However, it is not always possible to accurately predict how long a task will take. We will revise our policy to clarify that time requested in CDC Messenger and time reported in PeopleSoft are not required to agree, since CDC Messenger just provides an estimate for planning purposes, and the timecards reflect actual hours worked and approved by management.

Acting Appointments

Recommendation:

30. CDC Management ensure that acting appointments do not exceed six months.

31. CDC Management develop policies and procedures to ensure acting employees are compensated fairly and consistently.

The Commission's current policy limits acting appointments to six months or less. Since certain circumstances have required these appointments to exceed six months, we will revise our policy to indicate that acting appointments may be extended by up to an additional six months, for a maximum appointment of twelve months, with the Executive Director's approval. A memo to the Executive Director justifying the need for the extension will be required.

The Commission's PeopleSoft system now provides a notification to the respective division and Human Resources staff when an acting appointment is approaching six

months. This will remind management to take the appropriate personnel action, such as permanently promoting the employee to the position or requesting an extension of the acting appointment from the Executive Director if necessary. If no action is taken, the system will automatically reset the employee to the salary he or she had immediately prior to the acting appointment.

The Commission's current policy states that the acting "appointee may receive compensation and benefits commensurate with the classification of the employee who normally fills the position". The Auditor-Controller noted increases ranging from 10% to 24%. The Commission will always set the minimum acting pay at the base of the salary range for the position being filled. For some employees, this may be in an amount greater than their current pay, such as the 24% increase observed by the Auditor-Controller; however, we feel it is fair to base the minimum compensation on the duties and responsibilities being assumed by the appointee, irrespective of the appointee's prior salary.

When the base of the new salary range represents less than a 10% increase over the appointee's current compensation, his or her pay will be increased by up to 10% to reflect the increased responsibilities being assumed.

The policy will allow the Executive Director to approve compensation beyond the minimum levels above in special circumstances; for example, when an appointee has extraordinary experience relevant to the position, or when he or she will be assuming duties beyond those typical for the classification, such as resolving program deficiencies or audit findings, or completing a special project.

Annual Payroll Payoff

Recommendations:

32. CDC Management follow up on unclaimed and undeliverable checks and notices of direct deposit (NDDs).

33. CDC Management to provide training to staff who conduct payoffs.

Some employees are not available to provide identification and signature during the annual payoff; for example, if they are on leave at the time. In these cases, staff will follow up throughout the year until signatures are obtained for all active employees.

Financial Management will continue to provide regular training to staff involved in the payoff process. The training will emphasize the need to follow up until signatures are obtained for all active employees.