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City of Albuquerque

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Investigative Informative Case Synopsis

FILE NO: 22-0190-C

SUBJECT MATTER: Alleged misuse of CDBG-CV grant funds and Gross receipts tax bond funds for the purchase and renovation of the Sure Stay Motel for use as housing for individuals and families experiencing homelessness by the City’s Family and Community Services Department.

STATUS: Final

INVESTIGATOR: M. Santistevan

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February 27, 2023
Date of Completion

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EDMUND E. PEREA, ESQ
ACCOUNTABILITY IN GOVERNMENT
OVERSIGHT COMMITTEE CHAIRPERSON

April 26, 2023
Date of Approval

DISTRIBUTION:

- Honorable Mayor**
- President City Council**
- Chief Administrative Officer**
- City Councilors**
- Director Council Services**
- City Attorney**
- Department Director**
- Members, Accountability and Government Oversight Committee**
- File**

EXECUTIVE SUMMARY

According to City Ordinance 2-17-2, the Inspector General's goals are to (1) Conduct investigations in an efficient, impartial, equitable, and objective manner; (2) Prevent and detect fraud, waste, and abuse in city activities including all city contracts and partnerships; (3) Deter criminal activity through independence in fact and appearance, investigation and interdiction; and (4) Propose ways to increase the city's legal, fiscal and ethical accountability to insure that tax payers' dollars are spent in a manner consistent with the highest standards of local governments.

On October 24, 2022, the Office of Inspector General (OIG) received an email alleging that the Family and Community Services Department (FCS) is misusing Community Block Development Grant-Coronavirus ((CDBG-CV) grant funds and Gross receipts tax bond funds for the purchase and renovation of the Sure Stay Motel for use as housing for individuals and families experiencing homelessness. The OIG determined that the allegations contained elements of fraud, waste, or abuse and that it was appropriate for the OIG to conduct a fact-finding investigation. The purpose of the investigation was to determine if evidence existed to substantiate or not substantiate the allegations of misuse of CDBG-CV grant funds and Gross receipts tax bond funds for the purchase of the Sure Stay Motel for use as housing for individuals and families experiencing homelessness by the Family and Community Services Department.

The OIG reviewed the CDBG-CV response grant requirements, the City's Gross receipts tax bond funds, Article 9 Workforce Housing and Affordable Housing, and Article 21 Affordable Housing, along with the Coronavirus State Fiscal Recovery Fund (CSFRF) Program. The OIG also reviewed news articles and spoke to a representative of Family and Community Services and the City's Department of Finance and Administration.

As a result of the investigation, the OIG was not able to substantiate the allegation of misuse of CDBG-CV grant funds. The OIG was not able to substantiate the allegation of misuse of Gross receipts tax bond funds and was unable to establish that Gross receipts tax bond funds were being used for the purchase of the Sure Stay Motel.

ABBREVIATIONS

CDBG-CV:	Community Block Development Grant-Coronavirus
City:	City of Albuquerque
FCS:	Family and Community Services Department
HUD:	Housing and Urban Development
IDO:	Integrated Development Ordinance
OIG:	Office of Inspector General

INTRODUCTION

The mission of the Office of Inspector General (OIG) is to provide independent and objective insight, oversight, and foresight in promoting integrity, efficiency, overall effectiveness, accountability, and transparency in government to safeguard and preserve public trust.

Complaint

An allegation that FCS is misusing CDBG-CV grant funds and Gross receipts tax bond funds for the purchase and renovation of the Sure Stay Motel for use as housing for individuals and families experiencing homelessness.

Background

Housing and Urban Development

Federal, state, and local governments must take every opportunity to address the urgent needs of people experiencing homelessness and to ensure housing stability among the lowest-income and most marginalized renters. The “Coronavirus Aid, Relief, and Economic Security Act” (CARES Act) provided \$5 billion for the Department of Housing and Urban Development’s (HUD’s) Community Development Block Grant (CDBG) program to cities and states that may be used to provide emergency housing and homelessness assistance.

The COVID-19 pandemic has led to economic, health, and social hardships for millions of people and a new awareness of the changes needed to reduce pandemic impacts in the future. The CDBG Coronavirus (CDBG-CV) response grants, provided as supplemental funding to CDBG grantees under the CARES act, can fund a wide range of community development activities to help communities prevent, prepare for, and respond to the direct and indirect effects of the current COVID-19 pandemic and to mitigate future risks. The CARES Act also waived certain regulatory requirements for CDBG and other Federal programs. Both CDBG and CDBG-CV funds can be used by grantees to create, expand, or enhance public facilities that may provide medical care, social services, and emergency housing in response to the current pandemic while increasing their long-term resiliency and ability to mitigate future coronavirus outbreaks. With few exceptions, the expansion or enhancement of buildings for the general conduct of government is ineligible. Existing public facility structures can be modified to prevent the transmission of the coronavirus and allow for adequate social distancing or remote access. Public infrastructure improvements can also help alleviate the immediate or long-term social, economic, and public health impacts of the current COVID-19 pandemic and prevent the coronavirus's future spread.

City of Albuquerque Family and Community Services

On April 2, 2020, the City received a notice of a special allocation of CDBG-CV funds totaling \$2,678,828. Later, on September 11, 2020, the City received a second notice of additional CDBG-CV funding in the amount of \$3,269,040 for a cumulative total allocation of \$5,947,868.

Prior to the purchase and renovation of the Sure Stay Motel, the Integrated Development Ordinance (IDO) would require a zoning amendment to allow for this type of business conversion for residential use by the City. The IDO amendment (0-22-10) passed in July 2022, allows for any commercial structure, not originally built or intended for permanent residential housing, to be converted into structures without full-service kitchens with appliances, and, in lieu thereof, allows for microwave and dormitory-style refrigerators.

On September 23, 2022, FCS published a legal notice in the Albuquerque Journal stating the City intended to purchase Sure Stay Hotel by using Housing and Urban Development (HUD) funding of \$3,059,662.12 in CDBG-CV grant funds, \$2,443,724.00 from Public Facilities monies and \$615,938.12 from Foreclosure Prevention for a total of \$6,119,324.24. The original legal notice published in September 2022, regarding the reallocation of CDBG-CV funding, was determined by the OIG to be non-compliant with HUD requirements for adequate notice, thus the OIG recommended FCS re-issue the legal notice. The City reposted the legal notice on January 5, 2023.

The City entered into a purchase agreement for the Sure Stay Motel on January 20, 2023, for \$5,700,000.

INVESTIGATION

Allegation: FCS is misusing CDBG-CV grant funds and Gross receipts tax bond funds for the purchase and renovation of the Sure Stay Motel for use as housing for individuals and families experiencing homelessness.

Authority: CDBG-CV response grants, Gross receipts tax bond funds, and the Coronavirus State Fiscal Recovery Fund (CSFRF) Program.

Analysis: The OIG was able to determine that the funding sources for the purchase of the Sure Stay Motel would be CDBG-CV grant funds and the Coronavirus State Fiscal Recovery Fund Program. The only funding expended as of February 14, 2023, was \$150,000 in earnest money from the CDBG-CV grant fund. The OIG did not locate evidence that Gross receipts tax bond funds had been or are to be used for the purchase of the Sure Stay Motel.

CDBG-CV response grants

According to HUD, eligible uses of CDBG-CV dollars include, but are not limited to: short-term emergency financial assistance for rent, mortgage, and utilities (see below); legal support, such as the right to counsel for tenants facing eviction; and acquisition of hotels and motels to expand the capacity of hospitals for COVID-19 patient treatment and isolation.

Acquisition of Hotels/Motels or Properties for Permanent Affordable Housing

CDBG-CV dollars can be used to purchase a hotel or motel to provide shelter for people experiencing homelessness. A hotel or motel would be considered a public facility because it would provide temporary housing for people experiencing homelessness. A hotel, motel, or other property could also be acquired to convert the property to a homeless shelter in order to prevent unsheltered people from coronavirus infection.

The OIG considered the guidance issued by HUD on behalf of the CDBG Care Act and was unable to locate sufficient evidence to support that the use of CDBG-CV funds for the purchase of the Sure Stay Motel would constitute a misuse of federal grant funds.

Coronavirus State Fiscal Recovery Fund (CSFRF) Program

The OIG reviewed the grant agreement, totaling \$ 2,850,000, between the NM Department of Finance and Administration and the City noting the agreement's purpose as: "The Casa connection grant program will allocate funding to local governments for the purpose of purchasing and /or renovating hotels, motels, apartment complexes, duplexes, or similar properties for use as housing for individuals and families experiencing homelessness. State funds may be combined with local funds to purchase or renovate properties. Local governments or agencies will staff and operate the facilities. Eligible projects must also include plans to provide wraparound services, such as assistance with applying for government benefits, jobs, and other housing."

The OIG's review of two separate bills identified as R-20-74 and R-22-87 reflects the City's acceptance of CDBG-CV funding for the purposes of "providing but not limited to the provision of new or quantifiably increased public services, planning, capacity building, and technical assistance, affordable housing services, public facilities, and economic development for low and moderate-income households". The OIG's reading of the language reveals that the City's intent is in accordance with the grant agreement requirements.

Conclusion: Based on the information available at the time of the investigation, the OIG was not able to substantiate the allegation of misuse of CDBG-CV grant funds. The OIG was not able to substantiate the allegation of misuse of Gross receipts tax bond funds and was unable to establish that Gross receipts tax bond funds were being used for the purchase of the Sure Stay Motel.