



U.S. Department of Energy  
Office of Inspector General  
Office of Audits and Inspections

# Examination Report

Alamo Area Council of Governments  
– Weatherization Assistance Program  
Funds Provided by the American  
Recovery and Reinvestment Act of  
2009



OAS-RA-13-30

September 2013



**Department of Energy**  
Washington, DC 20585

September 19, 2013

MEMORANDUM FOR THE ASSISTANT SECRETARY FOR ENERGY EFFICIENCY  
AND RENEWABLE ENERGY

A handwritten signature in black ink, appearing to read "Rickey R. Hass".

FROM: Rickey R. Hass  
Deputy Inspector General  
for Audits and Inspections  
Office of Inspector General

SUBJECT: INFORMATION: Examination Report on "Alamo Area Council of  
Governments – Weatherization Assistance Program Funds Provided by  
the American Recovery and Reinvestment Act of 2009"

BACKGROUND

The attached report presents the results of an examination of the Alamo Area Council of Governments (Alamo) Weatherization Assistance Program (Weatherization Program) under the American Recovery and Reinvestment Act of 2009 (Recovery Act). The Office of Inspector General contracted with an independent certified public accounting firm, Lani Eko & Company, CPAs, PLLC (Lani Eko), to express an opinion on Alamo's compliance with Federal and state laws, regulations and program guidelines applicable to the Weatherization Program. Alamo is a sub-recipient of the Department of Energy's (Department) Recovery Act Weatherization Program funding for the State of Texas.

The Recovery Act was enacted to promote economic prosperity through job creation and encourage investment in the Nation's energy future. As part of the Recovery Act, the Weatherization Program received \$5 billion to reduce energy consumption for low-income households through energy efficient upgrades. The State of Texas received \$327 million in Weatherization Program Recovery Act grant funding, of which \$15.5 million was allocated to Alamo to weatherize approximately 3,000 homes. The State of Texas' Department of Housing and Community Affairs was responsible for administering Weatherization Program grants, including funds provided to Alamo.

RESULTS OF EXAMINATION

Lani Eko expressed the opinion that, except for the weaknesses described in its report, Alamo complied in all material respects with the requirements and guidelines relative to the Weatherization Program for the period April 1, 2009 through June 30, 2011.

However, the examination found that Alamo had:

- Falsified Weatherization Program records. A State of Texas review of the program, conducted at the request of the Alamo Executive Director, found that between March

2010 and August 2010, the Alamo Weatherization Program's former Director instructed contractors to submit statements of work and/or invoices prior to completing weatherization work, had directed contractors and staff to backdate other documents, and falsely reported the units as being weatherized to the State.

- Incurred unallowable costs of \$146,850 for forensic audits and reviews to determine the extent of the program's mismanagement.
- Improperly weatherized multi-family dwellings. Lani Eko noted instances in which a four-unit building and an eight-unit building were weatherized, even though eligibility requirements had not been met for those buildings. Lani Eko questioned the allowability of the \$21,904 in costs incurred for the weatherization of those buildings.

The report makes recommendations to Alamo to improve its administration of the Weatherization Program. Alamo provided responses that agreed that the former program director had directed contractors and staff to falsify and hide documents; however, Alamo disagreed that the program was mismanaged, did not have an adequate number of human resources or technical expertise, and that the former director was not properly supervised. Further, Alamo disagreed with the costs questioned in the report for the forensic audits, and justified their expense as reasonable and prudent, and approved by the State of Texas. Alamo also disagreed that it had improperly weatherized multi-family dwellings, and believed the costs questioned were allowable expenses. Lani Eko considered Alamo's comments and made changes to its report as appropriate.

### RECOMMENDATION

We recommend that the Assistant Secretary for Energy Efficiency and Renewable Energy:

- Ensure appropriate action is taken by the State of Texas to improve administration of Recovery Act Weatherization Program funds at Alamo and resolve the costs questioned in this report.

### DEPARTMENT COMMENTS AND AUDITOR RESPONSE

The Department concurred with the recommendation outlined in the report and has been working with the state of Texas and Alamo to ensure that all corrective actions are implemented. The Department agreed that the actions taken by Alamo in response to the falsification of records finding were appropriate, and stated that it will follow up annually to ensure that training funds are specifically budgeted for ethics training. Further, the Department concurred with Lani Eko's assessment that the forensic auditing and investigation costs resulting from the falsification were unallowable, and that multi-family units were improperly weatherized. The Department will perform the necessary cost recovery to resolve the questioned costs by December 31, 2013. The Department's comments are included in Attachment 2.

The State agreed with Lani Eko's conclusion that Alamo program reports had been falsified for reporting purposes. Further, the State agreed that costs associated with forensic audits and investigations were not eligible costs, and stated that it will collect the disallowed costs from

Alamo. In regard to the costs Lani Eko questioned for ineligible multi-family units, the State disagreed that these were unallowable. State officials responded that based on communication with the Department, they believed that a single unit could be weatherized based on client eligibility and unit assessment at the time the four-unit buildings were weatherized. In regard to the State's direction to Alamo on the 8-unit building, the State responded that it had not included a vacant unit in its calculation, which resulted in a 71 percent eligibility rate, 5 percent over the required rate. The State added that no funds were spent to weatherize the vacant unit. The State's comments are included in their entirety in Attachment 3.

The comments provided by the Department were responsive to the recommendation that it work with the State of Texas to improve administration of Recovery Act Weatherization Program funds at Alamo and resolve the costs questioned in this report. In regard to the costs Lani Eko questioned for ineligible multi-family units, we disagree with the State's claim that these were allowable expenses. Based on our interpretation of the regulations, and as agreed to by the Department in its response to this report, the units questioned in Lani Eko's report were not eligible for weatherization. Further, we determined that the Departmental communication referred to in the State's response did not provide tacit, blanket approval to weatherize individual units in a four-unit building. We maintain that the regulations do not allow services to be provided for a single unit in a multi-family dwelling when the building, as a whole, is not eligible for services; nor do the regulations allow a vacant unit to be excluded from an eligibility calculation.

#### EXAMINATION-LEVEL ATTESTATION

Lani Eko conducted its examination in accordance with attestation standards established by the American Institute of Certified Public Accountants, as well as those additional standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. The examination-level procedures included gaining an understanding of Alamo's policies and procedures, and reviewing applicable Weatherization Program documentation. The procedures also included an analysis of inspection results, records of corrective actions and re-inspections of completed homes/units to ensure any failures were properly corrected. Finally, an analysis of associated cost data was performed to test the appropriateness of payments.

The Office of Inspector General monitored the progress of the examination and reviewed the report and related documentation. Our review disclosed no instances in which Lani Eko did not comply, in all material respects, with the attestation requirements. Lani Eko is responsible for the attached report and the conclusions expressed in the report.

Attachments

cc: Deputy Secretary  
Acting Under Secretary of Energy  
Chief of Staff

**EXAMINATION REPORT OF  
ALAMO AREA COUNCIL OF  
GOVERNMENTS**

**WEATHERIZATION  
ASSISTANCE PROGRAM  
RECOVERY ACT FUNDS**

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Lani Eko & Company, CPAs, PLLC

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To the Inspector General, U.S. Department of Energy:

We have examined the American Recovery and Reinvestment Act (Recovery Act) Weatherization Assistance Program (Weatherization Program) funds awarded by the State of Texas to the Alamo Area Council of Governments for the period April 1, 2009 through June 30, 2011. Alamo is responsible for operating the Weatherization Program in compliance with applicable Federal and state laws, regulations, and program guidelines. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the U.S. Government Accountability Office; and, accordingly, included examining, on a test basis, evidence supporting management's compliance with relevant Weatherization Program Federal and State laws, regulations, and program guidelines, and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

Because of inherent limitations in any internal control structure or financial management system, noncompliance due to error or fraud may occur and not be detected. Also, projections of any evaluation of compliance to future periods are subject to the risk that the internal control structure or financial management system may become inadequate because of changes in conditions or that the degree of compliance with the policies and procedures may deteriorate.

In our opinion, except for the weaknesses described in Section IV of this report, Alamo complied, in all material respects, with the aforementioned requirements and guidelines relative to Weatherization Program funds awarded to Alamo for the period April 1, 2009 through June 30, 2011.

*Lani Eko & Company, CPAs, PLLC*

August 29, 2013  
Alexandria, Virginia

**SECTION I. Description of Alamo Area Council of Governments  
Weatherization Assistance Program**

The U.S. Department of Energy (Department) awarded \$326,975,732 to the State of Texas to allocate among its network of 44 local government agencies and various nonprofit organizations participating in the Weatherization Assistance Program (Weatherization Program). From this award, \$15,519,918 was allocated to Alamo Area Council of Governments (Alamo) to assist with the costs of weatherizing approximately 3,000 homes.

In Texas, the Weatherization Program is administered by the Texas Department of Housing and Community Affairs (Texas). Alamo collaborates with Texas to operate the Weatherization Program. In accordance with the terms of its agreement with Texas, Alamo is responsible for determining applicant eligibility and taking the necessary steps to weatherize the homes of eligible applicants. These steps include procurement of contractor services as well as conducting home assessments and inspections.

The Weatherization Program helps eligible low-income households lower their energy costs by increasing energy efficiency. Energy conservation and efficiency methods utilized by the Weatherization Program include measures that reduce energy consumption and the cost of maintenance for weatherized homes. In addition to the material improvements, energy conservation education is provided to participants. For the period from April 1, 2009 through June 30, 2011, Alamo reported that it had completed weatherization of 1,982 units under the Weatherization Program.



**SECTION II. Classification of Findings**

The findings in this report are classified as follows:

**Material Weakness**

For purposes of this engagement, a material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the subject matter will not be prevented or detected.

**SECTION III. Summary of Findings**

1. Falsification of Weatherization Program Records – Material Weakness
2. Dwelling Units Ineligible for Recovery Act Weatherization Services – Material Weakness

## **SECTION IV. Schedule of Findings**

### **Finding 1 – Falsification of Weatherization Program Records (Material Weakness)**

#### **Condition**

During the course of our examination, we became aware of reports detailing that a former program director of the Alamo Area Council of Government (Alamo) had mismanaged the Weatherization Program by directing contractors and staff to falsify and hide documents. In particular, at the request of an Alamo executive director in August 2010, the Texas Department of Housing and Community Development (Texas) completed a review into allegations of mismanagement at Alamo. Texas officials found that, between March 2010 and August 2010, the Alamo Weatherization Program's former director instructed contractors to submit statements of work and/or invoices prior to completing weatherization work, and had directed contractors and Alamo staff to backdate other documents to disguise this practice. The review found that the Alamo director then falsely reported the units as being weatherized to the State. According to Department of Energy (Department) regulations, no dwelling units may be reported to the Department as complete until all weatherization materials have been installed and a final inspection has been performed. The director further instructed Alamo staff to remove weatherization documents from files and to hide case files from Texas auditors during program monitoring site visits. The director's actions clearly constituted an abuse of her authority. The Government Accountability Office's *Government Auditing Standards* states that "Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practices given the facts and circumstances..."

While the backdated statements of work and invoices were used to support milestone data reported to the State, the reviewers did not identify instances in which funds were reimbursed for uncompleted units, nor did we identify any such instances during our examination. Texas reimbursed Alamo for specific units after it had received certain certifications and documents denoting that the weatherization work had been correctly completed. Required documents included building weatherization reports, certifications by housing inspectors and the homeowners' acknowledgements that services were received. We did not identify any instances in which Recovery Act funds were misappropriated or contractors paid before final inspections were completed and building weatherization reports were issued. Further, independent investigators engaged by Alamo's Board of Directors also did not identify any instances of misappropriation of Recovery Act funds. In addition to contracting with forensic analysts to determine the extent of the mismanagement, Alamo officials removed the Weatherization Program director from management of the program in August 2010, and referred the matter to the Bexar County District Attorney, which declined to prosecute.

While we believe that forensic reviews conducted to determine the extent and effect of this mismanagement were warranted, we determined that costs incurred by the offending agency were not allowable Recovery Act costs. In particular, Alamo expended \$146,850 of its Recovery Act funds to investigate the misdeeds of its own Weatherization Program director. Alamo

#### **SECTION IV. Schedule of Findings (Cont.)**

provided the official request letter dated October 19, 2010, as evidence of Texas' authorization to use Recovery Act funds allocated for administrative expenses. The Code of Federal Regulations (CFR) specifies that costs for audits are allowable only when related to periodic financial audits of Weatherization Programs. Further, the Office of Management and Budget's (OMB) Circular No. A-87, *Cost Principles for State, Local, and Indian Tribal Governments*, states that a cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the costs. In determining the reasonableness of a given cost, consideration shall be given to whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees, and clients, the public at large, and the Federal Government. We determined that in falsifying records, the former Program Director did not act in a prudent manner, and therefore, the costs arising from these actions are not an appropriate use of Recovery Act funds. Specifically, we are questioning the following costs related to the investigation into the Weatherization Program mismanagement:

- \$114,075 for the services of an Independent Public Accountant engaged to provide a forensic audit of the Weatherization Program files;
- \$24,435 for the services of a consulting firm engaged to perform computer-related forensic services; and,
- \$8,340 for the services of a private investigator engaged to investigate allegations that Alamo mishandled the Weatherization Program.

#### **Cause**

According to an independent investigation conducted at the Alamo Board of Directors' request, the records were falsified to give the appearance that more units had been weatherized because Alamo was in danger of not meeting established milestones for completed units. Under the Weatherization Program grant agreement with Alamo, Texas established milestones for completed weatherized homes and expenditures throughout the grant period. For example, Alamo was expected to weatherize 627 units and expend 15 percent of the grant award by June 30, 2010. Texas could have deobligated grant funds if Alamo had failed to meet the expected minimum milestones established in the grant agreement.

The mismanagement of the Weatherization Program may also be attributed to the following:

- Alamo did not have the adequate number of human resources or the technical expertise to properly complete weatherization of 3,000 homes in the timeframe required by Texas;

**SECTION IV. Schedule of Findings (Cont.)**

- Contractor home assessors contracted to address the increased workload were not properly trained to conduct unit assessments thereby resulting in delays in processing applications; and,
- The Weatherization Program director was not properly supervised. According to statements given to an independent investigator, the immediate supervisor stated that she was responsible for oversight of five departments, including the Housing and Weatherization Department, and at the same time continued oversight of two high level positions in other departments due to vacancies.

In addition, the deficiencies relating to compliance with the allowable cost standards and regulations for the reimbursement of Recovery Act funds may be attributed to lack of understanding of Federal cost principles and Recovery Act Weatherization Program grant guidelines regarding allowable costs.

**Effect**

Erroneous and misleading data was used by Texas and the Department of Energy to measure Weatherization Program performance. Also, there was an elevated risk of fraud, waste and improper payments to the contractors. Additionally, Recovery Act funds of \$146,850 were used to reimburse Alamo for unallowable expenditures, reducing the amount of funds available for eligible applicants and/or dwelling units.

**Recommendation**

We recommend that Alamo:

- 1.1 Develop and implement annual ethics training for all Alamo staff;
- 1.2 Develop and implement a hotline for Alamo staff, management and contractors to report improper or deficient Weatherization Program practices;
- 1.3 Designate Alamo senior staff as the second level reviewer to examine all Weatherization Program performance data submitted to Texas; and,
- 1.4 Work with Texas and the Department's Contracting Officer to resolve the costs questioned in this finding and determine if refunds to the Department are necessary.

## **SECTION IV. Schedule of Findings (Cont.)**

### **Management Response**

While Alamo management did not dispute that its former program director had directed contractors and staff to falsify and hide documents, management did not agree that the program was mismanaged, did not have an adequate number of human resources or technical expertise, and that the former director was not properly supervised. Management contends that the program did have sufficient staffing during the timeframe of our examination, and had 30 years of weatherization experience, and that the staff hired in 2010 brought additional technical experience that enhanced the skill set. Further, management responded that the director's supervisor was not holding two high level positions in other departments as stated in our report, and this supervisor, in fact, had uncovered the director's "deviations from proper procedures." Management further stated the program as a whole was managed very well with the exception of a narrow set of actions orchestrated by the former program director.

In regard to our recommendations, management concurred with recommendations 1.1, 1.2 and 1.3. Management responded that it had implemented a formal ethics training which was required to be presented annually to all Alamo staff members. Additionally, management stated that it distributed documents outlining fraud, waste and abuse and a Recovery Act Hotline number to all contractors, subcontractors and agency personnel. Management provided this documentation to the auditors with its response. Management further stated that Alamo's monthly performance and expenditure reports are subject to a multi-level review culminating with a controller or chief financial officer review.

In response to Recommendation 1.4, management disagreed that the forensic audit and investigation costs were unallowable, as the costs had been authorized and reimbursed by Texas, and were reasonable and prudent to protect Federal assets. Further, Alamo stated that Federal regulations stated that costs for periodic financial audits were allowable, and that there was no specific language stating that costs related to audits performed otherwise were unallowable.

### **Auditor Response**

We disagree with Alamo's assertions that the program was well managed and adequately staffed. In particular, based on our observations and the findings of investigators looking into the program, we determined that numerous high level managers at Alamo had been concerned with the former director's actions prior to discovering the falsification of records, especially in regard to staffing levels. In statements to independent investigators, Alamo's Executive Director, Deputy Executive Director, Quality Assurance Director, as well as other Alamo staff each stated that staffing level concerns were raised numerous times as far back as the fall of 2009. In addition, in the November 2010 corrective action plan prepared in response to the mismanagement, the Alamo Board of Directors specifically included the hiring of additional staff as a corrective action. In regard to management's response that the director was not properly supervised, we noted that the supervisor herself expressed to the investigators that she

**SECTION IV. Schedule of Findings (Cont.)**

was responsible for oversight of five departments, and at the same time continued oversight of two high level positions in other departments due to vacancies. Further, we noted that Alamo's Executive Director had been concerned with the former director's "inflexible management style" and that she was somewhat "resistant" to reporting to the supervisor.

With respect to the recommendations, management's actions to Recommendations 1.1, 1.2, and 1.3 are responsive. In regard to Recommendation 1.4, we maintain that the costs for forensic audits and investigations are an unallowable expense, regardless of whether they were erroneously approved and reimbursed by Texas. We noted that these costs were not incurred for periodic financial audits, but rather for investigation and forensic reviews into specific allegations of falsification of records, the cost of which should not be borne by the program. We noted no stipulation in the Federal regulations which would deem this cost allowable, and we maintain that this is not a reasonable Recovery Act expense.

## **SECTION IV. Schedule of Findings (Cont.)**

### **Finding 2 - Dwelling Units Ineligible for Recovery Act Weatherization Services (Material Weakness)**

#### **Condition**

We determined that Alamo weatherized multi-family dwelling units with Recovery Act Weatherization Program grant funds which were ineligible per the Code of Federal Regulations (CFR). Under 10 CFR 440.22, a subgrantee may weatherize a building containing rental dwelling units if not less than 66 percent (50 percent for duplexes and 4-unit buildings) of the building's dwelling units are eligible for weatherization assistance or will become eligible within 180 days under a Federal, State, or local government program. However, in our review, we noted that Alamo weatherized units even though the appropriate ratio of eligibility had not been obtained. Specifically, we noted that:

- Alamo weatherized a unit in the 4-unit Babcock North 21 building even though the building did not meet the 50 percent eligibility requirement for a 4-unit building. Specifically, only 1 unit, or 25 percent, met eligibility requirements, rendering the building ineligible. The cost to weatherize the ineligible unit was \$1,708.
- Alamo weatherized the 8-unit La Providencia Building 7 Apartments, despite the fact that less than 66 percent of the units met requirements. Specifically, only 5 of the units were eligible, or less than 66 percent. As a result, none of the units in this building should have been weatherized with Recovery Act funds. The cost to weatherize the ineligible building was \$20,196.

#### **Cause**

The deficiencies relating to compliance with regulations for weatherizing multi-family dwellings may be attributed to lack of understanding of Federal cost regulations and from erroneous instructions provided to Alamo by Texas. In particular, Alamo believed that it could weatherize a single unit in the 4-unit building if that unit's occupant met eligibility requirements. In regard to an 8-unit building, Texas provided electronic direction to Alamo that 62 percent, or 5 out of 8 units, would deem that building eligible for weatherization, even though it was below the 66 percent requirement.

#### **Effect**

Recovery Act funds totaling \$21,904 were used to provide weatherization services to ineligible multi-family buildings. This reduced the amount of Recovery Act funds available for eligible dwelling units.



## **SECTION IV. Schedule of Findings (Cont.)**

### **Recommendations**

We recommend that Alamo:

- 2.1 Reimburse Texas the amount of \$21,904, the amount spent to weatherize ineligible dwelling units; and,
- 2.2 Develop and implement procedures to ensure that only eligible units are weatherized.

### **Management Response**

Management did not agree with our findings and questioned costs. In regard to the Babcock North Apartment, management agreed that the building as a whole was ineligible, that only one occupant was eligible, and that one occupant received services. However, Alamo management interpreted the Federal regulations to mean that if one occupant is eligible for weatherization services in a multi-family dwelling, then that occupant's unit could be weatherized, as compared to the building as a whole. With respect to La Providencia's 8-unit building which was weatherized despite being below 66 percent eligible, management stated that it had sought direction from its Texas program manager, who had, in response, indicated that if 5-units in an 8-unit building were eligible, then the building would qualify for weatherization.

In addition, management provided responses and documentation to support other costs questioned in an earlier version of the report, and not shown here.

In regard to the recommendations, management asked that Recommendation 2.1 be removed from our report based on the additional documentation. In regard to Recommendation 2.2, management stated that it had implemented standard operating procedures which ensure that units and multi-family buildings are eligible to receive weatherization services.

### **Auditor Response**

We disagree with management's interpretation of Federal regulations in regard to the Babcock North building. The regulations state that to weatherize a multi-family unit, 50 percent of the occupants of a 4-unit building must meet eligibility requirements. There is no provision in the requirements to allow for a single unit in a multi-family dwelling to receive services. Further, we maintain that La Providencia's Building 7 had not met the appropriate eligibility requirements. In particular, the regulations state that "not less than 66 percent" of the units in multi-family dwelling. In this case, less than 66 percent were eligible. While we stated in our report that Texas had mistakenly directed Alamo in this regard, erroneous guidance by Texas does not deem these costs allowable.

**SECTION IV. Schedule of Findings (Cont.)**

In regard to additional information and documentation provided by management as a response to our draft report, we revised our report accordingly. However, we must note that while we had discussed our report previously with management, the documentation had not been provided at that time. Furthermore, this documentation was not available at the time of our review.

Based on our response above, Recommendation 2.1 will remain in the report, and we consider management's actions to be non-responsive. In regard to Recommendation 2.2, management's actions are responsive.

## SECTION V. Management Response

**Alamo Area Council of Governments  
Response to the  
Draft Examination Report  
Prepared by Lani Eko & Company, CPA's, PLLC  
May 17, 2013**



The following Management Response has been prepared by the Alamo Area Council of Governments (AACOG) to address some assertions made in the Draft Examination Report (Report) by Lani Eko & Company, CPA's, PLLC (LEC) as prepared for the Inspector General, U.S. Department of Energy (DOE/OIG).

### Section III. Summary of Findings

#### **Finding 1: Falsification of Weatherization Program Records – Material Weakness**

**Response 1(a):** Upon review of the "Condition" statement for Finding 1 of the Draft Examination report, AACOG leadership identified the following issue in the first paragraph of the "Condition", regarding the assertion that "the Alamo Area Council of Governments (Alamo) had mismanaged the Weatherization Program by directing contractors and staff to falsify and hide documents". This statement is not an accurate representation of the facts of the 2010 incident involving the former Weatherization Assistance Program (WAP) Director. AACOG as an agency did not direct contractors or staff to falsify and hide documents. One employee, the former WAP Director, was responsible for these actions, and was immediately removed from her position when said actions were identified. This verbiage should be updated to accurately reflect the condition.

**Response 1(b):** AACOG's Senior Executive Management Staff and AACOG Board of Directors acknowledged the possibility of inaccurate program production reporting during the time frame of March 1, 2010 through July 31, 2010 and took action to secure independent, comprehensive review/audit of Weatherization records from that time period through proper procurement protocols to ensure that American Reinvestment and Recovery Act (ARRA) funds had been used properly and reported properly prior to the identification of the improper procedures instituted by the former Director. Texas Department of Housing and Community Affairs (TDHCA) leadership approved of and supported the further programmatic and fiscal review of the ARRA files, staff and data records of Alamo, and authorized Alamo to utilize ARRA Administrative funds to perform this detailed investigation/audit of 100% of the files.

It is the opinion of current AACOG leadership that AACOG's Executive Director did in fact, take prudent and appropriate action to protect Federal assets when she took investigative steps to identify if any acts by AACOG Staff or Contractors constituted or resulted in fraud, waste or abuse, and if the actions by staff and Contractors complied with the requirements and guidelines relative to the Weatherization Program funds awarded to Alamo. As a result of these investigations it was determined that although there were indicators of an elevated risk of fraud, waste or improper payments, none of the conditions of fraud, waste or abuse of federal funds actually existed in the AACOG Weatherization Assistance Program.

### SECTION V. Management Response (Cont.)

By taking these reasonable and prudent actions, which included the proper procurement of the entities that performed the various reviews and audits, AACOG and TDHCA did comply with Federal cost principles and ARRA Weatherization program grant guidelines regarding allowable costs. CFR sections traditionally applicable to Weatherization indicate that costs for periodic financial audits are allowable, and there is no specific language stating that an audit performed other than an annual single audit or a supplemental audit/review is not an allowable cost.

**Response 1(c):** AACOG leadership challenges the statements by LEC noted in the "Cause" section implying that the Weatherization Program was mismanaged, that the program did not have an adequate number of human resources or technical expertise, and that the former WAP Director was not properly supervised. AACOG's Weatherization Assistance Program did have sufficient staffing during the time frame of this examination and over 30 years of experience weatherizing homes in the AACOG Region. The staff members added in 2010 brought additional technical experience from construction and renovation backgrounds that enhanced the skill set of the current employees at that time. The program as a whole was managed very well with the exception of a narrow set of actions orchestrated by the former WAP Director.

During the time in question, the supervisor of the former WAP Director, the Deputy Director of Human Services, was not holding two high level positions in other departments due to vacancies. The other management staff supervised by this Deputy Director included the Director of Bexar Aging, Director of Alamo Aging, Director of the Alamo Local Authority and Director of Workforce, all four positions were fully staffed, the departments were operating efficiently and achieving performance goals for the State and local agencies they served. The deviations from proper procedures and protocol by the former WAP Director were, in fact, uncovered by the supervising Deputy Director only a few weeks after the incorrect report was submitted to TDHCA for the May 2010 reporting period. When the June, 2010 report was being prepared for submission, the combined scrutiny of the Deputy Director and the Accountant in charge of the WAP program uncovered the deviations. Upon discovery, all unauthorized actions were ceased, and the former WAP Director was immediately (within hours) removed from the premises.

**Recommendation 1.1:** Develop and implement annual ethics training.

**Response 1.1:** AACOG's Human Resources Department implemented formal, Ethics Training in November 2010 which is required to be presented annually to all AACOG staff members.

**Recommendation 1.2:** Develop and implement a hotline to report improper practices

**Response 1.2:** AACOG's WAP Department distributes and posts documents outlining Fraud, Waste and Abuse including the Recovery Act Fraud Hotline (1-877-329-3922) to all Installation Contractors, Subcontractors, and agency personnel. Additionally, any concerned party can contact the AACOG Executive Director or Human Resource Director by contacting AACOG at (210) 362-5200 or by calling toll free 1-800-749-2010. (See Exhibits E.4a-d)

**Recommendation 1.3:** Designate a senior staff member to review WAP performance data

**Response 1.3:** AACOG's Monthly Performance and Expenditure Reports pass through a multi-level review process culminating with final review by AACOG's Controller or CFO.

**Recommendation 1.4:** Work with TDHCA and DOE's Contracting Office to determine if refunds are necessary.

## SECTION V. Management Response (Cont.)

**Response 1.4:** AACOG Leadership challenges the conclusion that the expenditures for the forensic audit and investigation are disallowed costs to AACOG, as these costs were duly authorized and reimbursed by TDHCA.

**Finding 2:** Dwelling Units Ineligible for Recovery Act Weatherization Assistance -Material Weakness

**Response 2(a):** Weatherization Guidelines pertaining to the eligibility of individual unit households in multi-family properties are found in a number of sources including the Code of Federal Regulations (CFR), Texas Administrative Code (TAC), Department of Energy Weatherization Program Notices (WPN) and TDHCA's Weatherization Assistance Program Policy Issuances (WPI). Regarding the eligibility determination in multi-family complexes in 2010, the following references apply:

- **10 CFR 440.3 Definitions and TAC 10-5.525 Eligibility for Multifamily Dwelling Units**  
Dwelling Unit means a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.  
Multifamily Building is a group of dwellings under the same roof.
- **WAP Policy Issuance #04-11.30 Eligibility for Multifamily Dwelling Units (10 CFR 440.22 (a)-(d) Included as Attachment A)**  
 (a) A dwelling unit shall be eligible for weatherization assistance under this part if it is occupied by a family unit:
  - (1) Whose income is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget. (Note that in 2010 the poverty level was increased to a maximum of 200% of the poverty level for DOE ARRA WAP).

**Response 2(b):** AACOG reviewed applications and determined the financial eligibility for all tenants residing in the Babcock North Apartments who chose to participate in the WAP Application process. The apartment buildings on this property consisted of four (4) units per building. In the case of Babcock North Apartment Building 21, only one (1) dwelling unit of four (4) total units in the building (file number 6761) submitted an application for weatherization services. This applicant's household was income-eligible under the criteria above and the weatherization of this unit with ARRA funding in the amount of \$1,707.78 was allowable. LEC asserted that a second unit (file 6762) was weatherized in the amount of \$1957.34. Our records from the individual file and from the invoices attached to the check request submitted on this complex do not indicate that this unit was weatherized. The only unit weatherized in the amount of \$1,957.34 was file number 6763 in another building. (See Exhibits E.1a-e for supporting documentation.) The Multifamily Building 21 as a whole was not eligible, and the building as a whole was not weatherized. Therefore, the finding that the total cost of \$3,665.00 should be disallowed is challenged. AACOG respectfully requests that this finding be removed from the Report.

**Response 2(c):** LEC noted that building 4 of the La Providencia Apartments failed to meet eligibility requirements for multifamily buildings. This conclusion is incorrect. Building 4 consists of 8 units 401, 402, 403, 404, 421, 422, 423 and 424. Of these, 6 units met the eligibility requirement of a poverty level less than 200%. The only two units that were above 200% were units 404 and 422 (case numbers 7277 and 7279.) (See Exhibits E.2a-b for supporting documentation.) This building's overall eligibility percentage for whole building weatherization was 75%. AACOG

## SECTION V. Management Response (Cont.)

respectfully requests that this finding and questioned cost of \$16,544.41 be removed from the report.

**Response 2(d):** LEC identified La Providencia Building 7 as being ineligible for weatherization. At the time of eligibility determination, there were 5 eligible units of 7 occupied units in the building containing 8 total units (1 unit was vacant at the time.) (see Exhibit E.2c for supporting documentation.) AACOG acted in accordance with the Department of Energy's WEATHERIZATION PROGRAM NOTICE 10-1 effective December 18, 2009 which advised under section 5.2 MULTI-FAMILY ELIGIBILITY: "Subgrantee agencies who are uncertain on a given multi-family project should seek approval by the PMC through their Grantee Weatherization Program Manager." AACOG staff acted appropriately by contacting TDHCA (supporting documentation previously submitted to LEC) to inquire as to the proper course of action in the circumstance of an 8 unit building where the figure of 66% eligibility divides unevenly into 5.28 units. The logic presented by TDI ICA to AACOG was that in this case, 66% falls closer to the whole number of 5 than 6; therefore, 5 eligible units would be sufficient to trigger whole building eligibility. The finding and questioned cost of \$20,195.81 is respectfully requested to be reconsidered as a finding against AACOG.

**Response 2(e):** LEC asserted that \$10,460 was charged to ARRA for Building 2 of the Hondo Gardens Apartments (unit numbers 201, 202, 203 and 204 case numbers 6500, 6501, 6502 and 6503 respectively). The supporting documents for Hondo Gardens (invoices, BWR's and Check Requests) clearly indicate either LIHEAP or DOE (non-ARRA) funding per each measure. (See Exhibit E.3a and E.3b for the complete check requests for this apartment complex with accounting back-up documentation.) As there were no costs charged to ARRA funding, the Questioned cost in the amount of \$10,459.60 is challenged and respectfully requested to be removed as a finding in this report.

**Recommendation 2.1:** Reimburse TDHCA the amount of \$50,865

**Response 2.1:** AACOG challenges the questioned cost as described above and requests that Recommendation 2.1 be removed from this report.

**Recommendation 2.2:** Develop and implement procedures to ensure that only eligible units are weatherized and that Weatherization Program funds are not used for services covered by other assistance programs.


**Response 2.2:** AACOG's WAP Department has implemented standard operating procedures which ensure that units individually, and units in multifamily buildings in aggregate, are evaluated and determined to be eligible prior to the creation of work orders and release of cases to weatherization installation contractors. Weatherization Program funds have never been used for services covered by other assistance programs. When multiple funding streams are available for weatherization services as is the case with DOE WAP funds, LIHEAP WAP funds, DOE ARRA WAP funds and Public Utility (PUC) funding, AACOG evaluates each work order and assigns one (1) funding source per weatherization measure. Operational protocols prevent duplicate payments for the same item or service.

**DEPARTMENT COMMENTS****Department of Energy**

Washington, DC 20585

AUG 29 2013

MEMORANDUM FOR: RICKEY R. HASS  
DEPUTY INSPECTOR GENERAL  
FOR AUDITS AND INSPECTIONS  
OFFICE OF INSPECTOR GENERAL

FROM: KATHLEEN B. HOGAN   
DEPUTY ASSISTANT SECRETARY  
FOR ENERGY EFFICIENCY AND RENEWABLE ENERGY

SUBJECT: Response to the Office of Inspector General, Office of Audits and Inspections, July 2013 Draft Examination Report on "Alamo Area Council of Governments – Weatherization Assistance Program Funds Provided by the American Recovery and Reinvestment Act of 2009"

The Office of Energy Efficiency and Renewable Energy (EERE) appreciates the opportunity to review and comment on the Office of Inspector General's (OIG) July 2013 Draft Examination Report on the Alamo Area Council of Governments (AACOG) Weatherization Assistance Program (Weatherization Program) provided by the American Recovery and Reinvestment Act of 2009 (Recovery Act). The AACOG in San Antonio is a sub-grantee to the Texas Department of Housing and Community Affairs (TDHCA) which is the recipient of a DOE Weatherization Assistance Program (WAP) grant. EERE provides guidance and support to all grantees pursuant to the Code of Federal Regulations (CFR), 10 CFR 600 and 2 CFR 225 (A-87). When applicable, EERE provides grantees with guidance pursuant to 2 CFR 220 (A-21), 2 CFR 230 (A-122), and 10 CFR 400. EERE seeks to ensure compliance with Federal regulations through ongoing monitoring of all grantees.

The independent auditor expressed the opinion that, except for the weaknesses described in its report, AACOG complied in all material respects with the requirements and guidelines relative to the Weatherization Program for the period April 1, 2009 through June 30, 2011.

The OIG made one recommendation regarding AACOG's Weatherization Program. EERE concurs with the OIG's recommendation and has been working with AACOG to ensure that all corrective actions are implemented. The following responses by EERE address the OIG findings as outlined in the draft examination report.



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**OIG Recommendation 1:** Ensure appropriate action is taken by TDHCA to improve the administration of Recovery Act Weatherization Program funds at AACOG and resolve the costs questioned in this report.

EERE is working with the TDHCA to ensure that the IG recommendation and corrective actions outlined in the OIG Draft Report are implemented. Two findings are described below followed by EERE's response and corrective actions.

**EERE Response to Finding 1:** Falsification of Weatherization Program Records

In Attachment 1, on page 14, Section V. Management Response 1.1 states that the AACOG's Human Resources Department implemented a formal ethics training program, which will be required annually for all AACOG staff. The auditor indicated on page 9 that they concur with AACOG's response to their recommendation. EERE concurs with the recommendation and the implemented corrective action. In addition, EERE will follow-up annually to ensure that training and technical assistance (T&TA) funds are specifically budgeted for ethics trainings. EERE agrees that corrective action has been implemented and the recommendation is resolved.

AACOG management states on page 14, Response 1.2 that it distributes and posts documents outlining fraud, waste and abuse and a Recovery Act Fraud Hotline number to all contractors, sub-contractors and agency personnel. AACOG provided this documentation to the auditor when they responded to the report. The OIG has indicated that they concur with the response to their recommendation. EERE agrees that the corrective action has been implemented and the OIG recommendation is resolved.

On page 14 of the report, AACOG management state in Response 1.3 that their monthly performance and expenditure reports pass through a multi-level review process culminating with final review by AACOG's Controller or CFO. On page 9 of the report, the OIG indicated that they concur with the response to their recommendation. EERE agrees that the corrective action has been implemented and the OIG recommendation is resolved.

**EERE Response to Finding 2:** Dwelling Units Ineligible for Recovery Act Weatherization Services

On Page 15, in Response 1.4, AACOG challenges the conclusion of the OIG that expenditures for the forensic audit and investigation are disallowed. On page 9, the OIG maintains that AACOG's response is not responsive to the recommendation. EERE concurs with the assessment of the auditor that the forensic auditing and investigation costs are unallowable, despite the approval from the TDHCA. AACOG should work with the TDHCA and the DOE Contracting Officer to resolve the questioned costs. EERE and the CO will perform the necessary cost recovery to resolve the questioned costs by December 31, 2013.



On Page 15, in Responses 2(a) and 2(b), AACOG challenges the OIG determination that ineligible dwellings were weatherized. On page 11, the OIG disagrees with AACOG's interpretation of the Federal Regulations and maintains that the buildings referenced in the report are ineligible dwellings. EERE concurs with the auditor's assessment that the units were not eligible for weatherization. Therefore, AACOG should work with the TDHCA and DOE's Contracting Officer to resolve the costs associated with the questioned units. EERE and the CO will perform the necessary cost recovery to resolve the questioned costs by December 31, 2013.

As stated on page 16, Response 2.2, AACOG management has provided evidence that they have implemented standard operating procedures to ensure that only eligible units are weatherized. The OIG has determined that AACOG's actions are responsive to the findings. EERE agrees that AACOG has implemented corrective action to resolve this OIG recommendation. The DOE WAP Project Officer will conduct periodic reviews of the disposition for disallowed costs and other findings. The target for resolution of IG recommendation and corrective actions outlined in the OIG Draft Report is December 2013.

**STATE OF TEXAS COMMENTS**



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September 5, 2013

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Mr. Rickey R. Hass  
Deputy Inspector General for Audits and Inspections  
Office of the Inspector General  
1000 Independence Avenue, SW  
Washington, DC 20585

RE: Examination Report on "Alamo Area Council of Governments – Weatherization Assistance Program Funds Provided by the American Recovery and Reinvestment Act of 2009"

Dear Mr. Hass:

The Texas Department of Housing and Community Affairs (the Department) has received the Official Draft Examination Report based on a review of the Alamo Area Council of Governments (AACOG). This letter provides Department comments on the findings indicated in the draft report.

Falsification of Weatherization Program Records

As the report points out, once the Department was made aware of the actions taken by the former AACOG WAP program manager, the Department immediately conducted a thorough review of the program records. While the Department’s review did not find evidence of any misappropriated funds, we did find evidence that program performance reports had been falsified for reporting purposes.

The draft report questions \$146,850 in administrative funds expended by AACOG to investigate this matter. The Department concurs with Lani Eko’s conclusion that pursuant to 10 CFR Part 600, the costs associated with the forensic audit of the client files, the private investigation, and the computer-related forensic services are not eligible costs under the audit rule. The Department will collect the disallowed investigation costs from AACOG. If the funds are not expended by TDHCA for ARRA WAP purposes, the funds will be returned to DOE.

Dwelling Units Ineligible for Weatherization Services

The draft report questions \$21,904 in costs incurred for the weatherization of a 4-unit building and an 8-unit building. In the case of the 4-unit building, at the time these units were weatherized, TDHCA operated under the understanding that if an individual tenant in an apartment building applied for weatherization services, that unit could be weatherized based on client eligibility and the unit



Re: Examination Report on Alamo Area Council of Governments  
September 5, 2013  
Page 2

assessment. Enclosed for your review is email communication with DOE regarding this subject. The Department respectfully requests that the \$1,708 used to weatherize the unit be allowed.

In the case of the 8-unit building, at the time these units were weatherized, one of the units in the building was vacant. In directing AACOG to weatherize the building the vacant unit was considered not eligible for weatherization. The Department calculated that five of the seven units were eligible for weatherization, a total of 71%. No funds were expended to weatherize the vacant unit. The Department respectfully requests that the \$20,196 used to weatherize the eligible units be allowed.

The Department appreciates the support provided by DOE and the opportunity to respond to the issues raised in the report. If you have any questions regarding our response, please contact me at the number provided above.

Sincerely,



Michael DeYoung  
Director, Community Affairs Division

MED/sdg

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