



State of New Jersey

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Governor
KIM GUADAGNO
Lt. Governor

A. MATTHEW BOXER
State Comptroller

August 21, 2013

The Honorable Cory A. Booker
Mayor
City of Newark
City Hall
920 Broad Street-Room 200
Newark, NJ 07102

Re: American Recovery and Reinvestment Act-Energy
Efficiency and Conservation Block Grant Program
Report PA-20b

Dear Mayor Booker:

Pursuant to the State Comptroller's authority set forth in *N.J.S.A. 52:15C-1* et seq., we reviewed the use of, and internal controls over, the Energy Efficiency and Conservation Block Grant (EECBG) awarded to the City of Newark. The objective of our audit was to assess the adequacy of controls over the procurement, expenditure and reporting of EECBG-related activities. Our audit covered the period October 5, 2009 through June 18, 2013.

In performing the audit we reviewed applicable federal and state laws as well as Newark's policies and procedures relating to EECBG activities. We also conducted interviews with pertinent Newark personnel and physically observed work performed and goods purchased with grant funds.

We conducted our audit in accordance with generally accepted government auditing standards applicable to performance audits. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

On October 5, 2009, Newark was awarded an EECBG grant in the amount of \$2,836,300. The EECBG grant program was funded under the American Recovery and Reinvestment Act of 2009. The purpose of the grant program was to assist eligible entities to develop, promote, implement and manage energy efficiency and conservation projects and programs designed to reduce total energy use, improve energy efficiency and create jobs.

In reviewing Newark's EECBG-related activities, we tested: internal controls and selected transactions concerning the procurement of contracted services; allowable expenditures; the recording and reporting of expenditures; and the timely use of the funding in accordance with EECBG requirements. We identified a reportable condition concerning the procurement process used in two EECBG-related contracts.

The City used the "competitive contracting" method of procurement to solicit services for two EECBG projects. The Local Public Contracts Law permits local governments to procure certain specialized goods and services through competitive contracting. This method of procurement enables local governments to take factors other than price into consideration when awarding a contract. We found, however, that the City did not pass a resolution to initiate the competitive contracting method for these two contracts as required by *N.J.S.A. 40A:11-4.3*. In addition, the City advertised the requests for proposals only on its website, even though the Local Public Contracts Law requires that a notice be placed in its official newspaper. *N.J.S.A. 40A:11-4.5*.

Newark should improve its procurement controls to ensure future compliance with the requirements of *N.J.S.A. 40A:11-4.3* and *N.J.S.A. 40A:11-4.5*.

We provided a draft of this letter report to City of Newark officials for their review and comment. Their comments are attached as Appendix A.

We thank the management and staff of the City of Newark for the cooperation extended to our auditors during this audit.

Very truly yours,

A handwritten signature in blue ink that reads "William P. Challice". The signature is written in a cursive style with a large initial "W" and "P".

William P. Challice, CIA, CFE, CGFM
Director, Audit Division

c. Anibal Ramos, Jr., Acting Council President
Julien X. Neals, Esq., Business Administrator

Newark

Cory A. Booker
Mayor

Department of Economic & Housing Development

Adam Zipkin
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Elizabeth Watson
Audit Manager
Office of the State Comptroller
P.O. Box 024
Trenton, NJ 08625-0024

July 25, 2013

Dear Ms. Watson,

This letter responds to draft comments from your office received by the City of Newark regarding Newark's Energy Efficiency and Conservation Block Grant (EECBG) program. The comments refer to one outstanding issue identified during the audit process. For two projects, Newark advertised bidding opportunities on its website rather than in the local paper of record. In addition, the authorizing resolutions made reference to use of competitive contracting in awarding the sub-grants. The authority to use competitive contracting should have been granted in a separate resolution, rather than in the resolution authorizing contract award.

The Newark Sustainability Office, which had primary agency responsibility for the EECBG program, has taken the following steps to improve procurement controls and ensure future compliance with the requirements of *N.J.S.A.40A:11-4.3* and *N.J.S.A. 40A:11-4.5*:

- Sub-grant award procedures will be reviewed with staff attorneys in advance of issuing Requests for Proposals in order to ensure compliance with Public Contract Law requirements
- All RFPs will be published in the local paper of record (The Star Ledger) unless the Office is specifically advised to advertise in another manner by the Newark Law Department

With these additional safeguards, staff is confident of maintaining future compliance with procurement procedures under Public Contract Law.

Please do not hesitate to contact me with any questions regarding this response letter.

Best,
Stephanie Greenwood,
Sustainability Director

