Ms. Jacky Morales-Ferrand  
Director of Housing  
City of San Jose  
200 E. Santa Clara Street  
San Jose, CA  95113-1903  

Dear Ms. Morales-Ferrand:

SUBJECT: Federal Fiscal Year (FFY) 2017 - On-Site Monitoring  
Emergency Solutions Grant (ESG) Program  
E14MC060021  
E15MC060021  
E16MC060021

From June 26 through June 30, 2017, HUD conducted an onsite monitoring of the Emergency Solutions Grant (ESG) program administered by the city of San Jose. The monitoring was conducted by Ms. Kimberly Johnson, Senior Community Planning and Development Representative (HUD Monitor). Ms. Johnson assessed overall grant management, performance, and compliance by reviewing file documentation, interviewing with staff, and conducting site visits. The purpose of this letter is to transmit HUD’s monitoring report, which provides the details of the review.

Overview

The enclosed report contains five (5) Findings with required Corrective Actions and two (2) Concerns with recommended Corrective Actions. A Finding is identified as a deficiency in program performance based on a statutory, regulatory, or program requirement for which sanctions or other corrective actions are authorized. A Concern is a deficiency in program performance that is not based on a statutory, regulatory, or other program requirement but is brought to the grantee’s attention. Required corrective actions are identified for all Findings. Recommended actions are identified for Concerns. Although the city is not required to respond to a Concern, a response to any actions it is taking would be appreciated.

Specifics relating to this review are as follows:

HUD Reviewer(s): Kimberly Johnson, Senior Community Planning Development Representative  

Grantee Staff: James Stagi
Entrance Conference:
Date: June 26, 2017
Representatives:
Kimberly Johnson
James Stagi
Kathryn Kaminski
Vanessa Beretta
Robert Lopez

Meetings with Subrecipients:
Date: June 27, 2017
Tami Moore (Bill Wilson Center)
Belen Garcia-Aceves (Life Moves)
Laura Foster (Bill Wilson Center)
Erin Stanton (Sacred Heart Community Service)
Elizabeth Medina (Family Supportive Housing)
Vanessa Beretta
Robert Lopez
Kathryn Kaminski

Date: June 28, 2017
Megan Colvard (PATH)
Aiko Yep (PATH)
Vanessa Beretta
Robert Lopez
Kathryn Kaminski

Exit Conference:
Date: June 30, 2017
Representatives:
Kimberly Johnson
Jacky Morales-Ferrand
James Stagi
Kathryn Kaminski
Vanessa Beretta
Robert Lopez

The monitoring of these grants relied upon the use of the monitoring checklists:
Exhibit 28-1 - Guide for Review of Homeless and At-Risk Determination/Recordkeeping Requirements
Exhibit 28-2 - Guide for Review of ESG Recipient’s Overall Grant Management
Exhibit 28-3 - Guide for Review of ESG Subrecipient Grant Management
These checklists can be downloaded from the *Community Planning and Development Monitoring Handbook 6509.2*; they are available at:


**Summary of Results and Conclusions**

This monitoring focused on the activities funded with the city’s annual ESG allocation for the prior three program years. The review focused on activities implemented by subrecipients, for a variety of services. The connection between the city’s administration of its ESG program and the coordinated entry system devised by the local Continuum of Care (CoC) was a factor taken into consideration during Ms. Johnson’s monitoring visit. To the extent that the ESG-funded services can be seamlessly incorporated into the local CoC was encouraged by the HUD monitor during the monitoring visit, and recommendations on peer support was provided.

Generally, the source for many of the findings is the lack of formal written standards to guide both the city and its subrecipients in carrying out the ESG program. Findings encompassed programmatic and financial issues, and the city will need to repay its U.S. Treasury account for certain ineligible expenses. Overall, the Department has identified five (5) findings and two (2) concerns. The findings and concerns are described on the following page. A response from the city is due 30 days from the date of this letter.
Overall Management

Finding 1: San Jose has not established formal written standards setting forth (1) the administrative, programmatic and fiscal requirements, and (2) standards and operations for subrecipients carrying out activities and programs using Emergency Solutions Grant (ESG) program as required by the regulations set forth at 24 CFR § 576.400(e) and 401(a).

Condition

Currently, the city of San Jose has not adopted formal written standards for the implementation of its ESG-funded activities. These standards are important for setting forth the city’s expectations on how ESG services are to be provided by subrecipients. For example, subrecipients administering rapid rehousing assistance were not applying required ESG standards to ensure that recipients of rental assistance were not paying rents in excess of programmatic standards, and did not execute rental payment agreements with landlords.

Additionally, the regulations found at 24 CFR § 576.401 (a) require all ESG-funded projects serving the homeless and those at-risk of homelessness within the Santa Clara County Continuum of Care (CoC) follow the CoC’s coordinated assessment system for screening, assessment, and referral of program participants. Most importantly, the CoC coordinated assessment system and the city’s ESG written standards must be consistent.

Cause

The city elected to wait until the Santa Clara County Continuum of Care launched its coordinated assessment system.

Criteria

The regulations found at 24 CFR § 576.400(e) are entitled Written standards for providing ESG assistance. The provisions pertaining to localities begin at § 576.400(e)(3) and at a minimum, include:

(i) Standard policies and procedures for evaluation individuals’ and families’ eligibility for assistance under Emergency Solutions Grant (ESG);

(ii) Standards for targeting and providing essential services related to street outreach;

(iii) Policies and procedures for admission, diversion, referral and discharge by emergency shelters assisted under ESG, including standards regarding length of stay, if any, and safeguards to meet the safety and shelter needs of special populations, e.g., victims of domestic violence, dating violence, sexual assault, and stalking; and individuals and families who have the highest barriers to housing and are likely to be homeless the longest;

(iv) Policies and procedures for assessing, prioritizing, and reassessing individuals’ and families’ needs for essential services related to emergency shelter;
(v) Policies and procedures for coordination among emergency shelter providers, essential services providers, homelessness prevention, and rapid rehousing assistance providers; other homeless assistance providers; and mainstream service and housing providers (see § 576.400(b) and (c) for a list of programs with which ESG-funded activities must be coordinated and integrated to the maximum extent practicable);

(vi) Policies and procedures for determining and prioritizing which eligible families and individuals will receive homelessness prevention assistance and which eligible families and individuals will receive rapid re-housing assistance;

(vii) Standards for determining what percentage or amount of rent and utilities costs each program participant must pay while receiving homelessness prevention or rapid re-housing assistance;

(viii) Standards for determining how long a particular program participant will be provided with rental assistance and whether and how the amount of that assistance will be adjusted over time; and

(ix) Standards for determining the type, amount, and duration of housing stabilization and/or relocation services to provide to a program participant, including the limits, if any, on the homelessness prevention or rapid re-housing assistance that each program participant may receive, such as the maximum amount of assistance, maximum number of months the program participant receive assistance; or the maximum number of times program participants may receive assistance.

Effect

As a result of operating its ESG grant without formalized, written standards, subrecipients and the city have not consistently administered ESG funds in compliance with the regulations. For example, subrecipients carrying out rapid rehousing services did not document that staff considered fair market rent levels or follow rent reasonableness standards before issuing rental assistance payments. Additionally, without setting parameters in an ESG written standards document, the Street Outreach contractor used ESG funds to pay for hotel/motel vouchers in a manner that is not consistent with the ESG regulations and accepted policy. These issues are discussed in more detail under Findings # 4 and #5. Finally, the city’s ESG-funded services do not fully align with the broader county-wide Continuum of Care coordinated assessment system.

Required Corrective Action

To address this finding, the city must create written standards conforming to the regulatory requirements. The draft written standards should be submitted to this office for review. The finalized standards must be included in a substantial amendment to the city’s current Consolidated Plan. The city should provide this office with an outline for the written standards.

Finding 2: San Jose has not disbursed its 2015 and 2016 ESG funding on a quarterly basis as required by the regulations found at 24 CFR § 576.203(b).
Condition

The city’s 2015 ESG grant totaled $725,731.00, and these funds were obligated by HUD for the city’s use on July 29, 2015. The 2016 ESG grant was awarded to the city for $743,498.00, and these funds were obligated to the city on August 22, 2016. Review of the city’s ESG expenditures using data from HUD’s Integrated Disbursement and Information System (IDIS) indicates that funds from the city’s 2015 ESG grant were not disbursed until April 2016, during the fourth quarter of the grant, and the city’s last quarter of its 2015-2016 fiscal year. Similarly, 2016 ESG grant funds were not initially disbursed until the month of March 2017.

Criteria

The regulations found at 24 CFR § 576.203(b) require grantees to “draw down and expend funds from each year’s grant not less than once during each quarter of the recipient’s program year.”

Cause

For the 2016 ESG grant, the city has four contracts for the provision of ESG-funded activities. These contracts are generally extensions of contracts that had been funded with ESG, and in some cases Community Development Block Grant funds in prior years. One contract is with a group of providers, and the submission of the invoice with all the expenses from the partners is more complex, taking more time for the lead subrecipient to assemble, and for city staff to review. In situations when city staff note that documentation is missing or is questioning certain costs, the subrecipient must collect that additional information and resubmit it to the city.

Santa Clara County is another subrecipient of the city. A review of those invoices that have been processed for payment indicates that the county was slow to bill the city. A different subrecipient has an approved budget which spreads ESG funding across a wide variety of expenses, introducing complexity to billing and the need for significant supporting documentation in support of monthly invoices.

The city is commended for its diligence in its review of invoices. Without weakening its oversight of invoices, the city is encouraged to develop strategies for expediting the review and payment of subrecipient invoices, so that it can more timely disburse ESG funds from its Line of Credit.

Effect

As a result of not drawing down ESG funds timely for eligible expenses and activities, the city is not reimbursing itself timely. Slow disbursement from the city’s ESG U.S. Treasury account may give the impression that these funds are not necessary to address the needs of the homeless and those at-risk of homelessness in San Jose.
Required Corrective Action

The city must describe the actions it will take to ensure that quarterly draws are made for eligible expenses from its ESG Line of Credit.

Finding 3: The city must ensure that all the required information is included in subawards with subrecipients as outlined at 2 CFR § 200.331(a).

Condition

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which are codified at 2 CFR § 200, describe the elements that need to be included in agreements between “pass through” entities, like the city, with its subrecipients. The monitoring reviewed grants executed in prior years in some cases prior to the effective date of the regulations. Although several elements required by the Uniform Administrative Requirements were noted in these agreements, several other elements were not included. Please note that these requirements are also required for subrecipients receiving Community Development Block Grant, Housing Opportunities for Persons with AIDS, and Home Investment Partnerships Program funds.

Cause

Staff has not had the opportunity to review the aforesaid provisions in order to make the necessary revisions to its contracts with subrecipients.

Criteria

The regulations found at 24 CFR § 200.331(a) set forth the following required elements that all pass-through entities should be included in agreements supported with ESG funds:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

(1) Federal Award Identification.

   (i) Subrecipient name (which must match the name associated with its unique entity identifier);

   (ii) Subrecipient’s unique entity identifier;

   (iii) Federal Award Identification Number (FAIN);
(iv) Federal Award Date (see §200.39 Federal award date) of award to the recipient by the Federal agency;

(v) Subaward Period of Performance Start and End Date;

(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;

(vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;

(viii) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;

(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);

(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the pass-through entity;

(xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;

(xii) Identification of whether the award is R&D; and

(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).

(2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award;

(3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;

(4) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in §200.414 Indirect (F&A) costs, paragraph (f);

(5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient’s records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and

(6) Appropriate terms and conditions concerning closeout of the subaward.
Effect

Without updating the provisions in all of its agreements with subrecipients, the city is currently in non-compliance with the current Uniform Administrative Requirements.

Required Corrective Action

To address this finding, the city should revise its ESG agreements with subrecipients to ensure that all required elements are included. The city is requested to provide a draft agreement with the required elements to this office for review.

Finding 4: The city’s rapid rehousing assistance services have not been administered in conformance with the regulations, pertaining to determination of appropriate rent payment, rental assistance agreements, the timing of habitability standards and lease execution, and eligibility determinations as described respectfully at 24 CFR § 576.106 (d) and (e); 24 CFR 576.403(a) and (c), 24 CFR § 576.104, and 24 CFR § 576.2

Condition

The city has contracted with a collaborative of service providers to offer an array of services across four ESG Components: Emergency Shelter; Rapid Re-housing; Housing Relocation and Stabilization Services, and Short-term Rental Assistance. The lead entity, Bill Wilson Center works with Sacred Heart (SH) and Family Supportive Housing (FSH) to provide rapid rehousing services. The review of client files served by these two providers found systemic issues that render the services provided to be out of compliance with the requirements for administering rapid rehousing component.

In particular, the review of client files revealed that Rental Assistance Agreements were not executed between the service providers and landlords. The monitor also noted instances, described in the table below, where leases between landlords and SH or FSH clients were executed in advance of completed inspections, when the order of action is to have units inspected to confirm that the unit is suitable for living before executing a lease, which is when ESG funds are considered to be obligated. Finally, there is no indication that either FSH or SH have built into their habitability review a consideration of lead-based paint hazards. The files should note whether inspectors took the age of the housing and of children in the household into consideration when determining whether a lead-based paint visual assessment is warranted, and whether it is necessary to provide information on potential lead-based paint hazards.

Table 2

<table>
<thead>
<tr>
<th>Subrecipient</th>
<th>Housing Suitability Inspection Date</th>
<th>Lease Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>FSH Client - 2076</td>
<td>Inspection completed 8/11/16 – unit</td>
<td>Security deposit received</td>
</tr>
</tbody>
</table>
Neither FSH or SH documented that the rent being charged by the landlords was within local applicable Fair Market Rents, or that rent reasonableness standard was being used to justify the amount of rental assistance being provided. Further, there was no documented consideration if a utility allowance should be applied in cases where the tenants were expected to cover utilities.

Finally, both providers utilized an eligibility form that appeared to be more suited for determining eligibility of persons seeking homelessness prevention services instead of rapid rehousing services. The standard form used by both providers had eligibility staff determine whether the client was homeless and considered income level based upon family size and comparing to income limits set at 30 percent of the area median income. Since the services actually appeared to be rapid rehousing, only homeless status needs to be considered for eligibility.

Cause

If the city had developed written standards establishing the protocols regarding the need for subrecipients to enter into rental payment agreements with landlords, and to time inspections to happen in advance of lease execution, it is possible that the SH and FSH would have implemented their rapid rehousing programs in compliance with the regulations. Additionally, the city did not develop a standard eligibility determination protocol for FSH and SH that ensured compliance with documenting eligibility determination.

Criteria

The ESG regulations set forth in various sections important standards for administering rapid rehousing activities:

24 CFR § 576.106 (d) Rent restrictions. (1) Rental assistance cannot be provided unless the rent does not exceed the Fair Market Rent established by HUD, as provided under 24 CFR Part 888, and complies with HUD’s standard of rent reasonableness, as established under 24 CFR Section 982.507. (2) For purposes of calculating occupancy costs under this section, the rent shall equal the sum of the total monthly rent for the unit, any fees required for occupancy under the lease

<table>
<thead>
<tr>
<th>Radio Avenue</th>
<th>passed</th>
<th>8/5/16 – no lease found in file</th>
</tr>
</thead>
<tbody>
<tr>
<td>FSH Client – 1611</td>
<td>Inspection completed 10/14/16 – unit failed</td>
<td></td>
</tr>
<tr>
<td>Archer Street – family with one child under 6</td>
<td>Inspection completed 10/17/16 – unit passed</td>
<td>Lease executed 10/10/16</td>
</tr>
<tr>
<td></td>
<td>No indication of visual assessment for lead paint hazards</td>
<td></td>
</tr>
<tr>
<td>SH Client – 5875</td>
<td>Inspection completed 6/1/16 – unit passed</td>
<td>Lease executed 5/31/16</td>
</tr>
<tr>
<td>Charlotte Park Drive</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SH Client – 568</td>
<td>Inspection completed 9/29/15</td>
<td>Lease signed by landlord 9/8/15</td>
</tr>
<tr>
<td>Sanders Ave</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
(other than late fees and pet fees) and, if the tenant pays separately for utilities, the monthly allowance for utilities (excluding telephone) established by the public housing authority for the area in which the housing is located.

24 CFR § 576.106 (e) Rental assistance agreement. The recipient or subrecipient may make rental assistance payments only to an owner with whom the recipient or subrecipient has entered into a rental assistance agreement. The rental assistance agreement must set forth the terms under which rental assistance will be provided, including the requirements that apply under this section. The rental assistance agreement must provide that, during the term of the agreement, the owner must give the recipient or subrecipient a copy of any notice to the program participant to vacate the housing unit, or any complaint used under state or local law to commence an eviction action against the program participant.

24 CFR § 576.104 Rapid re-housing assistance component. ESG funds may be used to provide (1) housing relocation and stabilization services and (2) short- and/or medium-term rental assistance as necessary to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in that housing. This assistance, referred to as rapid re-housing assistance, may be provided to program participants who meet the criteria under paragraph (1) of the “homeless” definition in § 576.2 or who meet the criteria under paragraph (4) of the “homeless” definition and live in an emergency shelter or other place described in paragraph (1) of the “homeless” definition. The rapid re-housing assistance must be provided in accordance with the housing relocation and stabilization services requirements in § 576.105, the short- and medium-term rental assistance requirements in § 576.106, and the written standards and procedures established under § 576.400.

24 CFR § 576.2 Homeless means: (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning: (i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; (ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or (iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution and (4) Any individual or family who: (i) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; (ii) Has no other residence; and (iii) Lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.”

24 CFR § 576.403 (c) Minimum standards for permanent housing. The recipient or subrecipient cannot use ESG funds to help a program participant remain or move into housing that does not meet the minimum habitability standards provided in this paragraph (c). The recipient may also
establish standards that exceed or add to these minimum standards.

Additionally, ESG policy on permanent housing states that inspections must be completed, and the units found satisfactory prior to the obligation of ESG funding.

**24 CFR § 576.403 (a) Lead-based paint remediation and disclosure.** The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations in 24 CFR part 35, subparts A, B, H, J, K, M, and R apply to all shelters assisted under ESG program and all housing occupied by program participants.

**Effect**

The absence of written standards and a clear understating of ESG requirements for implementing rapid rehousing services has created a situation where subrecipients have not operated these critical services in compliance with ESG regulations.

**Required Corrective Action**

To address this finding, the city will need to do the following things: 1) train subrecipients to ensure that inspections and lead-based paint visual assessments are done prior to lease execution; 2) ensure that lead-based paint visual assessments and disclosures are built into inspection protocols as necessary; 3) create a standard format for subrecipients to complete the appropriate eligibility review for rapid rehousing assistance; 4) develop template so that subrecipients can apply appropriate rent limits, reasonableness tests, and utility allowances, as applicable, into the determination of rental assistance for eligible clients; and 6) create a rental assistance agreement that subrecipients can use execute with landlords.

Please provide a date by which the training will be provided, and the various templates will be given to the subrecipients. Drafts of the templates should be submitted to this office for review.

**Concern 1:** The city should better document the actions it has taken to address impediments to fair housing choice to support the accuracy of its annual certification to affirmatively further fair housing.

**Condition**

In discussion with city and subrecipient staff, the HUD monitor was informed of the various actions taken to address impediments identified in the current Analysis of Impediments to Fair Housing, and to inform the public of ESG services in a non-discriminatory way. However, the city does not currently maintain official records to document its actions to address impediments to fair housing. Additionally, the city and its subrecipients do not maintain official records to document their non-discriminatory marketing of ESG-funded services.
Cause

The executed written agreements do not provide sufficient language to inform the subrecipients of the specific record-keeping requirements related to affirmative marketing. Further, the absence of written standards articulating expectations regarding the requirements at 24 CFR § 576.500(s)(1). Finally, city staff are not fully aware of all of the required record-keeping requirements.

Effect

By not clearly outlining recordkeeping requirements related to civil rights-related program requirements in agreements and by not having written standards, the city and subrecipients run the risk of not conforming with this requirement.

Recommended Action

The city is highly encouraged to incorporate these recordkeeping requirements in written agreements and in its ESG written standards as well as maintain the applicable documents.

Financial Management

Finding 5:  ESG funds were expended on costs that are not consistent with eligible activities described at 24 CFR § 576.101, 102(a)(3) and 2 CFR § 200.403 - 405.

Condition

The city reimbursed its Street Outreach subrecipient, PATH, $6,866.98 for motel lodging between the dates of April 15, 2016, and July 15, 2016, for one client. There expenses appear on two invoices, submitted in June and October 2016. Motel vouchers are not an eligible cost under Street Outreach, which is the component to which PATH services under this contract, can best be categorized. Although the cost of motel vouchers can be an eligible expense under the Emergency Shelter component of ESG, such vouchers can only be justified in situations where there are no shelter beds available. There was no indication in this participant’s file that a shelter bed was not available for this person during this entire period.

Similarly, the review also found that several other PATH clients served had motel vouchers issued for stays lasting generally three days and in certain cases for a week. Some of these clients received this assistance intermittently, and it is not clear from the files that any of these clients were accepted into shelter upon exiting the shelter. The review of files did not provide documentation to indicate that PATH attempted to secure shelter beds for these clients before issuing hotel/motel vouchers either.

PATH used ESG funds to pay storage fees for clients, move-in and moving costs, food to celebrate the move-in of a client, for ineligible costs to transport clients and for unsupported gas purchases. Under the Street Outreach component, the cost of transportation of clients is via public transportation. ESG policy has allowed for clients to be transported by hired vehicles, but
only for the purpose of taking clients to shelter, and that is when it has been determined that public transportation is not available or would be unreasonable to take. While paying a meal for a client is an eligible Street Outreach expense, ESG funds cannot be used to pay for food used at a party, or to pay to rent a U-Haul truck. Additionally, there is no provision in the regulations that allows for ESG funds to pay for storage costs for clients, the costs of purchasing items to stock a client’s new home. The purchase of gas without justification of those costs assigned to ESG makes that expense unsupported. Likewise, the allocation of several monthly Clipper cards to ESG has also been determined to be unsupported.

Table 1
Ineligible or Unsupported ESG Costs

<table>
<thead>
<tr>
<th>Type of Questioned Cost</th>
<th>Amount Paid</th>
<th>Date of Invoice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transportation of client via Lyft – purpose of trip not known</td>
<td>$15.90</td>
<td>October 2016</td>
</tr>
<tr>
<td>U-Haul Truck Rental</td>
<td>$40.53</td>
<td>October 2016</td>
</tr>
<tr>
<td>Safeway – Move-in Party</td>
<td>$44.25</td>
<td>October 2016</td>
</tr>
<tr>
<td>Gas Purchase – no notation why attributed to ESG</td>
<td>$26.44</td>
<td>October 2016</td>
</tr>
<tr>
<td>Storage Expenses – for two clients</td>
<td>$160</td>
<td>October 2016</td>
</tr>
<tr>
<td>Move-in purchases</td>
<td>$245</td>
<td>October 2016</td>
</tr>
<tr>
<td>Move-in purchases (Target, Marshalls and WalMart)</td>
<td>$230.56</td>
<td>December 2016</td>
</tr>
<tr>
<td>Transportation of client via Lyft – R/T to DMV</td>
<td>$18.67</td>
<td>December 2016</td>
</tr>
<tr>
<td>Transportation of client via Lyft – purpose of trip not known</td>
<td>$11.24</td>
<td>December 2016</td>
</tr>
<tr>
<td>Storage Expenses</td>
<td>$90</td>
<td>December 2016</td>
</tr>
<tr>
<td>Clipper Cards – not known whom these cards were purchased for</td>
<td>$110</td>
<td>December 2016</td>
</tr>
<tr>
<td>Gas Purchase – no notation why attributed to ESG</td>
<td>$26.87</td>
<td>December 2016</td>
</tr>
<tr>
<td>Storage Expenses</td>
<td>$195.17</td>
<td>January 2017</td>
</tr>
</tbody>
</table>

In addition to these questioned or unsupported costs, this office also noted that the city has elected to justify the payment of subrecipient expenses that are not in line with the applicable service component defining the subrecipient’s services. For example, PATH provides street outreach services, as described in its agreement with the city. However, costs for hotel/motel vouchers are not eligible under this component, but are under the emergency shelter component. PATH does not provide services that can be categorized as emergency shelter services.

Finally, the review of monthly invoices submitted by PATH found that the personnel
costs for the Regional Director fluctuated from month to month, as reported on monthly invoices. However, the timesheet submitted by PATH to support the personnel costs is not designed to allow the Regional Director to report time to distinct cost centers or tasks.

Cause

In the absence of written standards, the city was not able to define the parameters of street outreach services that the contractor could implement. Further, the city did not establish guidelines on the use of hotel/motel vouchers. Additionally, contractor and city staff do not have a strong familiarity and understanding of eligible ESG Street Outreach activities or the requirements established in the Uniform Administrative Requirements cited below. Along with this, the contract with PATH did not accurately foresee how other funds in addition to ESG funding could be effectively used to provide the wide array of services that eligible homeless individuals require to successfully move towards permanent housing.

Criteria

The regulations found at 24 CFR § 200.403 Factors affecting allowability of costs state that amongst other things, costs must “[B]e necessary and reasonable for the performance of the Federal award and be allocable thereto” as defined by the Uniform Administrative Requirements.

The costs must also be reasonable, as defined at 24 CFR § 200.404 Reasonable Costs. This section of the Uniform Administrative Requirements uses the standard of a “prudent person” determining that a cost is reasonable by its nature and amount. In particular, the citation 24 CFR § 200.404(a) states that the reasonableness test takes into consideration “[W]hether the cost is of a type generally recognized as ordinary and necessary... for the proper and efficient performance of the Federal award.”

The regulations at 24 CFR § 200.405 Allocable Costs describe the standard for determining a cost as allocable to a particular Federal award when the “goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received.” The regulations at 24 CFR § 200.405(a)(1) refine the allocable standard by stating that the costs must be “incurred specifically for the Federal award;” and at 24 CFR § 200.405(a)(3) states the costs must be “assignable in part to the Federal award.”

The regulations found at 24 CFR § 576.101 Street Outreach Component describe the array of eligible services that a subrecipient or recipient can provide to eligible clients. These services, while broad, are limited and do not include paying for hotel/motel vouchers, storage units, food for parties, or transportation costs for clients except to an emergency shelter. Additionally, while 24 CFR § 576.102(a)(3) Shelter Operations Component does allow ESG funds to be used for hotel/motel vouchers, it is under strict conditions: “[W]here no appropriate emergency shelter is available for that family or individual.”

Effect

As with prior findings described in this report, the absence of written standards to
implement the city’s ESG program, and not consistently applying cost reasonableness, allowable and allocable standards, have put the city’s grant at-risk.

**Required Corrective Action**

To address this finding, the city must reimburse the ESG account for $7,907.76 in ineligible expenses. Further the city must determine if the expenses identified as not supported in the table above should have been attributed to the ESG funding. The city is to work with PATH to review all charges that have been paid for hotel/motel vouchers, provide a report that details (using appropriate privacy safeguards the clients), the dates and the amounts of the vouchers, and determine how these charges are an eligible ESG expense. Finally, the city must describe how it will ensure that the cost principles will be appropriately applied to all invoices associated with ESG funding moving forward.

**Concern 2:** *The city needs to update its match reported for the 2015 CAPER.*

**Condition**

The city maintains financial records on matching funds used in conjunction with ESG funding. The requirements on match documentation changed significantly in the midst of the city’s 2015/2016 program year. In discussions with city staff, Ms. Johnson has concluded that while it is highly likely the city has match in excess of ESG requirements, it would be prudent for the city to reexamine its 2015/2016 match and as necessary, revise the information reported in its 2015/2016 Consolidated Annual Performance Evaluation Report (CAPER).

**Cause**

Although city was aware that 2 CFR § 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards has become effective, the city was not aware of the impact on match reporting, specifically the provisions at 24 CFR § 200.306(b – j).

**Effect**

The match reported in the 2015/2016 may overstate the actual amount of match that was actually expended in support of the city’s ESG program, because city staff were not fully aware of the changes to match reporting with the implementation of 2 CFR § 200.

**Recommended Action**

The city is highly encouraged to review its match documentation for the 2015/2016 CAPER using the guidance from 24 CFR § 200.306(b – j). The city is reminded that match reporting must follow these standards moving forward.

This office would like to thank Kathryn Kaminski and Robert Lopez for their assistance, professionalism and cooperation during the week Ms. Johnson was in San Jose. Additionally,
HUD is appreciative of the time set-aside by subrecipient staff to assist Ms. Johnson in her review of client files. Ms. Johnson is available to discuss the results of this monitoring letter or provide technical assistance, if requested, and can be reached at: 415 489-6594, or via email at Kimberly.D.Johnson@hud.gov.

Sincerely,

[Signature]
Larry Wuerstle
Program Manager
Community Planning and Development Division

cc:
Ms. Kathryn Kaminski
Acting Grants and Neighborhood Programs Administrator
Department of Housing