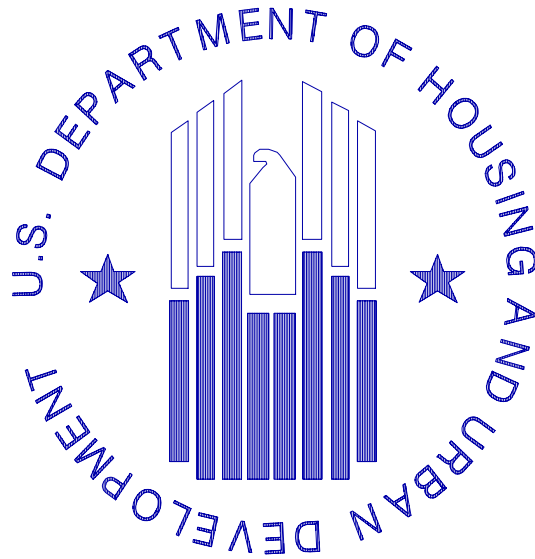


**U.S Department of Housing & Urban Development
Buffalo, New York Office**



**Monitoring Report
Community Development Block Grant Program**

for

City of Buffalo, New York

Monitoring Dates:

Phase 1 - June 16 – July 2, 2008

Phase 2 - August 25 – September 11, 2008

Conducted by:

**Office of Community Planning & Development
Buffalo, New York Office**

INTRODUCTION

Monitoring is the principal means by which HUD ensures that programs and technical areas are carried out efficiently, effectively, and that the programs comply with applicable laws and regulations. It assists grantees in improving their performance, developing or increasing capacity and augmenting their management and technical skills. Also, it provides the means for staying abreast of the efficacy of CPD-administered programs and technical areas within the communities HUD programs serve. Monitoring is not limited to a one-time review but is meant to be an ongoing process that assesses the quality of a grantee's performance over a period of time involving continuous communication and evaluation.

SCOPE OF REVIEW

In determining which grantees will be monitored, the Department uses a risk-based approach to rate grantees, programs, and functions, including assessing the Department's exposure to fraud, waste and mismanagement. This process not only assists the Department in determining which grantees to monitor, but also identifies which programs and functions will be reviewed. As a result of HUD's risk analysis, it was determined that the City of Buffalo's CDBG program would be scheduled for monitoring. Additionally, based on inconsistencies in reporting information identified through IDIS and numerous questions that surfaced during the review of the City's 2008-2012 Consolidated Plan submitted on March 17, 2008, it was determined that HUD would conduct an in-depth review of the CDBG program which would consist of a four phased approach occurring over multiple months. In lieu of providing a single report at the conclusion of all phases of monitoring, this report provides the City with conclusions of Phase I and II of HUD's review, which were conducted during the following timeframes:

- Phase I - beginning June 16, 2008 and exit conference conducted August 25, 2008
- Phase II - beginning August 25, 2008, and exit conference conducted on October 20, 2008.

The monitoring team was comprised of HUD Community Planning and Development staff from the Buffalo Office and joined by representatives from HUD Headquarters staff during Phase II.

SUMMARY OF RESULTS AND CONCLUSIONS

Areas reviewed may result in the identification of findings, concerns or exemplary practices. A finding is identified as a deficiency in program performance based on a statutory, regulatory or program requirement. It is a condition that is not in compliance with a statute, regulation or handbook. A concern is a deficiency in performance that is not based on a regulatory or statutory requirement but is brought to the grantee's attention. This report contains nineteen findings and two concerns. Findings identified and the basis for HUD conclusions is discussed in this report. In summary, it was noted that there is a commonality that exists among all findings identified centering on a deficiencies in the overall CDBG program management. This was evidenced by the City's lack of centralized accountability for oversight that is

supported by an identifiable organizational structure and written policies and procedures to assess compliance and progress as set forth in 24 CFR 570.

This monitoring was carried out in accordance with HUD Handbook 6509.5 Rev. 2 and utilized exhibits contained in the handbook as the guide to review the City's overall compliance with the CDBG program. Your HUD representative is available to further discuss the results of this monitoring report or provide technical assistance, if requested. If you disagree with any of HUD's determinations or conclusion regarding this monitoring report, please address these issues in writing to this Department within 45 days of this report. Your written communication should explain your reasons why you disagree along with supporting evidence and documentation. Such communications should be forwarded to Nancy A. Peacock, Field Director for Community Planning and Development at the address listed below:

Department of Housing and Urban Development, Buffalo Office
Community Planning and Development Division
465 Main Street, 2nd Floor
Buffalo, New York 14203

AREAS REVIEWED

This section of the report summarizes the areas of the CDBG program that were reviewed during Phases I and II that resulted in findings and concerns. A more detailed explanation of these findings and concerns including the required corrective actions that must be taken by the City is detailed in Appendix A and B of this report.

I. Area Monitored: CDBG Program Management

This area reviewed the City's compliance and responsibilities for the overall management and oversight of the CDBG program, taking into consideration program controls that the City has in place along with administrative oversight to ensure accountability and compliance with program requirements. This resulted in the identification of the following findings:

Program Controls

- **Finding Number One** - The City has not demonstrated or has in place overall management systems to ensure oversight, compliance and progress of the CDBG program as set forth in 24 CFR Part 570.
- **Finding Number Two** - CDBG program records are not being maintained in a manner that allows for adequate reporting and compliance with program requirements.

Program Administration

- **Finding Number Three** - Duties and responsibilities of CDBG program staff are not clearly defined or supported by an organizational structure that would provide programmatic oversight and compliance in carrying out administrative grant requirements for local governments as set forth in 24 CFR Part 85.

II. Area Monitored: Financial Management

This area was monitored to determine the City's conformity to financial management requirements as prescribed by the requirements of the CDBG program as defined in 24 CFR Part 570, as well as financial and accounting requirements and grantee's responsibilities in the administration of federal grants as defined by OMB Circular A-133 and 24 CFR Part 85.

- **Finding Number Four** – The City lacks financial management oversight of CDBG obligations and expenditures.
- **Finding Number Five** – CDBG funds are being misused for salaries that are appropriated under other Federal and non-federal programs.
- **Finding Number Six** - Questionable staff costs were charged to the CDBG program in the amount of \$392,025.19 based on an outdated Indirect Cost Allocation Plan.
- **Finding Number Seven** - Program income generated by the CDBG program is not being recorded and used prior to any additional draws from Treasury.
- **Finding Number Eight** – Employees responsible for the handling of CDBG program funds do not have Fidelity Bond Coverage.
- **Finding Number Nine** – Ineligible costs were charged for activities identified as Public Services in the amount of \$29,416.67.

III. Area Monitored: Consolidated Plan

This portion of the monitoring evaluated the City's compliance with the Consolidated Plan requirements at 24 CFR Part 91. The areas reviewed included the development of the consolidated plan, plan progress, lead-based paint hazards, certifications and performance.

- **Finding Number Ten** – The City did not demonstrate that it carried out required consultations as part of the Consolidated Plan process.
- **Finding Number Eleven** – Lack of clear plan and documented action to encourage public housing residents to become more involved in management and homeownership opportunities.
- **Concern Number One** - Dilution of effort. Investments have not been consistent with the geographic targeting and priorities identified in the Consolidated Plan/Annual Action Plan. Program design permits city-wide use of funds with too many target areas to measure effectiveness/impact.

IV. Area Monitored - Citizen Participation

This area of monitoring reviewed the City's compliance with the Citizen Participation Plan requirements per the Consolidated Plan regulations in 24 CFR Part 91, Subpart B.

- **Finding Number Twelve** - The Citizen Participation Plan lacks transparency for the participation of citizens and City partners to engage in the consolidated planning process.

V. Area Monitored - Sub-recipient Management

This area of the monitoring was to determine the extent to which the City is adequately managing subrecipient/CBDO performance. Regulations in 24 CFR 570.501 - 503 and 24 CFR 85.40 require the City to monitor the day to day operations of subrecipient activities for compliance with applicable Federal requirements, as well as to assess performance goal achievements.

- **Finding Number Thirteen** – The City lacks an overall management system to oversee subrecipients and ensure compliance with CDBG program requirements as set forth in 24 CFR 570.
- **Finding Number Fourteen** - The City has failed to retrieve program income and secure CDBG assets from expired NHS subrecipient agreements.

VI. Area Monitored - Spot Slum and Blight Activities

This area of monitoring reviewed the City's compliance in carrying out activities that were classified as spot slum and blight.

- **Finding Number Fifteen** - Costs in the amount of \$1,425,607.99 for city wide demolitions are unsupported.

VII. Area Monitored - Area Slum and Blight Activities

This area was reviewed to determine if the City is carrying out activities classified as area slum and blight which are in compliance with CDBG requirements.

- **Finding Number Sixteen** - Questionable Acquisition/Disposition costs were charged to the CDBG program in the amount of \$1,107,530.36.
- **Finding Number Seventeen** - Questioned eligibility of Livable Community Initiatives carried out by the City in the amount of \$2,609,938.69.

VIII. Area Monitored - Labor Standards

This area was reviewed to determine the applicability of wage requirements to CDBG program activities and if the City was in compliance.

- **Finding Number Eighteen** - The City did not provide evidence that employee interviews were conducted on covered projects.
- **Finding Number Nineteen** – Semi Annual Labor Standards Enforcement reports are not submitted.
- **Concern Number Two** – The position of Labor Standards Compliance Officer is vacant.

IX. Area Monitored - Environmental Review

This area was reviewed to determine the City's environmental requirements in carrying out CDBG activities as set forth in 24 CFR 58.

- o No findings or concerns were identified

APPENDIX A
Conclusions and Findings
Community Development Block Grant Program

Section I. CDBG Program Management

Reference: 24 CFR Part 570, 24 CFR Part 85, OMB Circular A-133, HUD Monitoring Handbook 6509.5 Rev. 2, Exhibit 3-17, Guide for Review of Overall Management – CDBG
 Summary: 3 Findings

Scope: This portion of the monitoring took into consideration overall program management and grant administration which included: management operations and oversight, as well as management systems, policies and procedures that are necessary to assure compliance with the CDBG program requirements and the grantee’s responsibilities for the management of the CDBG program and funds.

Overview: This monitoring revealed that the Buffalo Urban Renewal Agency (BURA) serves as the City’s designated entity for the administration of the CDBG program. As indicated in both the City’s Consolidated Plan submitted for the period FY 2008 – 2012 and the City Charter, assistance and coordination of this program is provided by the Office of Strategic Planning (OSP) with the Director, OSP as the primary contact. Specific activities funded by the CDBG program are carried out by various City Departments, sub-recipients or contractors. Taking this into consideration, the systems and procedures of BURA, OSP and City Departments responsible for the administration of the CDBG program and its activities were monitored as part of HUD’s review. The City’s management of its sub-recipients was conducted during Phase II and is addressed later in this report under Section V “Sub recipient Management”.

PROGRAM CONTROLS

Finding Number One - The City has not demonstrated or has in place overall management systems to ensure oversight, compliance and progress of the CDBG program as set forth in 24 CFR Part 570.

Condition	Internal control systems for the CDBG program were evidenced by a City memorandum which was validated by an independent auditor (Conway Porter) on September 6, 2006. This memorandum identifies the framework for BURA’s overall systems and controls. However, specific operational procedures to ensure CDBG program compliance are not identified in this document. Based on interviews and information obtained from the City during monitoring, an overall management system did not exist to carry out the CDBG program. Activities carried out under the CDBG program are performed by various City departments or subrecipients. The level and quality of operational procedures to carry out these activities varied depending on the entity responsible for carrying out an activity. In other instances, operational procedures tended to be informal
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	with no written policies or procedures to guide the process and ensure compliance.
Criteria	The recipient is responsible for ensuring that CDBG funds are used in accordance with all programs requirements as outlined in 24 CFR 570.501(b) and CDBG recipients are responsible for ensuring that it is compliant with Other Program requirements as identified in 24 CFR Subpart K 570.600 through 570.614. and CDBG grantees are responsible for adhering to uniform administrative requirements as defined in 24 CFR 570.502 and 24 CFR 85.
Cause	Procedures exist in various guides, draft memoranda or informal procedures which are not consistent and are driven by individual departments or activities rather than overarching policies that provide for consistency in carrying out program activities. An overall management system to ensure adequate CDBG program oversight was not identified during HUD’s review. Although the City has management reporting systems in place such as CitiStat, this system does not appear to correspond with the required CDBG reporting systems such as IDIS. There is lack of oversight in IDIS reporting. It appears that information in IDIS is not entered on a routine basis, nor is there management review and oversight of this system to ensure accuracy or consistency with City-managed reporting systems.
Effect	The lack of overall management systems has resulted in inconsistent application of CDBG program activities and oversight which has affected the City’s ability to ensure compliance with CDBG program requirements. This is compounded by the lack of oversight and management review of data and reporting in IDIS. IDIS reports over the last five year period evidence slow or poor program progress in meeting the City’s goals and objectives when compared to its five year Consolidated Plan. Five year reporting goals and accomplishments were discussed with City Representatives at the entrance conference with copies of such reports provided by HUD during the onsite review.
Corrective Action	The City is required to develop and implement a management system that: <ul style="list-style-type: none"> • supports the requirements of the CDBG program, • establishes oversight of the program, • provides consistency in the application of program requirements amongst various departments and subrecipients responsible for carrying out activities, • protects financial assets, • addresses other program requirements as identified in 24 CFR, Subpart K, • utilizes required HUD reporting systems, and • routinely assesses program progress. Such management procedures should be in the form of written policies and procedures and are supported and in conformance with required HUD reporting systems and submitted to this office within 60 days.

Finding Number Two – CDBG records are not being maintained in a manner that allows for adequate reporting and compliance with program requirements.

Condition	In HUD’s letter of May 16, 2008, notifying the City of onsite monitoring, records and files were requested prior to the monitoring, as well as while HUD reviewers were on site. HUD reviewers found that records were maintained in an inconsistent manner and the quality and level of detail ranged from program files that were fully documented and compliant with a national objective which supported an eligible activity to no records or documentation for activities funded such as City-wide demolitions. In cases of absent City staff during the on-site portion of HUD’s review, records were not made readily available. In several instances access and maintenance of project files was limited to key personnel. Reviewers observed that there was a lack of understanding or availability of records to personnel who by the nature of their position would routinely be involved in carrying out these activities and projects daily.
Criteria	24 CFR 570.506 – Records to Be Maintained
Cause	Although the city has management reporting systems in place such as CitiStat, this system does not appear to correspond with the required CDBG reporting systems such as IDIS. There is lack of oversight of IDIS reporting. It appears that information in IDIS is not entered on a routine basis, nor is there management review and oversight of this system to ensure accuracy and if data relates to any City-managed systems.
Effect	The lack or unavailability of records results in unsupported activities or questioned costs that affect the City’s ability to comply with CDBG regulatory requirements.
Corrective Action	The City is required to: <ol style="list-style-type: none"> 1. Develop consistent written procedures for program activities in accordance with 24 CFR 570.506. <ol style="list-style-type: none"> a.) Documentation should be submitted to HUD within 60 days that should include written procedures and how the City will ensure that such guidelines will be implemented and followed. 2. Review current records from 2004 to present and bring into compliance any project files found to be deficient <ol style="list-style-type: none"> b.) Provide evidence to HUD within 90 days that all current activity files have been brought into compliance and completed activities for the period 2004 to present.

PROGRAM ADMINISTRATION

Finding Number Three - Duties and responsibilities of CDBG program staff are not clearly defined or supported by an organizational structure that would provide programmatic oversight and compliance in carrying its responsibilities for grant administration for local governments as set forth in 24 CFR Part 85.

Condition	The City is not operating within the structure that it set forth in its internal control memoranda, City Charter and the organizational structure it identified in the 2008 Consolidated Plan to administer the CDBG program. The Director of
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	<p>Strategic Planning is identified by the City as the Primary Contact for CDBG. This position has been vacant since April 2008. In May 2008, a letter from the Mayor identified the Commissioner of Economic Development, Permits and Inspections as the primary contact for correspondence between the City and HUD. The current organizational structure is unclear and does not conform to the framework previously established by the City. CDBG program responsibilities are not clearly defined with specific delegated authorities and responsibilities along with checks and balances that are not in place to assure compliance. The roles and responsibilities were not clearly defined for all personnel charged to the CDBG program.</p> <p>A review of the Integrated Disbursements and Information System (IDIS) indicated that the City was reporting charges that were within the 20 percent program limitation for administration. A further review of the City’s payroll records and TOM system confirmed that approximately 80 staff persons are charging 100 percent or a portion of wages to the CDBG funds. Personnel costs included those being charged to program delivery and administration. Program delivery costs may be considered eligible under the CDBG program, however, documentation was not provided to demonstrate that the roles and responsibilities of these positions supported the delivery of the CDBG program.</p>
Criteria	<p>24 CFR Part 85 – Administrative Requirements for Grants and 24 CFR 85.20(b)(5) Allowable Cost and CFR 85.22</p>
Cause	<p>The City is not complying with the organizational structure and program oversight it has identified.</p>
Effect	<p>The lack of a clearly defined organizational structure with delegations of authority and responsibilities has resulted in a lack of oversight, checks and balances and the City’s ability to ensure regulatory program compliance. The analysis of personnel costs and lack of clarity of staff responsibilities leads HUD to conclude that the City is incurring a high ratio of soft costs (salaries) to direct benefit costs in the CDBG Program. Such analysis has identified that less than 50 percent of every CDBG dollar spent results in projects that directly benefit low- and moderate-income residents.</p>
Corrective Action	<p>The City is required to:</p> <ol style="list-style-type: none"> 1. Develop and implement a management and staffing plan that establishes clear lines of authority and responsibility for all staff involved with the general management, oversight and coordination: <ol style="list-style-type: none"> a.) Identify all positions and staff funded by the CDBG by position and name. b.) Ensure position descriptions are developed and maintained for all positions funded by CDBG. c.) Develop and implement a plan for training of staff to address any skill gaps and a clear understanding of roles and responsibilities in the organization. d.) Provide documented evidence of these actions to HUD within 90 days of this report.

	<p>2. Review and analyze program delivery costs to ensure cost reasonableness in accordance with 24 CFR 85 and establish administrative and program delivery costs that are reasonable to the activity or project.</p> <p>a.) Provide HUD with actions the City has taken to address the reasonableness of costs in carrying out the CDBG program within 60 days of this report.</p>
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Section II - Financial Management

Reference: 24 CFR Part 570, 24 CFR Part 85, OMB Circular A-133, HUD Monitoring Handbook 6509.5 Rev. 2, Exhibit 3-18, Guide for Review of Financial Management – CDBG Summary: 6 Findings

Scope: This area was monitored to determine the City’s conformity to financial management requirements as prescribed by the requirements of the CDBG program as defined in 24 CFR Part 570, as well as financial and accounting requirements and grantee’s responsibilities in the administration of federal grants as defined by OMB Circular A-133 and 24 CFR Part 85.

Overview: The Community Development Block Grant Program is administered by the Buffalo Urban Renewal Agency (BURA) for the City of Buffalo. Although considered a “division” of the City and audited as part of the City’s audit, BURA maintains an independent financial management system which is referred to as The Office Manager (TOM). The financial management of the CDBG program is supported by parallel accounting systems which consist of TOM and HUD’s Integrated Disbursement and Information System. Therefore, the review focused on BURA’s oversight and maintenance of such systems and the ability to ensure financial compliance of the CDBG program.

Finding Number Four – The City lacks financial management oversight of CDBG obligations and expenditures.

Condition	<p>BURA uses a computerized system called TOM (The Office Manager) to record CDBG accounting transactions. This system allows for the recording of obligations, expenditures and remaining balances of all contracts awarded. As a contract is awarded, it is entered into the TOM system as a separate line item and identified by the program year funded. BURA personnel are responsible for data entry into the TOM system.</p> <p>However, all information on CDBG expenditures is to be entered into HUD’s Integrated Disbursement and Information System (IDIS). IDIS data is entered by Office of Strategic Planning personnel. When HUD reviewers performed a parallel review of TOM and IDIS systems, discrepancies in obligations were identified. Specifically, contract obligations in the two systems did not match and a majority of contracts recorded in IDIS were below the funding level approved by the City and recorded in the TOM system.</p>
Criteria	<p>24 CFR 570.502(a)(4) Standards for Financial Management Systems and, 24 CFR 85.20 (b) of the Regulations which states that financial reporting by a</p>

	grantee must be accurate, current, and have complete disclosure of the financially assisted activities.
Cause	The City is using parallel systems, consisting of TOM and IDIS, for accounting and recording of obligations. These systems are being maintained by personnel from two separate organizations, BURA and Office of Strategic Planning. The two systems are not being reconciled to identify and resolve discrepancies.
Effect	The effect of the lack of financial management oversight between the reporting systems maintained by BURA and OSP through TOM and IDIS has resulted in inaccurate reporting of obligations and potential misuse of funds.
Corrective Action	The City is required to: <ul style="list-style-type: none"> 1) Conduct a review of all CDBG expenditures in TOM and IDIS for program years 2004 to date. This includes: <ul style="list-style-type: none"> a.) Correcting any inconsistencies identified. All CDBG obligations and expenditures for this period should be consistent b.) Report the results to HUD within 60 days of this report 2) Develop and implement a system, that includes procedures that account for oversight and compliance of financial management and responsibility for accurate recording and disbursement of CDBG funds <ul style="list-style-type: none"> a.) Identify and assign staff responsibilities b.) Provide evidence to HUD within 60 days of this report as to actions taken.

Finding Number Five - CDBG funds are being misused for salaries that are appropriated under other Federal or non-federal programs

Condition	<p>A Cost Allocation system is maintained by the City which requires all BURA and City employees working on the CDBG program to maintain bi-weekly Cost Allocation Reports (timesheets). This Cost Allocation system tracks time spent on the various programs and by types of activities an employee is working on.</p> <p>BURA is drawing down approximately \$120,000 on a bi-weekly basis from CDBG funds to pay for salary costs that include personnel working on CDBG and other Federal programs which include HOME and ESG, as well as non-federal programs that include City operations. Salary costs for programs other than CDBG are ineligible expenditures under the CDBG program. Periodic salary reimbursements are made. It is unclear if all ineligible expenditures were returned to the CDBG line of credit.</p>
Criteria	<p>24 CFR 570.206 Program Administrative Costs 24 CFR 570.201-204 – Eligible Costs 24 CFR 570.502 (a)(4) – Standards for Financial Management Systems and 24 CFR 85.20 (b) of the Regulations states that financial management systems</p>

	must be accurate and current.
Cause	Interviews with BURA personnel identified that staff is completing time reports that indicate the number of hours worked and programs to be charged. Due to time constraints, staff is being paid from CDBG funds regardless of the program worked and then funds are returned on an irregular basis to the CDBG program. BURA has failed to follow proper management practices for allocating time on a regular basis and charging salaries under funds appropriated.
Effect	Failure to allocate personnel charges on a timely basis has resulted in inaccurate reporting and misuse of CDBG funds.
Corrective Action	The City is required to: <ol style="list-style-type: none"> 1. Immediately cease disbursing salaries that are not eligible under the CDBG program. 2. Review payroll records and charges for 2004 to present to determine appropriate charges. <ol style="list-style-type: none"> a.) Provide a reconciliation report to HUD within 60 days of this report 3. Develop and implement a system to ensure that time charges are allocated properly and funds are appropriated from the program area worked. <ol style="list-style-type: none"> a.) Provide documentation of the procedures that the City instituted to ensure proper reporting of time and eligibility of CDBG expenses for staff salaries within 60 days of this report.

Finding Number Six - Questionable staff costs were charged to the CDBG program in the amount of \$392,025.19 based on an outdated Indirect Cost Allocation Plan

Condition	Staff costs are being charged to the CDBG program using an Indirect Cost Allocation Plan approved in 1994. During the period 2004 to 2007, indirect costs in the amount of \$392,025.19 were paid from the CDBG program to supplement City salary costs for general paid leave categories. This deficiency was identified based on interviews with City staff.
Criteria	OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, Attachment C, D.2 requires that Indirect Cost Allocation Plans are submitted to the cognizant agency annually. This plan must be approved prior to charging any indirect costs to the program. In addition, the Circular describes indirect costs as costs not readily assignable to a specific costs objective.
Cause	BURA has not updated their Indirect Cost Allocation Plan as described in OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, Attachment C, D.2. The City does not have internal control systems in place that ensure the yearly submission of an Indirect Cost Allocation Plan for approval.
Effect	Costs are being charged to the CDBG program that have not been substantiated and are allocated using an old Indirect Cost Allocation Plan.
Corrective	The City is required to:

Action	<ol style="list-style-type: none"> 1. Immediately cease charging expenses against indirect costs. 2. Reimburse the CDBG program in the amount of \$392,025.19 with non-federal funds for the period in question. <ol style="list-style-type: none"> a.) Provide evidence of this reimbursement within 60 days of this report. 3. Review and identify any additional expenditures that have been made since 2007 and reimburse the CDBG program. <ol style="list-style-type: none"> a.) Provide evidence of reconciliation of expenses for the period 2007 to date and reimbursement of funds within 60 days of this report. 4. If the City desires to utilize an Indirect Cost Allocation Plan, the plan must be submitted to HUD for approval.
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Finding Number Seven - Program income generated by the CDBG program is not being recorded and used prior to any additional draws from Treasury.

Condition	CDBG program regulations stipulate that program income is to be used prior to any additional draws from Treasury. As of April 30, 2008, the City maintained a program income balance of \$323,926.21. Program income recorded in Program Years 2004 through 2007 was reviewed during the monitoring. HUD reviewers noted that program income receipts were entered into IDIS on an irregular basis. Specifically, receipts were recorded in IDIS in March 2007, April 2007, and June 2007 with the next entry April 2008. Based on the City's records, HUD reviewers were unable to reconcile the amount of program income reported in IDIS with the amount reported in the City's account.
Criteria	Part 570.504(b) of the Regulations states that program income shall be substantially disbursed for eligible activities before additional cash withdrawals are made from the U.S. Treasury. If BURA is not recording the receipt of program income in IDIS, they cannot show that that income is being disbursed prior to drawing funds from the U.S. Treasury.
Cause	BURA has failed to follow procedures to enter the income in IDIS due to a lack of management oversight and procedures to ensure compliance.
Effect	Program Income is not being disbursed prior to drawing Treasury funds. Treasury funds are being depleted in advance because BURA is not using funds on hand first.
Corrective Action	<p>The City is required to:</p> <ol style="list-style-type: none"> 1. Provide documentation for the amount of program income recorded in IDIS for program years 2004-2007 or any program income that was not recorded. 2. Develop and implement procedures to record program income in IDIS at least on a quarterly basis. <ol style="list-style-type: none"> a.) Documentation and procedures must be submitted to this Office 30 days from the date of this letter. 3. Going forward all program income must be recorded and substantially disbursed before additional cash withdrawals are made from the U.S.

	Treasury.
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Finding Number Eight – Employees responsible for the handling of CDBG program funds do not have Fidelity Bond Coverage.

Condition	BURA employees handling program funds do not have any Fidelity Bond coverage.
Criteria	GAO and HUD guidelines require that grantees maintain effective control of funds.
Cause	BURA was not aware that employee bonding was necessary.
Effect	The lack of Fidelity Bond coverage would result in Federal funds not being safeguarded from theft.
Corrective Action	The City is required to: <ol style="list-style-type: none"> 1. Secure Fidelity Bonding for employees handling federal funds that is commensurate with fiscal responsibilities. 2. Provide documentation to the HUD Buffalo office that this has been completed within 30 days of this report.

Finding Number Nine - Ineligible costs were charged for activities identified as Public Services in the amount of \$29,416.67.

Condition	In reviewing program records, the City determined that for Fiscal Year 2005 IDIS #5815 activity for “Anti-Flipping” was an eligible activity for public services. No program beneficiaries were documented. The file documentation did not support this as an eligible public service activity.
Criteria	24 CFR 570.205 – Eligible Costs 24 CFR 570.506 - Records
Cause	The City classified this activity as an eligible public service.
Effect	This results in the ineligibility of this activity.
Corrective Action	The City is required to: <ol style="list-style-type: none"> 1. Repay ineligible expenses in the amount of \$29,416.67. 2. This repayment should be made to the CDBG program from non-federal funds within forty-five days.

Section III. Consolidated Plan

Reference: 24 CFR Part 91, HUD Monitoring Handbook 6509.5 Rev. 2, Exhibit 20-1, Guide for Review of Consolidated Plan

Summary: 1 Finding

Scope: This portion of the monitoring evaluated the City’s compliance with the Consolidated Plan requirements in 24 CFR Part 91. The areas reviewed included the development of the Consolidated Plan, plan progress, lead-based paint hazards, certifications and performance.

Overview: The City is required to develop a Consolidated Plan for a three- to five-year plan period that identifies local needs, priorities and set goals using both federal funds and leveraged

funds (private, local, state and federal) in a collaborative manner. The Plan should provide the guidance for funding decisions and outline programming that meets the locally established needs. Each year the City must submit to HUD an Annual Action Plan that updates this five-year document and outlines the spending plan for the coming year. The Consolidated Planning process also includes an annual report to both HUD and the citizens on the accomplishments and progress made each year.

The planning process by HUD requirement is intended to be accomplished in collaboration with citizens, constituents of the federal funding and must meet a number of important federal requirements. During the past five years, Buffalo has submitted its Consolidated and Annual Action Plan on a timely basis. However the monitoring review and grants management process has identified areas that must be improved.

Finding Number Ten - The City did not demonstrate that it carried out required consultations as part of the Consolidated Plan process

Condition	<p>The City did not provide evidence of required consultations as required by regulation with the following entities:</p> <ul style="list-style-type: none"> ▪ health services/agencies ▪ services focusing on children and child welfare agencies (i.e. ECDSS) ▪ services focused on elderly persons ▪ services focused on persons with disabilities ▪ adjacent units of local government ▪ public housing agencies
Criteria	24 CFR 91.100 – Consultations in preparing Consolidated Plans
Cause	The Staff did not keep records of meetings with partner organizations during the year and/or the City did not consult with all required groups.
Effect	The City is unable to verify that the plan reflects issues and data from representatives of key stakeholders in the community and therefore may not be as comprehensive as required by HUD regulations.
Corrective Action	<p>The City is required to:</p> <ol style="list-style-type: none"> 1. Conduct future consultations that include entities identified under 24 CFR 91.100. 2. Ensure that the consultation process in the Citizen Participation Plan identifies how the City will conduct consultations and identify the various groups, organizations, adjacent governments, etc. that will be included. <ol style="list-style-type: none"> a.) Within 60 days identify the actions taken to include partners and changes made to the Citizen Participation Plan.

Finding Number Eleven - Lack of clear plan and documented action to encourage public housing residents to become more involved in management and homeownership opportunities.

Condition	The City has not articulated in the Consolidated Plan or Annual Action Plan how public housing residents are being encouraged to become more involved in public housing management and participating in homeownership opportunities. The City's CAPER did not report on actions taken in this regard.
Criteria	24 CFR 91.220 (h) addresses actions that the City plans to take during the next year to address the needs of public housing and actions to encourage public housing residents to become more involved in homeownership opportunities.
Cause	This information has not been coordinated between the BMHA plan and reports and the City's Consolidated Plan.
Effect	The HUD reviewers were unable to determine if this requirement has been satisfied. The residents of public housing may not have been encouraged to participate more fully in management of facilities and been fully apprised of homeownership opportunities.
Corrective Action(s)	The City is required to: <ol style="list-style-type: none"> 1. Establish what actions have been taken to encourage BMHA residents regarding management and homeownership. <ol style="list-style-type: none"> a.) Provide within 60 days to HUD the actions that the City has taken. 2. These steps must be reported to HUD as a supplement to the City's performance report (CAPER) within 45 days of this report. 3. The City's next Annual Action Plan should include goals and planned activities to satisfy this requirement.

Concern Number One - Dilution of effort. Investments have not been consistent with the geographic targeting and priorities identified in the Consolidated Plan/Annual Action Plan. Program design permits city-wide use of funds with too many target areas to measure effectiveness/impact.

Condition	The City has established 13 geographic areas (Livable Communities) that are stated priorities for revitalization. The Plan indicates that funds will be targeted to these areas. It is not clear after several years of this approach that efforts have been effective or that funds have been significantly targeted to the Livable Communities zones with identifiable outcomes. Further, the City identified various other "targeted" areas for programming that may or may not overlap with the Livable Communities.
Cause	The City has determined that it will address the needs in areas identified.
Effect	The effect is a dilution of efforts. Funds are largely spent on city-wide efforts and soft costs leaving less to actually be targeted for neighborhood revitalization. Too many competing target areas and different programs result in reduced impact and limited ability to effect real change.

Corrective Action	<p>The City should:</p> <ol style="list-style-type: none"> 1. Re-evaluate its strategy for targeting resources that will maximize the impact on the overall community and the neighborhoods identified to be assisted. <ol style="list-style-type: none"> a.) Advise HUD within 60 days of the action that the City has taken to adhere to compliance.
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Section IV. Citizen Participation

Reference: 24 CFR Part 91, HUD Monitoring Handbook Exhibit 19-1 Guide for Review of Citizen Participation

Summary: 1 Finding

Scope: This area of monitoring reviewed the City’s compliance with the Citizen Participation Plan requirements per the Consolidated Plan regulations in 24 CFR Part 91, Subpart B.

Overview: The Citizen Participation Plan serves to develop and implement an inclusive participatory process in the identification of goals and needs that are incorporated into a community’s Consolidated Plan.

Finding Number Twelve - The Citizen Participation Plan lacks transparency for the participation of citizens and City partners to engage in the consolidated planning process.

Condition	The City originally adopted a Citizen Participation Plan in 1995. The Plan has been periodically changed. Amendments to the Plan have been made. However, the City did not follow its process or is not in compliance with amending the Citizen Participation (CP) Plan. Various versions of the CP plan have been provided to HUD which are not consistent with that identified in the Consolidated Plan. The CP Plan does not appear to be readily available to citizens and there is a lack of understanding and transparency as to the purpose and requirements of the plan.
Criteria	24 CFR91 Subpart B – Citizen Participation and Consultation
Cause	Citizen Participation Plans have been imbedded into the City’s Consolidated Planning process and has not been managed separately during the previous Consolidated Plan periods.
Effect	Citizens and partners cannot fully engage in the Consolidated Planning process if the Citizen Participation is not clear, understandable and accessible.
Corrective Action	<p>The City is required to:</p> <ol style="list-style-type: none"> 1.) Review the current Citizen Participation Plan and ensure compliance with regulatory requirements found in 24 CFR Part 91. 2.) Identify what actions the City will need to take to ensure compliance and engage target groups for participation and make the process more transparent to stakeholders. <ol style="list-style-type: none"> a.) Provide to HUD within 60 days the actions the City plans to

take to ensure compliance with Citizen Participation Plan requirements and timelines for implementation.
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Section VI. Sub recipient Management

Reference: 24 CFR Part 570, 24 CFR Part 85, OMB Circular A-133, HUD Monitoring Handbook 6509.5 Rev. 2, Exhibit 3-16, Guide for Review of Subrecipient Management – CDBG Summary: 2 Findings

Scope: This area of the monitoring was to determine the extent to which the City is adequately managing subrecipient/CBDO performance. Regulations at 24 CFR 570.501- 503 and 24 CFR 85.40 require the City to monitor the day to day operations of subrecipient activities for compliance with applicable Federal requirements, as well as to assess performance goal achievements. The review covered program years 2005 to present. This review did not include compliance of activities carried out by subrecipient. Compliance of activities will be reviewed during Phases III and IV of HUD's review.

Overview: The City carries out the full range of CDBG activities which include; housing, economic development, public services and public facilities. It accomplishes these activities through the use of in-house staff charged to the CDBG program and also through the use of subrecipients. The City as the grantee is responsible for the overall oversight and management of such activities regardless of the method that is used to carry out its activities and projects. HUD reviewers concluded that the current operating structure and responsibility for day to day management of CDBG activities was as follows:

Housing Programs – BURA Housing Department

Public Service Programs – City Department of Community Services and Recreation

Economic Development Programs – BEREC

Financial Management – City Office of Strategic Planning/Financial Control of Agencies

Each area appeared to have documents in place for the specific activities that it was responsible. However, the level and quality of subrecipient management, written guidelines, monitoring and follow-up varied. Additionally, HUD reviewers did not find an overall system for the management of the City's sub recipients that would provide for consistent administration and implementation among the various City Departments that use sub recipients to carry out its activities.

Additionally, HUD selected a sample of subrecipient organizations representing various uses of funds and types of organizations to review. The sample included:

- Matt Urban Human Services Center – a neighborhood based community organization providing both housing and public services programs to Buffalo's east side.
- Belmont Shelter – the City's primary housing rehabilitation program facilitator.

- Buffalo Economic Renaissance Corp (BERC) - an economic development agency providing training, grants and loans to small businesses. BERC serves as the City’s sole economic development subrecipient.
- Erie Regional Housing Authority – a community center providing public services to Buffalo’s lower west side.
- South Buffalo Community Association – a community center providing public services to South Buffalo. CDBG programs focus on services to the elderly.

Finding Number Thirteen – The City lacks an overall management system to oversee and ensure compliance of subrecipients in carrying out CDBG program activities as set forth in 24 CFR 570.

Conditions	Various City departments that carry out CDBG activities through the use of subrecipients have developed and implemented procedures for the management of subrecipients. The quality and level of procedures varies along with adherence to the procedures each Department has developed. The City had previously identified that the Office of Strategic Planning maintained responsibility for the day to day operations of the CDBG program with reporting responsibilities to BURA. However, HUD did not find that OSP has an overall management system in place with policies and procedures that allows for consistency and the ability to maintain adequate oversight of CDBG subrecipients.
Criteria	24 CFR 570.501(b) - Responsibility for grant administration and the use of subrecipients and applicable sections to meet subrecipient compliance under 24 CFR 570 and 24 CFR 85 – Administrative Requirements for grants
Cause	The City does not have an overall management system in place to oversee the management of its subrecipients. This is further compounded by a lack of clarity as to who maintains such responsibilities, since the City is currently working outside of the organizational framework it identified for the administration of the CDBG program.
Effect	The lack of overall management systems and procedures for subrecipients has resulted in inconsistent application of requirements by various City departments, delays in processing and potential non-compliance of regulatory requirements.
Corrective Action	The City is required to: <ol style="list-style-type: none"> 1. Develop and implement overall policies and procedures for subrecipient management that are in conformance with CDBG program requirements as well as 24 CFR Part 85 for grant administration and applicable OMB circulars and audit requirements. HUD has established for your use CDBG subrecipient management guides and tools for use in developing the City procedures which are available on HUD’s website. 2. Review subrecipient agreements that are in effect and if identified revise to conform with regulatory compliance and City requirements. 3. Identify and establish accountability and oversight for overall

- subrecipient management with the City's organizational structure.
4. Provide training to City staff and subrecipients who are responsible for carrying out CDBG activities.
 5. Actions identified above should be completed within 90 days of this report.

Finding Number Fourteen - The City has failed to retrieve program income and secure CDBG assets generated from expired NHS sub recipient agreements.

Condition	<p>The City funded five Neighborhood Housing Service (NHS) organizations in 1977, 1982 and 1985 with CDBG dollars for a high risk housing rehabilitation revolving loan program. The only current activity of these revolving loan funds is the repayment of loans. No new loan activity has taken place since 2000. The following chart is a summary of the funding as per a March 1, 1988 FCA report:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">NHS</th> <th style="text-align: center;">TOTAL APPROPRIATED</th> </tr> </thead> <tbody> <tr> <td>Black Rock-Riverside</td> <td style="text-align: right;">\$259,305.33</td> </tr> <tr> <td>Broadway-Fillmore</td> <td style="text-align: right;">\$434,649.17</td> </tr> <tr> <td>Kensington-Bailey</td> <td style="text-align: right;">\$259,305.33</td> </tr> <tr> <td>South Buffalo</td> <td style="text-align: right;">\$190,563.36</td> </tr> <tr> <td>West Side</td> <td style="text-align: right;">\$493,862.78</td> </tr> </tbody> </table> <p>In 2000, the City suspended the funds and did not renew the contracts with the NHSs. However, the funds and outstanding loans did not revert back to the City as stipulated in the contract between the City and the NHS. All liens and loan agreements are still in the name of the NHS. The City has not taken any actions to resolve this situation nor provided direction to the NHSs on the administration of these funds.</p> <p>Based on the review of documents provided, program income reporting and interviews with the organizations, it was determined that new loans have not been made in the past eight years, but that collections on previous loans have continued. The revenue from the loans is considered CDBG Program Income.</p> <p>Listed below is the approximate amount of funds in the revolving loan accounts provided to the reviewer by each NHS Executive Director during the interview phase:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">NHS</th> <th style="text-align: center;">CASH IN ACCOUNT</th> <th style="text-align: center;">OUTSTANDING LOAN BALANCE</th> <th style="text-align: center;">AS OF:</th> </tr> </thead> <tbody> <tr> <td>Black Rock/Riverside</td> <td style="text-align: center;">\$12,300</td> <td style="text-align: center;">\$98,900</td> <td style="text-align: center;">7/31/08</td> </tr> <tr> <td>Broadway/Fillmore</td> <td style="text-align: center;">undetermined</td> <td style="text-align: center;">undetermined</td> <td style="text-align: center;">undetermined</td> </tr> </tbody> </table>	NHS	TOTAL APPROPRIATED	Black Rock-Riverside	\$259,305.33	Broadway-Fillmore	\$434,649.17	Kensington-Bailey	\$259,305.33	South Buffalo	\$190,563.36	West Side	\$493,862.78	NHS	CASH IN ACCOUNT	OUTSTANDING LOAN BALANCE	AS OF:	Black Rock/Riverside	\$12,300	\$98,900	7/31/08	Broadway/Fillmore	undetermined	undetermined	undetermined
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		Kensington/Bailey	\$80,000	\$172,800	Current
		South Buffalo	\$124,000	\$226,300	8/31/07
		West Side	\$24,400	\$110,000	7/31/08
		TOTAL	\$240,700	\$608,000	
Criteria	24 CFR 570.501(b) - Responsibility for Grant Administration; 24 CFR 570.503(a)(3) - Agreements with Sub-Recipients, Program Income; 24 CFR 570.504(c) - Program Income, Disposition of Program Income Received by Sub-Recipients				
Cause	The City has failed to enforce the agreements or follow their own procedures to revert funds remaining in the five NHS contracts. No action was taken by the City to apply the close-out provisions specified in the contract which stated that the funds on hand will be returned to FCA and that loans, promissory notes, mortgages, etc. will be assigned to the City. The City has not renewed or extended the agreements for the revolving loan funds. Finally, the City has not properly monitored these subrecipients.				
Effect	CDBG funds are not being properly utilized for the intended purpose and have not been reported to HUD. The funds are deposited in bank accounts that are idle. The exception is Broadway/Fillmore NHS which was unwilling to produce any records when HUD reviewers visited on-site. No new loans are being made to assist low and moderate income persons rehabilitate their homes. Further, the NHSs are not under contract with the City, yet continue to provide the services of collecting loan repayments. Some NHS organizations are receiving little or no compensation for the administration of the repayments.				
Corrective Action	<p>The City is required to:</p> <ul style="list-style-type: none"> • Provide a full accounting of the CDBG revolving loan funds to accurately determine the balance of funds and amount of outstanding loans within 45 days of the receipt of this report; • Contract requirements should be reviewed and enforced; • Arrangements should be made with the NHSs to revert assets to the City as per the agreements; • Program Income and accomplishment data adjustments must be made in IDIS; • Identify outstanding loans and secure liens in the name of the City. • Financial data should be entered into the City's accounting system to ensure that reporting is accurate; <p>Within 60 days;</p> <ul style="list-style-type: none"> • A plan should be developed and submitted to HUD explaining how the NHS revolving program will be utilized in the future; • This plan should substantiate how the funds will be compliant and satisfy CDBG regulations; • The plan should outline the City's responsibilities of how future loan proceeds will still be collected, and how the fund will be administered by the City or other sub-recipients. 				

Section VII. Spot Slums & Blight Activities

Reference: 24 CFR Part 570, HUD Monitoring Handbook 6509.5 Rev. 2, Exhibit 3-7, Guide for Review of National Objective of Spot Slums and Blight

Summary: 1 Finding

Scope: This area of monitoring reviewed the City’s compliance in carrying out activities that were classified as spot slum and blight.

Overview: Buffalo uses CDBG funding for the emergency demolition of residential and commercial properties using the National Objective of preventing or eliminating blight or blighting conditions. The review focused on the largest slum and blight spot activity in the City’s IDIS system (Activity #5340). The records reviewed indicated that \$1,425,608 has been expended to demolish approximately 90 properties.

Finding Number Fifteen - Costs in the amount of \$1,425,607.99 for city wide demolitions are unsupported.

Condition	HUD reviewed the eligibility of approximately 90 properties that the City demolished with CDBG funds. CDBG funds were used for the demolition of structures that the City classified as eligible expenses, which were considered to be emergency public nuisance properties. However, the City did not provide any records to support that such expenditures were eligible under the CDBG program.
Criteria	24 CFR Part 570.208 (b) (2) - Criteria for National Objective 24 CFR Part 570.506 (a) (b) - Records(10)(i) (c)
Cause	Records and files were requested during HUD review. The City failed to produce any records to support an eligibility determination. The only documentation provided was financial in nature.
Effect	CDBG funds have been allocated and expended for a program that may not be sufficiently documented to establish eligibility and compliance with CDBG requirements. Therefore, funds may have been expended for ineligible activities. Funds expended on ineligible activities are subject to repayment to the federal government from non-federal funds.
Corrective Action	The City is required to: <ol style="list-style-type: none"> 1. Provide documentation of eligibility and regulatory compliance for IDIS activity #5340. This should include documentation of the assessment of the specific conditions that existed for properties demolished. <ol style="list-style-type: none"> a. This should be submitted to HUD within 30 days to determine if expenses are eligible. Failure to provide documentation will result in a disallowance and funds will be required to be repaid with non-federal funds to the CDBG program. 2. Develop and implement policies and procedures for determining and carrying out demolition activities that are funded by the CDBG

	<p>program.</p> <p>a. Evidence of such policies and procedures should be submitted to HUD within 60 days.</p>
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Section VIII. Area Slum & Blight Activities

Reference: 24 CFR Part 570, HUD Monitoring Handbook 6509.5 Rev. 2, Exhibit 3-6 Guide for Review of National Objective of Area Slums and Blight
 Summary: 2 Findings

Scope: This area was reviewed to determine if the City is carrying out activities classified as area slum and blight are in compliance with CDBG requirements

Overview: Two key areas were reviewed in this section – the eligibility of sampled activities and the reasonableness and allowability of costs associated with the activities. Three samples of project records were chosen for review for the period of 2005 – 2007.

Finding Number Sixteen: Questionable acquisition/disposition costs were charged to the CDBG program in the amount of \$1,107,530.36.

Condition	<p>Sample 1 was a review of BURA & BNRC Commercial Properties disposition activities. Each of the three years included two activities. A review of these activities revealed a wide range of properties being acquired, disposed of and/or maintained with CDBG funds. The chart below outlines funds expended by activity number and year.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>YEAR</th> <th>IDIS NO.</th> <th>DESCRIPTION</th> <th>EXPENDED as of 10/08</th> </tr> </thead> <tbody> <tr> <td>2005</td> <td>5343</td> <td>BURA Commercial Properties</td> <td>\$366,687.10</td> </tr> <tr> <td>2005</td> <td>5344</td> <td>BNRC Commercial Properties</td> <td>\$178,953.81</td> </tr> <tr> <td>2006</td> <td>5926</td> <td>BURA Commercial Properties</td> <td>\$332,579.97</td> </tr> <tr> <td>2006</td> <td>5927</td> <td>BNRC Commercial Properties</td> <td>\$112,034.17</td> </tr> <tr> <td>2007</td> <td>6408</td> <td>BURA Commercial Properties</td> <td>\$114,163.86</td> </tr> <tr> <td>2007</td> <td>6409</td> <td>BNRC Commercial Properties</td> <td>\$3,111.45</td> </tr> <tr> <td></td> <td></td> <td>TOTAL</td> <td>\$1,107,530.36</td> </tr> </tbody> </table> <p>The description of the activities details temporary costs associated with the CDBG properties prior to disposition for a community development purpose. A review of the expenses and property inventory as shared by the City reveals that approximately 280 property addresses are included in the activities. Expenses incurred include utilities, Buffalo User Fees, insurance, legal expenses and other expenses related to the “carrying costs” of properties held. Some of the properties do not appear to have been acquired with CDBG funds. Some properties have been in the City/BURA/BNRC inventory for 25 years or more. Given the length of time in the inventory, the use of CDBG funds does not appear to contribute to or meet an intended purpose. The City</p>	YEAR	IDIS NO.	DESCRIPTION	EXPENDED as of 10/08	2005	5343	BURA Commercial Properties	\$366,687.10	2005	5344	BNRC Commercial Properties	\$178,953.81	2006	5926	BURA Commercial Properties	\$332,579.97	2006	5927	BNRC Commercial Properties	\$112,034.17	2007	6408	BURA Commercial Properties	\$114,163.86	2007	6409	BNRC Commercial Properties	\$3,111.45			TOTAL	\$1,107,530.36
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	<p>has been using CDBG funds to pay for “temporary” costs associated with properties that were owned by the City or City-sponsored agencies. No specific efforts to prevent or alleviate blighting conditions or planning efforts to reach goals in a reasonable amount of time were evidenced in the records. This includes the 2005, 2006 and 2007 IDIS activity numbers noted above. Earlier years were not reviewed; however, staff interviews indicate that similar expenditures were made in years prior to 2005.</p>
Criteria	<p>24 CFR Part 570.201(b) - Disposition 24 CFR Part 570.208 (b)(1) - Criteria for National Objectives, Activities which aid in the prevention or elimination of slums or blight. CDBG Guide to National Objectives and Eligible Activities for Entitlement Communities – Page 2-1 – Categories of Eligible Activities; Page 2-8 Disposition and Page 3-35-Addressing Slums or Blight on an Area Basis Rules require that CDBG activities must be limited to those that address the conditions contributing to the deterioration of the area and those that address the blight. Further, the activities should be part of a plan that will result in a change within a reasonable timeframe. For acquisition and maintenance, the plan should identify the end use. Further activities related to disposition should be “temporary” in nature. Activities and expenses should not be carrying costs of public properties.</p>
Cause	<p>The City may have, at one time, acquired these various properties for an intended use, but that use may not have led to any actual accomplishment. Therefore, the City has continued to pay for the carrying costs of these properties.</p>
Effect	<p>Due to the age and/or nature of some costs, it is questionable whether the City has met the criteria for reasonable and temporary. Some of the costs charged to the CDBG program may not have satisfied regulatory requirements for National Objective and are thus ineligible. Costs charged to the CDBG program may not lead to actual program accomplishments.</p>
Corrective Action	<p>The City is required to;</p> <ul style="list-style-type: none"> • The City should cease using CDBG funds for these purposes until the City satisfactorily documents that the activities are eligible. • Within 60 days, the City must review all costs associated with the BURA and BNRC Commercial Properties and provide HUD with a determination of the following: <ol style="list-style-type: none"> 1. how each of the expenditures within these activities meet the national objective of a slum and blighted area; 2. verification that each eligible expenditure is within a designated slum / blighted area (date of designation and specific URA); 3. how the expenditure addresses the contributing cause of the blighting condition in the area; 4. how the effort being undertaken is in the furtherance of an approved community development plan and/or what the intended use of the property is and in what timeframe; 5. verification that none of the properties being assisted with CDBG

	<p>funds are public properties.</p> <p>Any properties not meeting a national objective or those not contributing to a redevelopment effort should be removed from CDBG programming. The CDBG program should be reimbursed from non-federal funds for the expenses incurred.</p>
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Finding Number Seventeen - Questioned Eligibility of Livable Community Initiatives carried out by the City in the amount of \$2,609,938.69

Condition	<p>The second sample chosen by HUD for review were projects the City designated as eligible under slum and blight area as part of their Liveable Communities Program. The projects are located at 800 Main Street (IDIS activity #6321 – Granite Works) and 210 Ellicott Street (IDIS activity #6447 – Warehouse Lofts) and their development resulted in market rate housing and commercial space. Both projects were partially supported by utilizing funds through a \$6 million line of credit from Fannie Mae. The City later reimbursed the line of credit in the amount of \$2,609,938.69 for soft costs associated with these projects. As part of the file review reviewers also noted that an existing urban renewal area was expanded to include the property location for the 210 Ellicott project just weeks prior determining this project to be eligible under slum and blight area and providing funding. This raises some concern as to the area identified as slum and blight and the City’s rationale for increasing the boundaries.</p> <p>Based on records reviewed on site, HUD has not concluded that both projects meet eligibility requirements and CDBG funds for the use of these projects are supported.</p>
Criteria	<p>24 CFR 570.200 - Eligible activities and 24 CFR 570.506 - Records</p>
Cause	<p>Files and records were not documented in a manner to make an adequate determination.</p>
Effect	<p>This resulted in the inability to make an adequate determination of eligibility of projects and if costs were supported.</p>
Corrective Action	<p>The City is required to:</p> <ol style="list-style-type: none"> 1. Provide documentation to support eligibility of projects. 2. Provide financial records to support the costs of the projects. 3. Records should be provided in a manner as identified in 24 CFR 570.506 within 30 days of this report.

Sample 3 as reviewed was a historic preservation use of funds for the Michigan Street Historic Preservation Area. The review included activities expended during the 2005 – 2007 program years (IDIS Activity #'s 5095 and 6456). This area was determined to be documented as eligible slums and blight area. Activities undertaken were in support of a redevelopment plan. The City is reminded that a reasonable timeframe for completion of redevelopment should be established. On-going expenses for the maintenance of the property should be limited to the established timeframe. Further, the City is reminded that CDBG funds may not be used in the rehabilitation of a structure that is primarily used for religious purposes.

APPENDIX B
Conclusions and Findings
Other Program Requirements

Section VIII. Labor Standards

Summary: 2 Findings, 1 Concern

Mr. Gary J. Kinsel from the HUD Buffalo’s Office of Labor Relations performed the subject review during the weeks of June 16 and June 23, 2008. He reviewed the administration and enforcement of Federal Labor standards requirements by the City of Buffalo (hereinafter referred to as the City), pursuant to the Housing and Community Development Act of 1974, as amended. Bid specifications, construction contracts, contract administration, employee interviews (HUD-11’s), and certified payrolls were examined, as applicable. Reviews of a variety of projects were performed and are listed below. The City has reviewed projects up-front to determine Davis-Bacon applicability and had determined some project(s) did not trigger Federal Labor Standards and are so noted. The City properly referenced the Federal Labor Standards applicability in the project file(s).

Project Name	Program	Contract Dollar Value
YWCA Schoolhouse Commons	CDBG	\$16,400.00
Historic Michigan Baptist Church	CDBG	Design Services – Not covered
African Cultural Center	CDBG	Learning Program – Not covered
Goodwill Industries Family Enrichment Center	CDBG	\$210,000 – Never Awarded
Jefferson Avenue Incubator	CDBG	\$1,000,000.00
C.A.R.E. Program Year 32	CDBG	\$368,000.00
C.A.R.E. Program Year 33	CDBG	\$250,000.00

The City was reviewed for compliance with Federal Labor Standards in the following areas:

- Assessment of Labor Standards Administration
- Contract Documents and Contract Administration
- Employee Interviews (Form HUD-11)
- Force Account Work
- Certified Payrolls
- Reporting Requirements

Finding Number Eighteen - The City did not provide evidence that employee interviews were conducted on covered projects.

Condition	The reviewer was unable to find evidence of any HUD-11 employee interviews having been conducted on covered projects that were reviewed.
Criteria	Handbook 1344.1 paragraph 1-6(e) and 3-2(b).
Cause	The City hadn't assigned an individual to conduct said interviews.
Effect	No cross check mechanism existed to compare rates reported on certified payroll submissions to workers statements while employed on the work site.
Corrective Action	The City is required to: 1. Arrange for HUD-11 employee interviews to be conducted by City representative on all future projects covered by Federal Labor Standards.

Finding Number Nineteen - Semi Annual Labor Standards Enforcement reports were not submitted.

Condition	The reviewer was unable to find evidence of any Semi-Annual reports having been submitted. None were received by the Buffalo Office of Labor Relations.
Criteria	29 CFR Section 5.7(b), Handbook 1344.1 paragraph 6-2.
Cause	The City's Labor Standards Compliance Officer hadn't submitted the Semi-Annual Report.
Effect	The Regulations and Handbook were not complied with and the reporting of the dollars subject to DBRA was not correctly supplied to the US Dept. of Labor for its report to Congress.
Corrective Action	The City is required to: 1. Arrange for timely submission of Semi-Annual Labor Standards Enforcement Report to the HUD Buffalo Office of Labor Relations by City representative.

Concern Number Two - Labor Standards Compliance Officer position is vacant.

Condition	The City's position of Labor Standards Compliance Officer was vacant at the time of monitoring.
Cause	The previous Labor Standards Compliance Officer left the City for another career opportunity in the private sector.
Effect	The lack of a dedicated Labor Standards Compliance Officer allows for a variety of instances of miscommunication, missed reporting deadlines and/or other administration and enforcement requirements being insufficiently addressed.
Corrective Action(s)	The City is required to: 1. Name a Federal Labor Standards Compliance Officer with a detailed list of job duties to include the items leading to the above referenced findings. 2. Additionally, require active involvement with the various departments of the City that contract with CDBG dollars to ensure the correct determination is made on applicability and coverage and resulting administration and enforcement.

Section IX. Environmental Compliance

Summary: 0 Findings, 0 Concerns

Scope: This area of monitoring was conducted by Ronald Monti, Field Environmental Officer, directly with Greg Bernas, Assistant Environmental Program Coordinator, to monitor the City's Environmental Review Record (ERR). The focus of the review was to determine compliance with the National Environmental Policy Act (NEPA), related laws, authorities and regulations set forth under 24 CFR Part 58.

Overview: The following CDBG projects were sampled for compliance:

- 210 Ellicott Street
- 800 block of Main Street
- Michigan Street U.R. Plan
- Michigan Avenue Baptist Church

Based on the sample review, Buffalo's ERR files contained documentation to substantiate that the applicable federal laws and authorities have been addressed and authoritative sources used to support such conclusions. Written determinations were made for projects/activities including those classified as "categorical exclusions" or "exempt".

The statutory checklists used during the broader first stage review process (tiered approach) were appropriate in terms of format and content. The process and standards to be followed in the site specific review appeared to be sufficiently outlined. In addition, the files reviewed included a copy of the "other requirements checklist", as described under 24 CFR Part 58.6.

The records documented that historic properties, where applicable, were considered in the environmental review. Consultation with the SHPO is conducted on a regular basis with projects being the subject of a historic property evaluation and information check, when required. Executed Memorandum of Agreement/Program Agreements, as well as written communication with local and State historic preservation authorities, are made part of the project files.

The files contained appropriate documentation with respect to published notices for Findings of No Significant Impact (FONSI) and Notice of Intent to Request Release of Funds (NOI/RROF). Required timeframes for public notices, comments and objections were in compliance with regulatory standards. Copies of form HUD-7015.15 "Request for Release of Funds and Certification" and form HUD-7015.16 "Authority to Use Grant Funds" were included in each ERR.

Overall, the City's compliance with applicable federal laws and authorities listed in 24 CFR Part 58, for those projects and activities reviewed, is satisfactory.

END OF REPORT

/s/ Stephen T. Banko, III, Field Office Director, 2CS, March 11, 2009