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V.I. Housing Finance Authority Approved a $35 Million Contract Without Seeking Bids or Soliciting Proposals, Inspector General Audit Finds

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Blue roofs in Frederiksted, St. Croix following Hurricane Maria in 2017. **By. ERNICE GILBERT FOR VI CONSORTIUM**

The Virgin Islands Housing Finance Authority, as part of the $766 million Sheltering & Temporary Essential Power (STEP) Program, gave a company a $35 million contract without issuing a request for proposal or soliciting a competitive bid, according to a Dept. of Homeland Security, Office of the Inspector General audit published in May and obtained by the Consortium.

The STEP program, in operation following Hurricanes Irma and Maria during the Mapp administration and continuing under the Bryan administration under the leadership of V.I.H.F.A.

Executive Director Daryl Griffith, allows individuals to stay in their homes while repairs are made, and provides up to $25,000 per home.

The finding complicates an already tense relationship between the Federal Emergency Management Agency and V.I.H.F.A., who in recent times pointed fingers at each other for the current state of the STEP program. Roughly $336 million is owed to contractors, many of whom footed upfront costs to move their workers from the mainland to the USVI, pay their lodging and other costs, with the hope that covenants would be honored and pay would be received. However, years later many of the companies have yet to receive full payment from V.I.H.F.A., and some companies are facing bankruptcy because of nonpayment, said U.S. Senator John Kennedy, whose office has initiated an investigative congressional hearing into the matter.

According to the audit, V.I.H.F.A. said it approved the no-bid contract of $35 million without issuing a request for proposal or soliciting other bids, because the contractor had bid on similar work for another project. The O.I.G. audit, however, pointed out that federal regulations call for costs incurred to be necessary and reasonable for a federal contract to be awarded.

"To be considered reasonable, considerations must be made for restraints or requirements imposed by factors such as sound business practices and arm's-length bargaining," the O.I.G. audit said. The audit said V.I.H.F.A. determined that the procurement qualified for a sole-source procurement. "However, it did not perform a cost analysis to support the reasonableness of the contract costs. Costs incurred under contracts awarded without arm's length bargaining are at higher risk for fraud, waste, and abuse; thus, the related costs may be unreasonable and unallowable," the O.I.G. audit found.

The O.I.G. audit was performed between September 26, 2018, to April 30, 2019, and examined FEMA, the Virgin Islands Territorial Emergency Management Agency and V.I.H.F.A.

In a recent response to the Consortium's first article on the audit, V.I.H.F.A. blasted FEMA, stating that STEP program cost overruns of $296 million cited in the O.I.G. audit was caused by FEMA, as the federal agency, according to V.I.H.F.A., failed to adequately fund the STEP program.

"With regards to cost overruns mentioned in the report, FEMA originally estimated an approximate cost of $600 million for the STEP program. However, FEMA only obligated $222 million, leaving an almost $300 million shortfall in the actual cost. By its own estimates, FEMA only partially funded the projects, but the OIG report castigated V.I.H.F.A. for overruns," V.I.H.F.A. said.

FEMA, for its part, said it agreed with the O.I.G. findings that the U.S. Virgin Islands indeed struggled to manage federal dollars, leading to a number of problems, among them cost overruns, potential conflict of interest scenarios with contracts, and an insufficient financial system "to verify completeness of costs on a project-by-project basis, or enough staff to adequately manage FEMA funding," among other issues.

The war of words come on the backdrop of the pending congressional investigative hearing. The Office of U.S. Senator Kennedy told the Consortium in May it would summon the Government of the Virgin Islands, Witt O'Brien's, The Strategy Group (a subcontractor of Witt O'Brien's), AECOM, APTIM and other firms involved in the program to testify in Washington.

At the crux of the matter, monies owed to contractors, and who will ultimately foot the bill. Along with the $336 million that V.I.H.F.A. said is owed, another $150 million in construction soft cost has been contested by FEMA. Soft costs typically are associated with non-tangible items such as design work, real estate fees, inspection fees, project management, and taxes. Soft costs typically constitute about 30 percent of the total construction cost, while the remaining portion of the total costs is related to hard costs, such as for the building, site work, landscaping, and overhead.

While the disagreements and finger-pointing continue, the U.S. Virgin Islands is facing another above average hurricane season.