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Investigative Informative Case Synopsis

FILE NO: 22-0160-C

SUBJECT MATTER: Poor conditions at Westside Emergency Shelter

STATUS: Final

INVESTIGATOR: M. Santistevan

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October 24, 2022

Date of Completion

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ACCOUNTABILITY IN GOVERNMENT
OVERSIGHT COMMITTEE CHAIRPERSON

January 11, 2023

Date of Approval

DISTRIBUTION:

Honorable Mayor
President City Council
Chief Administrative Officer
City Councilors
Director Council Services
City Attorney
Department Director
Members, Accountability and Government Oversight Committee
File

EXECUTIVE SUMMARY

The mission of the Office of Inspector General (OIG) is to provide independent and objective insight, oversight, and foresight in promoting integrity, efficiency, overall effectiveness, accountability, and transparency in government to safeguard and preserve public trust.

According to City Ordinance 2-17-2, the Inspector General's goals are to (1) Conduct investigations in an efficient, impartial, equitable, and objective manner; (2) Prevent and detect fraud, waste, and abuse in city activities including all city contracts and partnerships; (3) Deter criminal activity through independence in fact and appearance, investigation and interdiction; and (4) Propose ways to increase the city's legal, fiscal and ethical accountability to insure that tax payers' dollars are spent in a manner consistent with the highest standards of local governments.

On September 28, 2022, the Office of Inspector General received an anonymous tip hotline complaint alleging the Westside Emergency Housing Center would not pass a fire inspection or a health inspection. The complaint alleged there are inoperable showers, there is an infestation of bed bugs, there are no clean sheets for the residents, there is no operational kitchen and the facility is not Americans with Disability Act (ADA) compliant. The OIG determined that the allegations contained violations of City Ordinances and regulations and that it was appropriate for the OIG to conduct a fact-finding investigation. The purpose of the investigation was to determine if there are violations of Contract 202300021 or the City of Albuquerque Fire Code 0-2017-020.

As a result of the investigation, the OIG was able to partially substantiate the allegation that the Westside Emergency Housing Center would not pass a fire inspection or a health inspection and has made two (2) recommendations for improvement.

ABBREVIATIONS

ADA: Americans with Disabilities Act
OIG: Office of Inspector General
C1: Contractor
CITY: City of Albuquerque
FCS: Family and Community Services Department
WEHC: Westside Emergency Housing Center

INVESTIGATION

Background

The City of Albuquerque (City) Facilities department stated that the latest records show the Westside Emergency Housing Center (WEHC) building was deeded to the City from Bernalillo County. Before the facility was deeded to the City in 2003, Bernalillo County built and operated the facility as a correctional facility.

The City entered into a contract with the contractor (C1) on July 11, 2022, for the period July 1, 2022, through June 30, 2023. The goals of the contract are to ensure that people of all ages have the opportunity to participate in the community and economy and are well-sheltered, safe, healthy, and educated. Additionally, the contract is designed to increase housing stability by providing emergency overnight shelter to adult men and women and their children.

In August 2022, a group of citizens toured the WEHC, noting their concerns. On August 31, the OIG received a complaint regarding poor conditions at the WEHC alleging that the facility would not pass a fire or health inspection due to broken showers and infestation of bed bugs, a lack of clean bedding, no operational kitchen, and non-compliance with the Americans with Disabilities Act (ADA).

Allegation: The Westside Emergency Housing Center would not pass a fire inspection or a health inspection. There are inoperable showers, there is an infestation of bed bugs, there are no clean sheets for the residents, there is no operational kitchen and the facility is not ADA Compliant.

Authority: Contract 202300021, City of Albuquerque Fire Code 0-2017-020, City of Albuquerque Article 7.

Evidence: Contract 202300021 between the City and C1, the fire inspection report, the environmental health inspection, and the code enforcement inspection.

Analysis: Contract 202300021 states that the contractor shall perform the following services in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds and within the financial resources of this agreement to provide emergency overnight shelter for adult men, women and families with children.

Specifically, 1 (e) (v) states the contractor shall provide laundry services for all of the bedding, towels, etc. used by the shelter residents. Section 1 (e) (vi) states that the contractor shall provide regular cleaning and maintain the sanitation of resident pods, common areas, medical pods, hallways, and bathrooms to meet cleaning standards, including Center for Disease Control and NM Department of Health standards to prevent the spread of COVID-19.

On September 22, 2022, the OIG spoke with a representative of C1, and that discussion revealed that weekly laundry services are provided for bedding and towels. C1's representative stated that there have been isolated instances when residents refuse laundry service because the residents desire to keep the same bedding. On September 30, 2022, the OIG made an unannounced visit to the WEHC, toured the facilities, spoke to residents, and inspected pod logs for July, August, and September 2022. The pod logs document the events occurring during each shift. Towels and bedding are picked up every Wednesday by the laundry service, and the prior week's laundry is returned. The OIG noted that in many of the pod logs for Wednesdays, there was documentation that laundry services were provided, however, we did find that the documentation could be more consistent. The OIG recommended that the pod log form be revised to better ensure that each recurring event is documented. Where the residents have concerns about handing over their bedding and towels, the OIG recommended that C1 might consider scheduling a specific day and time for an outing to a laundromat where the residents can launder their bedding, towels, and any other clothing.

The OIG did confirm that mice and bed bugs were an issue at the WEHC but also that the City provides pest control services monthly. C1's representative stated that a different pod is sprayed and treated each day of the week of service. The OIG was able to verify that the City has a contract for pest control services at the WEHC and that those services are being performed monthly.

During the OIG walkthrough, the OIG noted that all showers and toilets in the resident pods were in working order. The OIG did observe that the room utilized as storage does not have operable toilets and showers. Additionally, the space being renovated into a recreation room for the residents does not have operable showers. The recreation space is a common area used by both male and female residents so the showers are not necessary and would not be utilized.

The OIG noted that the kitchen area of the WEHC is used as storage for dry goods. The WEHC does have an operable refrigeration and freezer unit. The kitchen does not have operable ovens. The WEHC has a warming unit for meals brought in by the contractors. The contract does not require C1 to have a kitchen or to operate a kitchen. The contract requires C1 to assist with the coordination of medical and supportive services provided by other organizations and volunteers at the shelter facility, including meals that are provided or served at the WEHC facility.

The OIG observed the intake process at the WEHC, noting that residents were screened before entry. COVID testing was conducted on individuals who were new to the WEHC or who indicated symptoms or stated they have COVID. C1's representative stated that the residents are routinely

tested for COVID-19. The WEHC has two separate COVID units, one for males and the other for females. COVID-positive residents are housed in these pods.

The OIG heard from residents who stated that although there are things they feel could be improved upon, they feel safe at the WEHC. These residents are permitted to keep their belongings in their assigned space but must adhere to the requirements for maintaining a clean and organized space.

City of Albuquerque Fire Code 0-2017-020 provides the Albuquerque Fire Department Fire Marshal's Office with jurisdiction to inspect (for fire and life safety violations) all commercial buildings and multi-family dwellings within the city's jurisdiction. Fire inspections of buildings and premises can be divided into new construction and existing buildings.

The OIG made a request to the Fire Marshal for the most recent fire inspection conducted at the WEHC. The OIG was provided a Fire Inspection report dated June 13, 2022, and a subsequent re-inspection, dated September 9, 2022. The June 13, 2022 life safety inspection report identified eleven (11) violations. The following email was received by the OIG on September 12, 2022, regarding the re-inspection.

“Per your request, below is an update from the re-inspection that occurred on 9/9 at 7440 Jim McDowell Rd:

Update on Westside Homeless Shelter. Inspector [REDACTED] went out to shelter and so far they have repaired the Illumination of exit signs violation(1013.3), emergency lighting violation(1008.1), smoking violation(310.2), combustible material in storage room violation(315.3.3).

Sprinkler system and fire alarm system were tested by Alysworth but none of the paperwork has been submitted. Stated they will be submitted by end of day today.

Fire evacuation plan, fire safety plan, signage throughout and hydrant testing has not been completed. Inspector [REDACTED] explained to the Director that FMO could assist with fire drills (evacuation plan)

[REDACTED] stated he does have the CO and an occupant load that he will submit ASAP for inspector [REDACTED] to print out Occupant Load signs for posting.”

Further inquiry by the OIG revealed an inspection was conducted on 8/17/22 and that all violations had been resolved except for CO 507.4 regarding the inspection and testing of Fire hydrants.

A conversation with FCS maintenance revealed that the fire hydrant uses non-potable water and that there are very few vendors who conduct this service.

Article 7 § 9-7-3 states “The Mayor is authorized to make such inspections of buildings, lots, and premises, as he deems necessary to investigate and abate insect or rodent infestations or harborages. For the purpose of making such inspections, the Mayor is authorized to enter, examine, or survey at all reasonable times. Such entry shall be made in a manner as to cause the least possible

inconvenience to the person in control, and the Mayor shall obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted. “

The OIG requested the Environmental Health Department to provide an inspection report for the WEHC. The OIG was provided a report from the Environmental Health Department dated, October 5, 2022. The October 5, 2022 inspection report identified observed conditions and recommendations for Food Safety in the Kitchen and Dormitories. The report also observed signs of rodent, fly and bed bug infestation. It was noted that the WEHC has on-contract pest control that is currently providing treatments for pests. It was recommended that the pest control company be consulted to develop additional plans for control. The report was intended to assist with the resolution of identified issues.

The OIG requested the Planning Department to provide an inspection report for the WEHC. The following summary was provided to the OIG on October 20, 2022.

“On October 4, 2022, Chief Building Inspector [REDACTED], Chief Mechanical/Plumbing Inspector [REDACTED], and Division Manager [REDACTED] conducted a site visit to the Westside Emergency Housing Center located at 7440 Jim McDowell NW. We were guided by Maintenance Supervisor [REDACTED]. The facility has 8 modules that house women in a few and men in the rest. Each module has adequate toilet, sink, and shower facilities. There are a few of the showers that ramps have been added for wheeler chair access. [REDACTED] stated that the drainage issues have greatly been reduced by the removal of the paper towel dispensers which were replaced with hand dryers. They still have problems with backups due to drug paraphernalia being flushed down the toilets. We toured the kitchen facility which is currently being used as a storage area. They are working on plans to submit for a kitchen remodel to include upgrading the refrigeration, hot serving area, and prep space. There were a few of the egress doors that were very hard to open but [REDACTED] said they have service tickets in for repairs on them. The cleanliness of this facility could use much improvement and it is well worn beyond its time.”

The OIG did note that the building is old and did not appear to have been renovated or altered. The facilities were not complainant with all 2010 ADA requirements. OIG researched ADA requirements in the 2010 ADA regulations, a “safe harbor” provision was created for businesses and state and local governments. A “safe harbor” means that you do not have to make modifications to elements in a building that comply with the 1991 ADA Standards even if the 2010 ADA standards have different requirements. “Safe harbor” does not apply to elements that were NOT addressed in the original 1991 ADA Standards but ARE addressed in the 2010 ADA Standards. Additionally, alterations after 2010, to elements that were compliant with the 1991 ADA Standards would be required to comply with the 2010 ADA standards.

Allegation Findings: The OIG was able to partially substantiate the allegation that the WEHC would not pass a fire inspection at the time of the complaint. As indicated in a fire inspection report, dated June 13, 2022, the WEHC incurred multiple fire code violations. The Fire Marshal’s Office conducted a reinspection on September 9, 2022, and an email was submitted to the OIG

stating that the violations had been corrected with the exception of one relating to the inspection and testing of Fire Hydrants.

The OIG was able to substantiate that there are some environmental health concerns at the WEHC. The report is intended to assist with the resolution of identified issues and not to be punitive. The protocols employed are the same afforded all entities.

The OIG was not able to substantiate the allegation that there are no clean sheets for the residents.

The OIG was able to partially substantiate the allegation that some showers at the WEHC are not operable. Showers in the resident's pods are operable. The inoperable showers are in areas not used for housing residents.

The OIG was not able to substantiate a contract violation related to the WEHC's kitchen being inoperable.

The OIG was not able to substantiate an ADA violation. The OIG's investigation revealed that the facility was built well before the 1991 and 2010 ADA requirements were enacted and absent alterations to the building, the building is not subject to current certain ADA regulations.

Recommendation: The OIG recommends that the FCS department continue to work with the contractor to locate a vendor who can conduct the inspection and testing of the fire hydrants that use non-potable water.

Additionally, the OIG recommends that a copy of the inspection reports be provided to both the contractor and FCS maintenance. The contractor is responsible for remediating the issues and should make every effort to correct any deficiencies. FCS maintenance should work with the contractor to ensure that these matters are resolved and subsequently monitored. C1 and FCS should facilitate more frequent pest control services and monitor the outcome and take necessary actions to ensure the mitigation of any infestations.

FCS should conduct continuous monitoring and inspections of the WEHC to ensure all issues are being addressed in a timely manner.

Management's Response: 1) DFCS has moved forward with addressing the identified concerns. We wish to report that Aylworth Fire Sprinklers has conducted an annual fire hydrant test that was completed on Tuesday 1/10/2023. The report provided to DFCS on 1-12-23 indicated that all (3) Hydrants passed without any deficiencies. DFCS has submitted the report to the OIG office as of 1-12-23. The report will be shared with the WEHC operating contractor. Given no deficiencies were identified, there were not items requiring remediation. DFCS will update our internal staff and contractors on this report and will continue to monitor the hydrants as part of the ongoing inspections of the WEHC.

2) Routine pest control is done monthly per a contract with TNT. TNT recommended specific treatment for bedbugs every 90 days. The next bedbug treatment is scheduled for March 2023. The last treatment for the facility units/pods was conducted most recently on Friday 12/10/2022 (A,B), Saturday, 12/11/2022 (D,F) and Sunday 12/12/2022 (C,G). Dryers are also available for heat treatment mitigation and are done for a duration of 20 minutes @ 400 degrees to kill bed bugs and hotboxes have been purchased by the operator and are being used according to contractor report on 1/11/2023. A request to purchase a new larger hot box was made on 1/11/2023 and was approved by FCS.

3) FCS Maintenance has a work order process which Heading Home (contracted WEHC operator) utilizes. DFCS also has a scheduled call every Wednesday morning to discuss all maintenance issues with the contracted operator. The City meets with Heading Home, the contracted WEHC operator, weekly to discuss maintenance needs of the facility and to discuss anticipated timeline to address/complete. FCS Maintenance is at the WEHC to address needs at minimum once a week. If there is an emergency, FCS Maintenance will be dispatched immediately.