



RSM US LLP

Independent Accountant's Report

To the Board of Directors
Cook County Land Bank Authority
Chicago, IL

We have examined the Cook County Land Bank Authority's (CCLBA) compliance with the specified requirements listed below during the six-month period beginning June 1, 2019 through November 30, 2019. Management of CCLBA is responsible for CCLBA's compliance with the specified requirements. Our responsibility is to express an opinion on CCLBA's compliance with the specified requirements based on our examination.

The specified requirements are:

1. Real property purchases, donations, and other acquisitions have been acquired or accepted in accordance with governing laws, regulations, contracts, grant agreements and CCLBA policies and procedures, and are accurately recorded in the general ledger.
2. Real property dispositions through sale, transfer, donation or other types of disposal have been disposed of in accordance with governing laws, regulations, contracts, grant agreements and CCLBA policies and procedures, and are accurately recorded in the general ledger.
3. Inventory records of real property held by CCLBA during the six month period and at November 30, 2019 is complete and accurate and reflect all acquisitions and disposals during the period.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether CCLBA complied, in all material respects, with the specified requirements referenced above. An examination involves performing procedures to obtain evidence about whether CCLBA complied with the specified requirements. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material noncompliance, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

Our examination does not provide a legal determination on CCLBA's compliance with specified requirements.

As noted in the Schedule of Findings, Finding 2019-001, our examination disclosed material noncompliance with the recording of property transactions and balances in accordance with Generally Accepted Accounting Principles in the United States of America (GAAP). Compliance with such requirements is necessary, in our opinion, for CCLBA to comply with the specified requirements pertaining to recording property transactions, as listed in the first section of this report.

In our opinion, except for the material noncompliance from the specified requirements described in the preceding paragraph, CCLBA complied, in all material respects, with the requirements listed above during the six-month period June 1, 2019 through November 30, 2019. However, the results of our procedures disclosed instances of noncompliance with the specified requirements, which are described in the accompanying Schedule of Findings as items 2019-002 and 2019-003.

Internal Control Over Compliance

Management of CCLBA is responsible for establishing and maintaining effective internal control over compliance with the specified requirements (internal control).

In planning and performing our examination, we considered CCLBA's internal control to determine the examination procedures that are appropriate in the circumstances for the purpose of expressing our opinion on CCLBA's compliance with the specified requirements, but not for the purpose of expressing an opinion on the effectiveness of CCLBA's internal control. Accordingly, we do not express an opinion on the effectiveness of CCLBA's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that have not been identified. However, as described in the accompanying Schedule of Findings, we did identify certain deficiencies in internal control that we consider to be material weaknesses and significant deficiencies.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with the specified requirements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that material noncompliance with the specified requirements will not be prevented, or detected and corrected, on a timely basis. We consider the deficiency described in the accompanying Schedule of Findings as item 2019-001 to be a material weakness.

A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiencies described in the accompanying Schedule of Findings as items 2019-002 through 2019-006 to be significant deficiencies.

Cook County Land Bank Authority's Responses to Findings

CCLBA management's responses to the findings identified in our examination are described in the accompanying Schedule of Findings. The responses were not subjected to the procedures applied in the examination and, accordingly, we express no opinion on the responses.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control. This report is an integral part of an examination performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

RSM US LLP

Chicago, Illinois
June 15, 2020

**Cook County Land Bank Authority
Schedule of Findings
For the Six-Month Period Ending November 30, 2019**

Finding 2019-001 Accounting for Property Transactions and Inventory not in Compliance with Generally Accepted Accounting Principles (GAAP), Monthly General Ledger not Reviewed and Corrected

Condition:

The Cook County Land Bank Authority (CCLBA) did not record all transactions accurately in the general ledger, in accordance with Generally Accepted Accounting Principles (GAAP). During our examination we identified the following noncompliance with GAAP:

- Revenue and expense transactions are being netted
- Inventory (land held for resale) is not reported at the lower of cost or market

Cook County Land Bank Authority (CCLBA) is recording property acquisitions, property sales, and other property transactions throughout the year in the general ledger on a cash basis, with certain revenue and expense amounts netted. CCLBA has an approved Line of Credit (LOC) with the Chicago Community Loan Fund (CCLF) that they are able to draw upon to obtain the funds necessary to close on property acquisitions. Amounts needed at closing are estimated and requested from CCLF who then transfers the funds to the identified Title Company for that purpose. At the time of the draw, CCLBA does not record the LOC draw in the general ledger. During the examination period, the CCLF LOC statements were provided to the County Comptroller's Office on a monthly basis for recording. The amounts recorded by the County Comptroller's Office were summarized monthly amounts from the statements, not the individual transactions that occurred. The entries are a debit to an expense account and a credit to the LOC liability, no property asset account is recorded at this time. If the LOC liability becomes due before the property has been sold, the County Comptroller's Office will record the payment made as a reduction to both expense and the LOC liability. More frequently, the LOC amount is paid off when the property is later sold. At the sale closing, the balance owed on the LOC for the property is credited to CCLF, reducing the net proceeds received by CCLBA. In this situation, CCLBA records the net proceeds as revenue. Various costs incurred at closing are not recorded in the general ledger, as they were netted against the proceeds (revenue). When the County Comptroller's Office receives the CCLF monthly statement, they record an entry to reduce the LOC amount with the offset to the expense account. In addition, at times the estimated transfer sent to the Title Company exceeded the amount needed at closing whereupon the Title Company issued CCLBA a check for the excess. CCLBA recorded these amounts as revenue. The impact of the accounting method used was to overstate revenues and expenses (equally) with no impact on net income.

Properties held in inventory at year-end are recorded at the approximate fair market value for properties acquired through the scavenger sale process (or through donation), rather than at the lower of cost or market as required under GAAP. Annually, in conjunction with issuing annual financial statements, CCLBA inventories properties owned as of fiscal year end and records them as an asset in the general ledger. The amount added to the asset account is based on estimated market value for most of the properties, however cost is used for properties that were purchased with cash (mainly National Community Stabilization Trust properties). Properties that were acquired through the scavenger sale process are valued using a matrix price which is developed based on sales of similar properties, unless the property is sold shortly after year-end in which case the sales price is used. Because scavenger properties are acquired through a no cost bid, the cost of those properties is zero. The impact of the valuation method used overstated the inventory records that were provided to the County Comptroller's Office for recording (approximately \$15.4 million for FY 2019).

**Cook County Land Bank Authority
Schedule of Findings (Continued)
For the Six-Month Period Ending November 30, 2019**

Finding 2019-001 Accounting for Property Transactions and Inventory not in Compliance with Generally Accepted Accounting Principles (GAAP), Monthly General Ledger not Reviewed and Corrected (Continued)

CCLBA is not reviewing the general ledger on a monthly basis. As vendor invoices are received by CCLBA, they are reviewed, approved for payment and coded as to the general ledger account which should be charged. During our examination we tested a sample of 60 paid vendor invoices and noted 6 invoices (10%) that were recorded to the incorrect account number by the County Comptroller's Office who is posting the entries. These errors were not identified and corrected by CCLBA.

Criteria:

Generally Accepted Accounting Principles (GAAP) requires that accounting entries be recorded gross for most transactions. GAAP also requires that inventory assets be recorded at the lower of cost or market.

Additionally, under a good system of internal control, accounting records should be reviewed on a regular basis, but no less than monthly, to identify and correct accounting errors. Correcting entries should be recorded timely.

Cause:

Based on discussions with CCLBA management, a joint decision by the County CFO and CCLBA management was made when CCLBA was formed, to use the cash basis of accounting. CCLBA used market value to record properties at year end because this was determined to be useful information to provide to the users of the financial statements.

CCLBA management indicated read-only access to the ERP system general ledger has not been provided. No CCLBA employee has been granted read-only access to the general ledger, and the CCLBA accountant's access is prohibited because the CCLBA accountant is a contractor. IT security rules limit access to County systems to County employees.

Effect or Potential Effect:

Based on the accounting methods being used, revenues, expenses and inventory will continue to be misstated in the general ledger. Additionally, the inability of the CCLBA accountant to review and correct the general ledger could result in expense classification and other accounting errors.

Recommendation:

We recommend CCLBA management work with County Comptroller's Office on the following:

- Determine the most efficient and effective way to record property transactions that results in complete and accurate entries in the general ledger, whether recorded by CCLBA or County Comptroller personnel.
- Determine the best manner to communicate property market values in a manner other than through the asset account in the general ledger. Alternatives that could be considered include a footnote disclosure in the Notes to the Financial Statements or a supplementary information schedule to be included in the annual financial report.
- Determine a way to obtain read only access to the general ledger. CCLBA should consider hiring the accountant as an employee, instead of using her as a contractor.

**Cook County Land Bank Authority
Schedule of Findings (Continued)
For the Six-Month Period Ending November 30, 2019**

Finding 2019-001 Accounting for Property Transactions and Inventory not in Compliance with Generally Accepted Accounting Principles (GAAP), Monthly General Ledger not Reviewed and Corrected (Continued)

Management Response:

CCLBA management will work with the County Chief Financial Officer and the County Comptroller's Office on the following:

- Determine the most efficient and effective way to record property transactions that results in complete and accurate entries in the general ledger, whether recorded by CCLBA or County Comptroller personnel.
- Designate a primary point of contact for CCLBA within the County Comptroller's office.
- Determine the best manner to communicate property market values in a manner other than through the asset account in the general ledger. Alternatives that could be considered include a footnote disclosure in the Notes to the Financial Statements or a supplementary information schedule to be included in the annual financial report.
- Determine a way to obtain read only access to the general ledger. CCLBA must be given access in order to comply with GAAP standards.

**Cook County Land Bank Authority
Schedule of Findings (Continued)
For the Six-Month Period Ending November 30, 2019**

Finding 2019-002 Noncompliance with Land Bank Documented Policies and Procedures and the Procurement Code Manual

Condition and Criteria:

The Cook County Land Bank Authority (CCLBA) has adopted formal policies and procedures titled *Policies and Procedures: Acquisition and Disposition of Real Property* amended December 13, 2018 (Policies and Procedures). Additionally, CCLBA has adopted a *Procurement Code Manual*, dated April 24, 2014 (Procurement Manual).

During our examination, we tested CCLBA's compliance with various requirements contained in these two documents and noted the following six items below that were not complied with during the examination period:

1. Policies and Procedures - Section 10 *Approval of Property Transfers* "All property transfers will be reported in writing to the Board of Directors at the immediately following Board meeting."
2. Procurement Manual – Section 15 *Real Estate* "For the purposes of record keeping and reporting, the Executive Director or his designee shall record for each property all costs associated with each property from the date of acquisition. A record of such costs shall be prepared, in aggregate form for each major cost item, as part of the report provided to the Board of Directors. A list of each property held by the CCLBA, along with the current aggregate holding costs associated with the property, shall be provided to the Board of Directors as part of the standard monthly reporting."

Based on our reading of the CCLBA Board minutes and Board Packets, we noted summarized property information was provided at each Board meeting, but not individual property transfer information, individual properties held or associated property costs.

3. Policies and Procedures - Section 2.2 *Priorities for Property Use* "Affordable Housing including the preservation, production or rehabilitation of housing for persons with low or moderate incomes, and the preservation of long term land affordability through community land trusts or similar not-for-profit or public entities. On an annual basis the Board of Directors will consider and approve the applicable definitions of "low income" and "moderate income" for purposes of carrying out the activities of the CCLBA."

Based on our reading of the CCLBA Board minutes, we determined the Board did not consider and approve the applicable definitions of "low income" and "moderate income."

4. Procurement Manual – Section 2 *Cash Receipts* "The Executive Director or designee will endorse all checks by using the endorsement stamp for the checking account" and "The checks and cash will be deposited with 3 business days by the Executive Director or designee."

During our testing of cash receipts we noted the CCLBA is not allowed to endorse checks and amounts are batch deposited with the County Comptroller's office by the 10th day of the following month.

5. Procurement Manual – Section 3 *Cash Disbursements* "The Executive Director or designee will collect checks for approved invoices from the County and be responsible for distributing them to the payee."

During our testing of cash disbursements we determined the County Comptroller's office is distributing checks to the payees.

**Cook County Land Bank Authority
Schedule of Findings (Continued)
For the Six-Month Period Ending November 30, 2019**

Finding 2019-002 Noncompliance with Land Bank Documented Policies and Procedures and the Procurement Code Manual (Continued)

6. Procurement Manual – Section 11 *Books of Original Entry* “At the end of each month, the Executive Director or designee will prepare a Statement of Financial Position, Statement of Activities, Employee Liability Balances, Accounts Payable, Accounts Receivables, and Statement of Activities by Project that will be reviewed by the Authority’s Treasurer. Accounting records will be maintained on the accrual basis of accounting in a manner that facilitates the preparation of audited financial statements in conformity with generally accepted accounting principles.

During our examination we noted CCLBA only prepares annual financial statements on the accrual basis of accounting. Monthly financial statements are not prepared.

Cause:

CCLBA management indicated the policies and procedures have not been thoroughly reviewed and updated recently to reflect preferred practice.

Effect or Potential Effect:

CCLBA did not comply with all provisions of its Policies and Procedures and Procurement Manual.

Recommendation:

We recommend CCLBA management work with the CCLBA Board to update the Policies and Procedures and Procurement Manual. Once updated, management should design internal controls to ensure all stated requirements are being adhered to.

Management Response:

As noted in the above, CCLBA adopted its initial Policies and Procedures and Procurement Manual in 2014, prior to developing and solidifying CCLBA operations. CCLBA conducts periodic reviews of its policies—for example the 2018 update—in an attempt to identify older policies that CCLBA’s Board finds to be outdated or impracticable given the volume, nature and context of CCLBA’s work. Many of the inconsistencies found above are due to outdated policies that need to be updated in the next CCLBA Board review.

Additionally, as CCLBA Management reported to the examination team, CCLBA does not currently have access to the necessary Comptroller systems to disburse funds in the manner set out in the policies. CCLBA will continue to work with the Comptroller to expand its access to CCLBA accounts, and work with the CCLBA Board to modify the Policy to ensure that it sets forth a standard that can be achieved by CCLBA staff.

**Cook County Land Bank Authority
Schedule of Findings (Continued)
For the Six-Month Period Ending November 30, 2019**

Finding 2019-003 Noncompliance with Agreements with Other Governments and Line of Credit Requirements

Condition and Criteria:

The Cook County Land Bank Authority (CCLBA) failed to comply with certain requirements established in agreements with other governments, and requirements contained in the line of credit agreement with the Chicago Community Loan Fund.

Agreements with Other Governments:

Per the agreement with the Cook County Department of Homeland Security and Emergency Management, and Cook County Department of Planning and Development, CCLBA shall provide the departments thirty (30) days advance written notice of scheduled closings for acquisitions.

During testing of properties acquired under agreements with these County departments, we noted the following:

- 4 out of 4 properties tested (100%) had closing notices that were not provided 30 days in advance. The notices were provided between 18 and 24 days in advance of the scheduled closings.

Line of Credit Agreement:

The Chicago Community Loan Fund line of credit and security agreement, Article 8 Section 8.21(c), requires that the deed to any project property must be in Land Bank's name and Borrower shall provide such deed to the Lender.

In the agreement, Article 5 Section 5.1(a), states that the Borrower shall have given Lender at least three (3) business days' prior written notice of such sale, accompanied by a copy of the applicable contract of sale and all related documents, and drafts of any applicable release documents (which release documents shall be subject to Lender's reasonable approval).

During testing of properties acquired using funds from the Chicago Community Loan Fund and sold within the review period, we noted the following:

- For 3 out of 3 properties tested (100%) the deeds to the purchased properties were not sent to the Chicago Community Loan Fund
- For 1 out of 3 properties tested (33%) the notice of sale was sent to the Chicago Community Loan Fund less than 3 days in advance of the sale, as required

Cause:

CCLBA management indicated these instances were caused by oversight.

Effect or Potential Effect:

CCLBA did not comply with all provisions of the agreements with other governments, or the Line of Credit agreement.

**Cook County Land Bank Authority
Schedule of Findings (Continued)
For the Six-Month Period Ending November 30, 2019**

Finding 2019-003 Noncompliance with Agreements with Other Governments and Line of Credit Requirements (Continued)

Recommendation:

We recommend CCLBA management implement internal controls to ensure compliance. Controls could include items such as checklists and calendar reminders. CCLBA should also assign responsibility for monitoring compliance with agreements to specific staff so that there is no ambiguity about who will perform or monitor each requirement.

Management Response:

The grant agreement with Cook County Department of Homeland Security and Emergency Management, Cook County Department of Planning and Development and CCLBA contained language regarding advance notice for real estate closings. This provision was to provide all parties adequate time to submit documentation related to the real estate transactions but was not related to funding the project. So while the notice period was less than 30 days, there was no impact on the real estate closings or the funding.

CCLBA will amend the loan renewal agreements to modify these provisions. Chicago Community Loan Fund is not using the properties as collateral; therefore, there is no need to submit deeds. This is stock language in their loan agreement that was missed in review.

Our understanding is that the 3-day notice period is designed to be a guideline not a deadline. One of the key aspects of the line of credit is speed of execution especially in a dynamic marketplace. This provision will be modified to reflect this aspect.

**Cook County Land Bank Authority
Schedule of Findings (Continued)
For the Six-Month Period Ending November 30, 2019**

Finding 2019-004 Inadequate Internal Control over Compliance with Land Bank Documented Policies and Procedures

Condition and Criteria:

The Cook County Land Bank Authority (CCLBA) has adopted formal policies and procedures titled *Policies and Procedures: Acquisition and Disposition of Real Property*, amended December 13, 2018 (Policies and Procedures). During our examination of CCLBA's compliance with its Policies and Procedures, we noted deficiencies in internal control over compliance for the following policies:

1. Policies and Procedures - Section 5.1 *Consideration Generally* "The CCLBA will require good and valuable consideration in an amount not less than the lower of the fair market value of the property, as determined by the CCLBA, or the Property Costs. "Property Costs" will mean the aggregate costs and expenses of the CCLBA attributable to the specific property in question, including costs of acquisition, maintenance, repair, demolition, marketing of the property and indirect costs of the operations of the CCLBA allocable to the property."

CCLBA's determination of how the sales price is being determined was not sufficiently documented for sales that occurred during the examination period. Management represented during the examination that the team looks at MLS listings, real estate websites, their own pricing matrices and similar information in determining each sales price, however they do not currently document this information as it is accumulated. Additionally, the cost of each individual property as defined in Section 5.1 was not tracked monthly in the eProperty Plus System, excel, or elsewhere so that the total cost by individual property is measured, reviewed, and available at the time of determining the property's sales price.

2. Policies and Procedures - Section 12.1 *Prohibited Transactions* "No CCLBA employee, County elected official, CCLBA appointed officer, CCLBA vendor, or any individual with a familial relationship with a CCLBA employee, County elected official, CCLBA appointed officer, or CCLBA vendor, as defined herein, is permitted to:
 - a. Acquire any real or personal property from CCLBA; or
 - b. Have a financial interest in any transaction involving CCLBA."

And Section 12.2 *Disclosure of Employment and Familial Relationships* "All purchasers of property from CCLBA shall disclose to CCLBA, in writing, any employment or familial relationships that may prevent the purchaser from acquiring a financial interest in real or personal property from CCLBA pursuant to CCLBA's Policies and Procedures, as amended."

Section 12 as stated above, was added to the Policies and Procedures in December 2018, and as such, was applicable to all sales that occurred during the examination period. In discussing the policy with CCLBA management, they represented that CCLBA staff performed due diligence over prospective buyers and did research in order to determine if any familial relationships could be found. However detailed documentation of this research performed for each sale, and the results, was not maintained. Additionally, in April 2019, the application prospective buyers are asked to complete was updated to include questions and certifications to identify and vet familial relationships. During our examination we tested a sample of 26 property sales for which 19 prospective buyers were requested to complete applications. Of these 19 applications, 15 had applications that were submitted before the CCLBA Conflicts of Interest Policy was adopted (December 13, 2018), and 4 were submitted after the policy was adopted. Within the examination period, only one transaction started with the updated application. For the others, 18 contained the legacy application because the buyer submitted it prior to the new application being made available in April 2019.

**Cook County Land Bank Authority
Schedule of Findings (Continued)
For the Six-Month Period Ending November 30, 2019**

We did note a compensating control for all our sampled property sales in that the purchaser signed a purchase and sale agreement which included the right of CCLBA to terminate the agreement if the Agreement was accepted and executed by the Seller (CCLBA) in noncompliance with the Cook County Land Bank Authority's policies, procedures or guidelines.

Cause:

For item 1, management indicated they review all available data in determining the sales price for each property to be sold. The price is set in order to sell the property quickly to a homebuyer or developer that can best meet the goals of the CCLBA program. For item 2, management stated that the process to implement the policy evolved from using a vendor disclosure form to updating the application on their website, which took a few months to draft, approve and publish for use. They did not require updated applications for sales that were in progress during the transition period.

Effect or Potential Effect:

Lack of internal control over compliance requirements, combined with lack of documentation over procedures being performed, could result in noncompliance with the established policies and procedures.

Recommendation:

We recommend CCLBA management establish stronger internal control over compliance with the 2 policies described above, which should include requirements for consistent documentation of procedures performed. We also recommend management update the purchase and sale agreement to specifically list the prohibited familial relationships.

Management Response:

Finding 2019-004 suggests improvements in CCLBA staff documentation of its fair market value determination, and easier access to property costs for each parcel. CCLBA is always working to improve its documentation, while maintaining an efficient process to ensure CCLBA's mission is met.

With regard to identifying and eliminating impermissible conflicts of interest, as of September 2019, CCLBA's Application, Purchase Sale Agreement and Forgivable Loan Agreement have all been updated to include direct disclaimers of any impermissible relationships with legal repercussions, including the loss of the property, if any relationship is misrepresented. As the Finding notes, CCLBA's application requires a disclaimer by the applicant that he/she has no impermissible conflict of interest.

Additionally, if approved, Purchasers must sign an updated "Term Sheet" with the following new conflicts disclaimer:

"Purchaser must disclose to CCLBA, in writing, any employment or familial relationships that may prevent Purchaser from acquiring a financial interest in real or personal property from CCLBA pursuant to CCLBA's Policies and Procedures. No CCLBA employee, County elected official, CCLBA appointed officer, CCLBA vendor, or any individual with a familial relationship with a CCLBA employee, County elected official, CCLBA appointed officer, CCLBA vendor, as defined in CCLBA's Policies and Procedures, is permitted to : a) acquire any real or personal property from CCLBA; or b) have a financial interest in any transaction involving CCLBA. By signing below, Purchaser represents that Purchaser is not, and does not have a familial relationship with, a CCLBA employee, County elected official, CCLBA appointed officer, CCLBA vendor. For purposes of this disclosure, "purchaser" shall include all members, officers and directors of any business or corporate entity that is listed as the Purchaser on this Term Sheet. If Purchaser has a

**Cook County Land Bank Authority
Schedule of Findings (Continued)
For the Six-Month Period Ending November 30, 2019**

relationship with a CCLBA employee, County elected official, CCLBA appointed officer, CCLBA vendor, that may potentially violate CCLBA policies, Purchaser must identify the individual and relationship below.”

The Term Sheet leads to a Purchase Sale Agreement that will terminate if:

- (E) The Agreement was accepted and executed by Seller in noncompliance with the Cook County Land Bank Authority’s policies, procedures or guidelines;
- H) Purchaser is the former owner or mortgagor of the Property, or is related to or affiliated in any way with the former owner or mortgagor, and the Purchaser has not disclosed this fact to the Seller prior to the Seller's acceptance of this Agreement; or
- I) The Purchaser makes or has made any misrepresentation to the Seller in securing Seller’s agreement to sell the Property to Purchaser, execute the term sheet, or execute this Agreement or any related document, including but not limited to any misrepresentation regarding how the transaction will be funded, or Purchaser makes a material change to its proposed financing of the purchase or rehabilitation of the Property without the Seller’s written authorization.

At closing, Purchaser signs a Forgivable Loan Agreement, which is secured by a \$20,000 mortgage which allows CCLBA rights to demand immediate payment of \$20,000 and, if unpaid, file a foreclosure action to retake a property. Any misrepresentations with regard to relationships with former owners or mortgagors would trigger default of the Loan Agreement (see above), and thus a default of the mortgage.

In addition to the vetting of potential conflicts by staff, CCLBA has adopted robust protections against sales to purchasers with impermissible relationships, as described above. As has been CCLBA’s practice, these controls will continue to be strengthened as needed to secure the integrity of CCLBA’s process.

**Cook County Land Bank Authority
Schedule of Findings (Continued)
For the Six-Month Period Ending November 30, 2019**

Finding 2019-005 Inadequate Internal Control over Compliance with Award Procedures

Condition:

Cook County Land Bank Authority (CCLBA) did not have sufficient internal control over the awarding of CCLBA properties to applicants.

CCLBA did not document its analysis leading to decisions to award properties to applicants (prospective buyers), during the examination period. The CCLBA *Policies and Procedures: Acquisition and Disposition of Real Property*, amended December 13, 2018 (Policies and Procedures), gives the CCLBA significant discretion in giving priority to transferees of CCLBA properties. The policies and procedures also state they reserve full and complete discretion to decline applications and proposed transaction agreements from individuals and entities. The policies and procedures list relevant criteria that may be considered in such a decision. CCLBA Management represented to us that during the examination period, they performed significant due diligence in determining the most advantageous offer received, however they did not have a policy or control in place that required documenting the analysis which led to each award decision. Because we were not provided an analysis, we could not determine if the awards appeared reasonable in comparison with other offers received.

Criteria:

Because CCLBA is a governmental entity and is making decisions about awarding properties for which it is possible to receive multiple offers, good internal control would dictate that a formal award process be established and documented.

Cause:

Management indicated their process for reviewing offers during the examination period did not require staff to document their analysis in writing.

Effect or Potential Effect:

Lack of documentation over award decisions could be seen by the public as a significant process which lacks transparency and thus accountability.

Recommendation:

We recommend CCLBA management establish a formal documentation requirement for award decisions. CCLBA could consider using a system that is commonly used with awarding bids to vendors. In such a system, CCLBA will establish priorities for making award decisions, and assign a point system to each priority type (planned use, experience of purchaser, award amount, MBE/WBE goals, ability to obtain financing, etc.). We recommend management work collectively with the CCLBA Board or a committee of the Board in developing the core priorities and system.

**Cook County Land Bank Authority
Schedule of Findings (Continued)
For the Six-Month Period Ending November 30, 2019**

Management Response:

The finding is related to residential properties and non-residential under \$50,000 only, which was reflective of all sales during the examination period. For non-residential properties over \$50,000, there is a formal documentation requirement. There is a checklist of documents that must be submitted. Staff reviews the documents and answer questions regarding the process. This information is relayed to the Land Transactions Committee. The prospective buyer makes a presentation. The Committee, armed with their documents and presentation, can ask questions. Once they feel fully informed, they make the decision. Their rationale and decision is captured in the meeting minutes.

In the case of multiple applicants, they all present to the Committee for the same property. Staff gathers the required documents and all applicants present to the Committee. The Committee would hear both presentations and then decide. To better document the decision process, in collaboration with the CCLBA Board of Directors, CCLBA will develop and adopt an "Offer Assessment" form which will provide a documented rationale for the property award decision.

**Cook County Land Bank Authority
Schedule of Findings (Continued)
For the Six-Month Period Ending November 30, 2019**

Finding 2019-006 Inadequate Internal Control over Compliance with Certain Property Tax Code Requirements

Condition:

Cook County Land Bank Authority (CCLBA) is using a Tax Certificate Cost Model that has not been vetted or approved by any parties external to, and independent of, CCLBA.

The Property Tax Code (Code) allows the County (through CCLBA) to purchase any property which is delinquent, or is forfeited for each of 2 or more years, and offered for sale under the provisions of the Code, as trustee for all taxing districts having an interest in the property's taxes. Upon subsequent sale of the property by the County/CCLBA, the sales proceeds, less all costs of the county incurred in the acquisition and sale of the property shall be distributed to the taxing districts in proportion to their respective interests therein. In discussing the requirements of the law with CCLBA, they indicated the CCLBA designed a Tax Certificate Cost Model (Model) which was used to measure costs and conclude there were no tax certificate property sales during the examination period for which the sales price exceeded the total costs incurred by the County (through CCLBA).

The Code was written before CCLBA was formed and there were no similar land banks in existence when the Code was codified, that have the complexity or characteristics of CCLBA. As a result, the Code as written is unclear as to intent as it relates to CCLBA.

During our examination we requested to see the accumulated costs, by individual property, of each of the tax certificate (scavenger sale) properties sold during the examination period, and we were provided the Model. We examined the Model and agree it is highly unlikely any individual property sold during the examination period had excess sales proceeds that would need to be distributed to other taxing districts. However, because the wording in the law applies to individual tax certificate property sales, and the Model is performed annually based on direct and allocated costs of all sales (i.e. staffing costs dedicated to the tax trustee program), we believe the Model should be reviewed and approved by the Office of the State's Attorney, the Attorney General, or other external parties that have a thorough understanding of the legal provisions and intent of the law.

The Model provided documents two separate calculations. For purposes of the examination, we tested the more conservative calculation which results in a lower per property cost. The Model documents standard "unit" costs for each property. Unit costs include various mailing fees, attorney fees, witness testimony and court reporter fees, tax deed fees, etc. These fees were determined to cost \$2,598 for each property owned. Added to the unit costs are the holding costs. Holding costs vary by type of property (residential land, commercial land, residential structure, commercial structure) and are \$150 or \$300 per month, depending on the property type. In the Model, each property is assigned the respective rate which is multiplied by the number of months the property was held before sale. The total of all holding costs (rate times months) is divided by the number of properties owned to determine the average holding cost per property. For FY 2019 the average holding cost was \$669. The final cost accumulated in the calculation is an overhead allocation based on personnel costs that are dedicated to CCLBA's work to acquire and sell tax trustee properties Total annual costs for each member of the CCLBA team (i.e. salary) is multiplied by a percentage which is estimated to reflect their time spent with duties related to tax certificate properties. A total of \$514,256 (43%) was allocated for this purpose. This total was divided by the number of properties sold during FY 2019 to determine an average overhead amount of \$17,142 per property sold. All costs added together amounted to \$20,409 per property. For the 30 properties sold during FY 2019, the sales amount ranged from \$0 to \$21,637, with the average sales price below \$4,800.

**Cook County Land Bank Authority
Schedule of Findings (Continued)
For the Six-Month Period Ending November 30, 2019**

Finding 2019-006 Inadequate Internal Control over Compliance with Certain Property Tax Code Requirements (Continued)

The Model contains assumptions; for example time spent by staff on tax certificate property activities, and allocating these costs only to properties sold. The Model also uses averages (holding costs and overhead). Additionally, the Model was performed after year-end and was inclusive of all sales and costs during the year. We are not offering a legal opinion and do not know whether the statutory language “all costs of the county incurred in the acquisition and sale or assignment of the property” would allow overhead and other costs to be allocated evenly across the sales for a given year. We believe CCLBA’s internal control over compliance with the law would be substantially strengthened if there was an independent legal opinion provided by the State’s Attorney’s Office, Attorney General or some other legal body as to CCLBA’s methodology for measuring property costs for purposes of the law cited in the next paragraph.

Criteria:

The Property Tax Code (Code) (35 ILCS 200/21-90) states “When any property is delinquent, or is forfeited for each of 2 or more years, and is offered for sale under any of the provisions of this Code, the County Board of the County in which the property is located, in its discretion, may bid, or, in the case of forfeited property, may apply to purchase it, in the name of the County as trustee for all taxing districts having an interest in the property’s taxes or special assessments for the nonpayment of which the property is sold.” And,

“The County may sell or assign the property so acquired, or the certificate of purchase to it, to any party, including taxing districts. The proceeds of that sale or assignment, less all costs of the county incurred in the acquisition and sale or assignment of the property, shall be distributed to the taxing districts in proportion to their respective interests therein.”

Cause:

Management indicated that the model they are using is similar to the models used by other land banks and agents that operate the Sec. 21-90 tax trustee programs.

Effect or Potential Effect:

The language used in the law makes it difficult to determine if the CCLBA model is compliant with the intent of the law.

Recommendation:

We recommend CCLBA management work with Attorney General and the Office of the State’s Attorney, to get their interpretations of the law and to determine if the Model being used, and frequency of use, is acceptable.

Management Response:

While CCLBA is confident that its model is consistent with Sec. 21-90, we always welcome a legal opinion from the Attorney General or State’s Attorney’s Office. The phrase “all costs of the county incurred in the acquisition and sale or assignment of the property” has not been interpreted by Illinois courts. ”

**Cook County Land Bank Authority
Schedule of Findings (Continued)
For the Six-Month Period Ending November 30, 2019**

Finding 2019-006 Inadequate Internal Control over Compliance with Certain Property Tax Code Requirements (Continued)

CCLBA incurs significant costs acquiring, managing and repurposing vacant lots and residential properties with little to no market value. This work expands the tax base, increase property values and improves living conditions across Cook County. CCLBA is dedicated to the effort and, as Section 21-90 allows, will take steps to recoup the “costs of the county” as sales proceeds allow. Any net income will be disbursed to Cook County taxing districts.