OFFICE OF AUDIT
REGION 2
NEW YORK-NEW JERSEY

Nassau County, NY

HOME Investment Partnerships Program

2013-NY-1006

MAY 13, 2013

Issue Date: May 13, 2013

Audit Report Number: 2013-NY-1006

TO: Vincent Hom,
Director, Community Planning and Development, 2ADMI

Edgar Moore

FROM: Edgar Moore,
Regional Inspector General for Audit, New York-New Jersey Region, 2AGA

SUBJECT: Nassau County, NY, Did Not Administer It's HOME Investment Partnerships Program in Accordance With HUD Requirements

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), final results of our review of the Nassau County Office of Community Development's administration of its HOME Investment Partnerships Program.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8L, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at http://www.hudoig.gov.

If you have any questions or comments about this report, please do not hesitate to call me at 212-264-4174.

May 13, 2013

Nassau County, NY, Did Not Administer Its HOME Investment Partnerships Program in Accordance With HUD Requirements

Highlights

Audit Report 2013-NY-1006

What We Audited and Why

We audited the Nassau County Office of Community Development's administration of its HOME Investment Partnerships Program. We selected the County for review based on a risk assessment conducted by the U.S. Department of Housing and Urban Development's (HUD) New York City Office of Community Planning and Development. The objectives of the audit were to determine whether the County committed and obligated HOME funds in a timely manner, disbursed HOME funds for eligible activities, and used HOME funds for eligible administrative and planning costs in accordance with HUD rules and regulations.

What We Recommend

We recommend that the Director of HUD's New York City Office of Community Planning and Development instruct County officials to (1) provide documentation to justify the $190,586 in unsupported administrative, planning, and project delivery costs; (2) reimburse from non-Federal funds $78,530 for ineligible home-buyer rehabilitation and demolition costs; (3) provide contracts to support commitments of over $2.3 million in HOME funds; and (4) strengthen administrative and monitoring controls.

What We Found

County officials did not commit HOME funds in accordance with HUD rules and regulations, disburse HOME funds for eligible activities, and use HOME funds for eligible administrative and planning costs. Specifically, they did not provide supporting documents showing that all funds were adequately committed, charged ineligible and unsupported costs to the program, had weaknesses in their administrative controls, did not monitor subrecipients and home buyers, and published inaccurate criteria on the County's HOME Web site. These deficiencies are attributed to County officials' failure to follow Federal regulations and in some instances, their own policies and procedures. Consequently, HUD could not be assured that the County properly committed $2.35 million in HOME funds for fiscal years 2009 and 2010, disbursed $269,116 in HOME expenditures, and administered its HOME program in accordance with requirements.

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BACKGROUND AND OBJECTIVES

The HOME Investment Partnerships Program is authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, and program regulations are at 24 CFR (Code of Federal Regulations) Part 92. In general, under the HOME program, the U.S. Department of Housing and Urban Development (HUD) allocates funds by formula among eligible State and local governments to strengthen public-private partnerships and expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for low- and very low-income families. HOME funds must be matched by non-Federal resources. State and local governments that become participating jurisdictions[1] may use HOME funds to carry out multiyear housing strategies through acquisition, rehabilitation, and new construction of housing and tenant-based rental assistance. Participating jurisdictions may provide assistance in a number of eligible forms, including loans, advances, equity investments, interest subsidies, and other forms of investment that HUD approves. Participating jurisdictions identify their HOME activities' status by using HUD's Integrated Disbursement and Information System (IDIS).

Nassau County, NY, has been participating in HUD's Community Development Block Grant (CDBG) program since its inception in 1975. The county executive established the Nassau County Office of Community Development as the administrative agency to implement and monitor programs such as the HOME program and other Federal grants initiated by HUD. The County is dedicated to building a stronger community through CDBG, HOME, the Neighborhood Stabilization Program, and the Lead Hazard Reduction Demonstration Grant, as well as other programs.

Participating jurisdictions are required to commit HOME funds within 24 months and expend the funds within 5 years after the last day of the month in which HUD notifies the participating jurisdiction of HUD's execution of the HOME agreement. The County received $7.8 million in HOME funds, $3.9 million each in fiscal years 2009 and 2010.

Our audit objectives were to determine whether the County committed and obligated HOME funds in a timely manner, disbursed HOME funds for eligible activities, and used HOME funds for eligible administrative and planning costs in accordance with HUD rules and regulations.

[1] Participating jurisdiction is the term given to any State or local government that HUD has designated to administer a HOME program. The State or local government must meet the funding thresholds, notify HUD that it intends to participate in the program, and obtain HUD's approval of its consolidated plan.

RESULTS OF AUDIT

Finding 1: Unsupported and Ineligible Costs Were Charged to the HOME Program

Contrary to Federal requirements, County officials disbursed $269,116 in HOME program funds for unsupported and ineligible expenditures. The unsupported costs consisted of $189,322 in administrative and planning costs and $1,264 in project delivery costs. The ineligible expenditures were associated with $78,530 in home-buyer rehabilitation and demolition costs related to the improper procurement of a contractor by a subrecipient[2] and an unapproved change order. In addition, the contract between the County and the same subrecipient was not executed properly. We attribute these deficiencies to the County's failure to maintain adequate supporting documentation and implement oversight controls over disbursements that were sufficient to ensure compliance with applicable regulations. Consequently, County officials could not assure HUD that reasonable and necessary costs were charged to the HOME program.

Unsupported Administrative and Planning Costs

County officials were unable to provide sufficient documentation to support $189,322 in administrative and planning costs that was disbursed for employees' salaries and fringe benefits. Specifically, the documentation provided by County officials, such as the annual employee salaries, in-house-generated electronic employee payroll checks, HUD's IDIS administrative drawdown amounts, and its cost allocation plans, did not support the amounts charged. After we completed our fieldwork, County officials provided additional documentation, such as manually completed Excel employee timesheets and the time allocation procedures used to support the actual hours worked for the administrative and planning costs; however, the additional documentation did not fully support the percentages that were included in the cost allocation plan. After several meetings with County officials, as recent as the end of January 2013, the officials had not been able to reconcile the administrative costs in our sample. In addition, administrative and planning cost drawdowns associated with the two grants for fiscal years 2009 and 2010 were not provided. This deficiency occurred because County officials used an allocation method based on undocumented conversations with employees. Consequently, County officials could not assure HUD that the $189,322 in administrative and planning costs represented the actual eligible costs incurred.

[2] A subrecipient is a public agency or nonprofit selected by the participating jurisdiction, in this case the County, to administer all or a portion of the participating jurisdiction's HOME program.

Ineligible Home-Buyer Rehabilitation and Demolition Costs

County officials improperly executed a contract in the amount of $110,000 with the Village of Freeport, NY (subrecipient), to rehabilitate and construct single-family public housing units to be sold to low-income residents. The contract agreement, dated February 15, 2002, was executed and committed on July 10, 2002, and detailed a time performance start date of September 1, 2001, until completion. County officials had reimbursed the subrecipient $78,530 for home-buyer rehabilitation and demolition expenditures. However, as confirmed by a site visit conducted on January 18, 2013, the project had not been completed. Further the contract did not (1) specify the number of home units to be created, (2) include a schedule for completing the task, and (3) include a cost budget. Accordingly, there was insufficient detail in the contract agreement to provide a sound basis for the County to effectively monitor performance according to 24 CFR 92.504(c)(1)(i).

In addition, the subrecipient's contractor improperly procured a subcontractor to perform the home-buyer rehabilitation and demolition services. Although the subrecipient had disclosed that the procurement of the subcontractor did not comply with Federal procurement requirements, as the subrecipient did not maintain procurement records and did not provide source documentation to support a change order, County officials reimbursed the subrecipient $78,530 for expenditures. They did not ensure that procurement regulations were followed, and there was a lack of documentation showing full and open competition. A sample review of $72,487 in vouchers disclosed that $70,900, consisting of two separate vouchers that included three invoices for three separate subcontracts in the amounts of $30,900, $17,000, and $18,000 and an unapproved change order in the amount of $5,000, was questionable. Specifically, procurement of the three separate subcontracts in the amounts of $30,900, $17,000, and $18,000 for home-buyer rehabilitation and demolition work did not provide full and open competition as required by 24 CFR 85.36(c)(1). Also, in procuring the subcontract for $18,000, County officials did not ensure that the reason for rejecting the lowest bid amount of $17,850 was documented. According to 24 CFR 85.36(d)(2)(ii)(E), any or all bids may be rejected if there is a sound documented reason.

Two of the three proposals for the $30,900 subcontract were questionable. In one case, the selected proposal was dated January 23, 2003, which was past the deadline on the bid specification of January 10, 2003. The second proposal was dated March 2, 2001, about 2 years before the bid specification.

There were three proposals on file for the $17,000 subcontract; however, all three proposals appeared to have been faxed from the same location, with fax headers containing the name of the contractor that was ultimately selected.

One of the three bids received for the $18,000 subcontract was not signed and dated. In addition, the subrecipient did not award the $18,000 subcontract to the lowest bidder and did not document the reasons for the rejection of the lowest proposal as required by 24 CFR 85.36(d)(2) and 24 CFR 85.36(d)(2)(ii)(E). Further, the County reimbursed a $5,000 change order that was not approved by the subrecipient.

Further, the lack of a proper contract between the County and the subrecipient detailing specific terms left County officials with little recourse to require the subrecipient to complete the project in a timely manner, as evidenced by the fact that 10 years later, the project had not been completed. Thus, County officials did not ensure that the subrecipient followed procurement regulations, provided evidence of full and open competition when procuring the subcontracts, and provided the source documentation for the unapproved change order. As a result, the $78,530 in home-buyer rehabilitation and demolition costs charged to the HOME program was ineligible and should be repaid with non-Federal funds. This deficiency occurred because County officials did not implement the County's policy and procedure for reviewing HOME program claim vouchers. Further, the contract agreement should be terminated in accordance with the terms detailed under the general conditions and time performance section of the contract. In terminating the contract agreement with the subrecipient, the remaining contract balance of $31,470 should be reprogrammed for other eligible HOME program activities.

Unsupported Project Delivery Costs

County officials also charged $1,264 in project delivery costs to the County's HOME program without maintaining adequate supporting documentation. Specifically, the documentation, such as the County's general ledger inquiry, account detail inquiry by grant, and transaction detail inquiry and HUD's IDIS drawdown amount, provided by County officials for the project delivery expenditure was not descriptive in detailing the purpose and providing justification for the charges to the HOME program. Regulations at 24 CFR 92.206(d)(6) allow disbursements for eligible project costs, including staff and overhead costs directly related to carrying out the project, and services related to assisting potential owners, tenants, and home buyers. Regulations at 24 CFR 92.508(a)(3)(ii) require participating jurisdictions to maintain records demonstrating the source and application of funds, including supporting documentation, in accordance with 24 CFR 85.20(b)(2), which provides that grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income. Therefore, since County officials did not provide adequate supporting documentation to substantiate that this expenditure was for reasonable HOME expenses, we considered $1,264 in project delivery costs to be unsupported.

Conclusion

County officials generally committed HOME funds in accordance with HUD rules and regulations; however, they did not expend HOME funds for eligible activities and did not use HOME funds for eligible administrative and planning costs. County officials disbursed $269,116 in HOME program funds for unsupported and ineligible expenditures. We attribute these deficiencies to the County's failure to maintain supporting documentation and implement oversight controls over disbursements that were sufficient to ensure compliance with applicable regulations.

Recommendations

We recommend that the Director of HUD's New York Office of Community Planning and Development instruct County officials to

1A. Provide documentation to justify the $189,322 in unsupported administrative and planning costs that was disbursed for employee salaries and fringe benefits. Any unsupported costs determined to be ineligible should be reimbursed from non-Federal funds.

1B. Reimburse from non-Federal funds $78,530 for ineligible home-buyer rehabilitation and demolition costs charged to the HOME program.

1C. Terminate the contract between the County and the Village of Freeport to rehabilitate and construct single-family public housing units to be sold to low-income residents. The remaining contract balance of $31,470 should be put to better use by reprogramming it for other eligible purposes.

1D. Provide documentation to justify the $1,264 in unsupported project delivery costs. Any unsupported costs determined to be ineligible should be reimbursed from non-Federal funds.

1E. Require the County to maintain supporting documentation and implement oversight controls over disbursements that are sufficient to ensure compliance with applicable regulations.

Finding 2: There Were Weaknesses in Administrative Controls

Weaknesses in the County's administrative controls caused noncompliance with the County's HOME program. Specifically, County officials did not (1) follow their own established procedures for the subrecipient application process, (2) maintain records and documentation in accordance with Federal regulations, (3) adequately support $2.35 million in grant commitments for fiscal years 2009 and 2010, and (4) establish formal debarment verification procedures. This condition occurred because of a lack of program oversight in the County's Office of Community Development and the County's failure to follow Federal regulations and in some instances, its own policies and procedures. Consequently, HUD could not be assured that County officials committed all of the County's funds and properly administered their HOME program in accordance with requirements.

Established Procedures for the Subrecipient Application Process Not Followed

County officials did not always follow their own established procedures for the subrecipient application process in administering their HOME program. Specifically, County officials did not maintain adequate subrecipient award documentation to justify that the selection of the subrecipient was the most advantageous to the HOME program. For example, as part of the County's procedures for selecting and awarding subrecipient contracts, the subrecipients' application must be reviewed by an application review committee to ensure the reasonableness and fairness of the contract award. However, County officials did not provide documentation to support the existence of an application review committee, including the names of the members.

In addition, officials did not provide evidence that committee meetings were held or that they evaluated and rated subrecipients or the resulting funding recommendations. Also, County officials did not provide evidence of established procedures that would have prevented the County from selecting subrecipients that were not recommended by the committee or committee members using their individual preferences or discretion to rank proposals. Although County officials stated that their subrecipient application process had been in place for at least the past 10 years, the process for awarding subrecipient contracts was not documented in writing.

This deficiency occurred because County officials became complacent over the years due to a lack of program oversight and unfamiliarity with their own application process procedures. Thus, the contracts that the County officials awarded may not have been reasonable and may not have allowed for projects that were the most advantageous to the HOME program.

Records Not Maintained in Accordance With Federal Regulations

Contrary to Federal regulations at 24 CFR 92.508 regarding record keeping, County officials did not maintain records and documentation to support whether the requirements of the HOME program had been met. During the audit, we experienced significant delays in obtaining requested documentation, and County officials had not provided all of the requested documentation pertinent to our review. For example, the audited financial statements and the County's internal monitoring reviews were provided almost 4 months after our initial request, and County officials took 2-4 months to provide only a portion of the requested administrative and planning cost documentation.

Also, not all of the employee timesheets were provided to support the County's HOME program cost allocation plan. In addition, County officials did not provide all of the monitoring documents affirming that home buyers resided in the HOME-funded property as their primary residence during the property's affordability period and the income documentation for 4 of the 21 sampled home buyers to support that HOME funds were used for eligible applicants. Further, officials did not provide all of the contracts to support the commitments for fiscal years 2009 and 2010 grants, along with the complete administrative and planning cost drawdowns associated with these grants. This deficiency was attributed to the County's budgetary reduction in staff with the associated loss of institutional knowledge and the County's lack of established policies and procedures requiring that supporting records be obtained and maintained for review.

Support for Fiscal Years 2009 and 2010 Grant Commitments Inadequate

The HOME Deadline Compliance Status Report as of October 31, 2012, showed that the County had met its grant commitment, which included the 2009 and 2010 grants. However, County officials did not provide all of the contracts to support commitments during our review period of September 1, 2009, through August 31, 2011. As shown below, the contracts provided by County officials supported only \$5.47 million of the \$7.82 million in committed funds. In addition, the contract amounts differed from amounts entered by County officials in HUD's IDIS . The commitment deadlines for these two grants were October 31, 2011, and October 31, 2012.

County officials were unable to provide the contracts to support the remaining \$2.35 million in funds as required by 24 CFR 92.500(d)(1)(B) and 24 CFR 92.508(a)(2)(x). These regulations provide that funds in the United States Treasury account are required to be committed within 24 months after the last day of the month in which HUD notifies the participating jurisdiction of HUD's execution of the HOME agreement and the participating jurisdictions are required to provide records documenting compliance within the 24-month commitment deadline. Nevertheless, since there were no contracts to support the commitment of the remaining $2.35 million in HOME funds for fiscal years 2009 and 2010, this amount was considered unsupported. In addition, there was insufficient documentation to support variances between executed agreements with Community Housing Development Organizations (CHDOs) and developers in several projects funded in 2009 and 2010. We attribute this deficiency to the County's lack of established policies, procedures and controls requiring that supporting documents be obtained and maintained for review.

A	B	C	D	E	F	G
Grant year	Commitment deadline	Grant funds received	Total funds committed in IDIS	Total funds committed with contracts	Percentage of funds committed with contracts (E/C)	Remaining funds not committed with contracts (C - E)
2009	10/31/2011	$3,910,908	$2,256,785	$2,206,785	56%	$1,704,123
2010	10/31/2012	$3,907,638	$3,915,389	$3,263,932	84%	$643,706
Total:		$7,818,546	$6,172,174	$5,470,717	70%	$2,347,829

Lack of Formal Debarment Verification Procedures

County officials did not document the results of their formal debarment verification procedures process. Thus, they could not demonstrate that the selection of the County's contractors and vendors used in carrying out the HOME program complied with Federal requirements. County officials were made aware of the matter and implemented formal debarment verification procedures, effective July 30, 2012. This deficiency is attributed to the officials' unfamiliarity with Office of Management and Budget Circular A-133, which provides that before procurement, officials should verify that contractors and vendors are not suspended, debarred, or otherwise excluded by the Federal Government. This verification may be accomplished by checking the Excluded Parties List System, maintained by the General Services Administration; collecting a certification from the entity; or adding a clause or condition to the covered transaction with that entity (2 CFR 180.300).

Conclusion

Weaknesses in the County's administrative controls caused noncompliance with its HOME program. Specifically, County officials did not (1) follow their own established procedures for the County's subrecipient application process, (2) maintain records and documentation in accordance with Federal regulations, (3) fully support fiscal years 2009 and 2010 grant commitments, and (4) establish formal debarment verification procedures until July 30, 2012, during our audit. This condition occurred because of a lack of program oversight in the County's Office of Community Development and the County's failure to follow Federal regulations and in some instances, its own policies and procedures.

Recommendations

We recommend that the Director of HUD's New York Office of Community Planning and Development instruct County officials to

2A. Document their application review committee membership and provide evidence of the committee meetings and their evaluation and rating of subrecipients to fully support their funding recommendations.

2B. Establish and implement policies and procedures for record keeping in accordance with HUD requirements.

2C Provide contracts to support the commitment of the remaining $2,347,829 in funds for fiscal years 2009 and 2010 and justify IDIS commitments in excess of HOME agreement amounts. If support cannot be provided, funds should be recaptured and returned to the U.S. Treasury for other purposes. Unsupported commitments should also be considered in determining whether to reduce overall deadline compliance measures and pursue deobligation of HOME funds not truly committed by the deadline dates.

2D. Develop controls to ensure that the County's recently established debarment verification procedures are implemented for all future procurement activity.

Finding 3: Subrecipients and Home Buyers Were Not Adequately Monitored

County officials are responsible for monitoring all subrecipients to ensure compliance with applicable requirements; however, they did not adequately monitor their subrecipients and home buyers. This condition occurred because of the County's failure to follow Federal regulations and in some instances, its own policies and procedures. Consequently, HUD could not be assured that County officials properly administered their HOME program in accordance with requirements.

Inadequate Monitoring of Subrecipients' Performance

For the period September 1, 2009, through August 31, 2011, County officials could not provide evidence that they conducted monitoring of their subrecipients' performance. Specifically, they did not monitor the performance of their subrecipients at least annually as required by 24 CFR 92.504(a) and the contract between the County and the subrecipients. Although the County had written monitoring policies and procedures in place, County officials did not implement them to ensure that the required subrecipient monitoring was performed annually. We attribute this deficiency to the County's reorganization and the resulting lack of program oversight. As a result of the County's lack of monitoring, there was no assurance that the goals of the County's HOME projects were met and that the subrecipients performed in accordance with HOME program requirements.

Monitoring of Home-Buyer Property Affordability Period Not Adequately Documented

The County is required by 24 CFR 92.254 to ensure that the property affordability period requirements are met. County officials relied on their subrecipients to monitor the County's home-buyer property affordability requirements and did not always maintain records demonstrating compliance with property affordability requirements. For example, at the end of our fieldwork, County officials could provide only notarized residency affidavits, a property affordability requirement, for 15 of 153 HOME properties. This deficiency occurred due to the County's weak monitoring controls over the subrecipient and its decentralized record-keeping system that did not allow for timely access and retrieval. As a result, County officials could not provide HUD assurance that the subrecipients followed established HOME program requirements and that home buyers occupied the HOME-funded property as their primary residence.

Conclusion

County officials did not adequately monitor their subrecipients and home buyers to ensure that they adequately followed HOME regulations. This condition occurred because County officials failed to follow Federal regulations and in some instances, their own policies and procedures. Consequently, HUD could not be assured that County officials properly administered their HOME program in accordance with requirements.

Recommendations

We recommend that the Director of HUD's New York Office of Community Planning and Development instruct County officials to

3A. Strengthen controls over their subrecipients to ensure that at least annual monitoring reviews are conducted.

3B. Follow established monitoring procedures at 24 CFR 92.254 and develop a tracking system to ensure that home-buyer property affordability requirements are met, supported, and documented.

3C. Develop controls that will ensure that the County's decentralized record-keeping system is centralized for ready access to HOME documents.

Finding 4: Inaccurate Criteria Were Publicized on the County's HOME Web Site

Inaccurate information was publicized on the County's Web site. Specifically, the County's HOME program Web site detailed the incorrect unit threshold pertaining to Davis-Bacon Act requirements. This condition occurred because of a lack of oversight to ensure that accurate information is posted to the County's Web sites, such as conveying the applicable Davis-Bacon Act unit threshold requirements for the HOME program. The County's error regarding the Davis-Bacon Act may cause noncompliance with Federal HOME regulations if it leads to improper contract payments.

Inaccurate Criteria Publicized

The County's HOME program Web site detailed the incorrect unit threshold pertaining to Davis-Bacon Act requirements. The unit threshold determines whether Davis-Bacon Act requirements are applicable for determining wage rates. Specifically, the County cited 8 units related to the CDBG regulations pertaining to the Davis-Bacon Act unit threshold on its HOME program Web site, when regulations require 12 units.

The HUD HOME Investment Partnerships Act, statutory provision 286, contains specific language for the Davis-Bacon wage requirements. The Davis-Bacon Act for HUD's HOME program stipulates in general that any contract for the construction of affordable housing with 12 or more units assisted with funds made available must contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. (United States Code) 276a-276a-5), be paid to all laborers and mechanics employed in the development of affordable housing and participating jurisdictions and must require certification as to compliance with these provisions before making any payment under such contract.

Thus, the posted error may have led to improper payments being made in noncompliance with Federal HOME program regulations. County officials were made aware of the matter and implemented corrective action, effective July 25, 2012. This deficiency is attributed to the County officials' confusion between the CDBG and HOME program unit threshold under the Davis-Bacon Act requirements and their failure to oversee information posted to the County's Web site.

Conclusion

County officials did not publicize accurate HOME program Davis-Bacon Act regulations (unit threshold) on the County's Web site. This condition occurred because the County lacked oversight controls for HOME administration, particularly its HOME Web site. As a result, the inaccurate Web site information may have compromised the Federal Labor Standards. However, during the audit, the County corrected the Davis-Bacon unit threshold on its HOME Web site.

Recommendations

We recommend that the Director of HUD's New York Office of Community Planning and Development instruct County officials to

4A. Ensure that accurate information is posted to County Web sites, such as conveying the applicable Davis-Bacon Act unit threshold requirements for the HOME program.

4B. Strengthen controls over the review process for uploading program information to the County's Web sites to ensure that the information posted is accurate.

SCOPE AND METHODOLOGY

We performed our onsite audit work at the Nassau County Office of Community Development's main office located at 40 Main Street, Hempstead, NY, from July 2012 to January 2013. Our audit generally covered the period September 1, 2009, through August 31, 2011, and coincided with the County's 35th and 36th program years. We extended the audit period when it was necessary. We relied in part on computer-processed data primarily for obtaining background information on the County's expenditure of HOME funds. We performed a minimal level of testing and found the data to be adequate for our purposes.

To accomplish our objectives, we

- Researched HUD handbooks, the Code of Federal Regulations, and other requirements that govern the County's HOME program;
- Reviewed the County's HOME matching fund records;
- Reviewed the County's procedures and controls used to administer its HOME program activities;
- Obtained and reviewed risk assessments performed by the New York HUD Office of Community Planning and Development;
- Interviewed officials of the New York HUD Office of Community Planning and Development and the County;
- Reviewed HUD's and the County's available monitoring reports and files for the County's HOME program;
- Obtained and reviewed the County's annual audited financial statements;
- Obtained and examined the cost allocation plan, organizational structure, job descriptions, staff force reduction plan, and available employee manual timesheets; and
- Reviewed the County's HOME Web site for general background information.

Using HUD's June 11, 2012, IDIS Status of HOME Activities report, we selected a nonstatistical sample of 16 of 165 activities (10 percent) administered by the County to determine whether the County met HOME requirements. The 16 IDIS activities totaled approximately $8.5 million, representing approximately 15.5 percent of the universe ($8.5 million/$55 million). The $55 million, as detailed in HUD's June 11, 2012, IDIS Status of HOME Activities report, consists of all of the projects since the beginning of the HOME program in 1992. The County's HOME projects included the following HOME activity types: new construction, acquisition only, acquisition and rehabilitation, and rehabilitation only. Our testing also included reviews of available drawdown vouchers and invoices associated with the IDIS projects' administrative costs, home-buyer income eligibility documents, residency certifications, and drive-by site visit observations.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

INTERNAL CONTROLS

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objectives:

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.

- Compliance with laws and regulations – Policies and procedures that management has implemented to reasonably ensure that the use of funds is consistent with laws and regulations.

- Safeguarding resources – Policies and procedures that management has implemented to reasonably ensure that the funds are safeguarded against waste, loss, and misuse.

- Validity and reliability of data – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.

We assessed the relevant controls identified above.

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, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiency

Based on our review, we believe that the following items are significant deficiencies:

- County officials did not have adequate controls over program operations when they approved expenditures for reimbursement that did not comply with HUD requirements and did not commit HOME funds in accordance with HUD rules and regulations (see findings 1 and 2).

- County officials did not have adequate controls over compliance with laws and regulations when they failed to follow their own established administrative policies and procedures, Federal regulations for record keeping and debarment verification, and consistently monitor their subrecipients to ensure that the program objective was met (see findings 2, 3, and 4).

- County officials did not have adequate controls over safeguarding resources when they charged unsupported and ineligible costs to the HOME program (see findings 1).

- County officials did not have adequate controls over the validity and reliability of data when they failed to ensure that accurate information is posted to its program web sites (see finding 4).

APPENDIXES

SCHEDULE OF QUESTIONED COSTS AND FUNDS TO BE PUT TO BETTER USE

Recommendation number	Ineligible 1/	Unsupported 2/	Funds to be put to better use 3/
1A		$189,322	
1B	$78,530		
1C			$31,470
1D		$1,264	
2C		$2,347,829	
Total	$78,530	$2,538,415	$31,470

1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations.

2/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.

3/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of necessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this instance, if the improperly executed contract with the Village of Freeport is terminated, reprogramming the remaining contract balance of $31,470 will result in funds being put to better use.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation | **Auditee Comments**

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April 17, 2013

Dear Mr. Moore:

This letter will serve as our written response to the draft audit of the Nassau County HOME Investment Partnerships (HOME) Program prepared by your Office. We hope that our objections will be given due consideration. Every finding is a serious matter. therefore obtaining and understanding every possible fact is of utmost importance. Our response is important to us and also to you for only if we point out our objections will you find areas they might be changed.

Comment 1

The draft audit went as far back as 2001 and concentrated on the years of 2009 and 2010. We are disappointed that the language used in the draft audit falsely allows a reader to believe that you are discussing the policies and procedures of the Office of Community Development in 2013. The County believes that many Program improvements have been made in the time since the period covered by the review and that these improvements were not properly acknowledged in the report. This leads to the audit offering a false picture of our agency in the year 2013.

What follows is our response to each of the Findings raised in the draft document. Again, it is our hope and expectation that the points raised will be given due consideration by your Office and will be reflected in the final document.

Finding 1:

Comment 2

Unsupported Administrative and Planning Costs

Page 4 of the audit states:

> Contrary to Federal requirements, County officials disbursed $269,116 HOME funds for unsupported and ineligible expenditures.

This is patently a false statement. It unfairly creates a perception in the readers' mind that revenues are not being expended and properly accounted. In fact, this portion of the audit is clearly contradictory and also proves that the auditors have an insufficient understanding of the Integrated Disbursement and Information System (IDIS).

The audit claims that $189,322 of HOME funds used for administrative and planning costs were unsupported by sufficient documentation. Only a few sentences later the audit conspicuously and clearly contradicts itself by stating:

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Comment 2

> County officials provided additional documentation, such as manually completed Excel employee timesheets and the time allocation procedures used to support the actual hours worked for administrative costs

The auditors do not reject the documentation, but utterly fail to deduct from the $189,322 the amount of administrative and planning funds that were documented. Beyond question, the entire premise that $189,322 of HOME funds were spent for either ineligible expenditures or were unsupported is false, and must be corrected.

The audit then states:

> it could not be determined whether the County exceeded the 10 percent limit on administrative and planning costs…

The auditor should have known or did know and failed to acknowledge that IDIS automatically creates a ten percent subfund for each new HOME administrative and planning grant. The ten percent set aside for HOME administrative and planning can be decreased (or the fund canceled) but it can never be increased above the ten percent level. IDIS will not allow the participating jurisdiction to withdraw more than the ten percent. Therefore, whether or not the auditor judges the evidence provided to be sufficient to establish less than ten percent was used, more than ten percent could not be used for administrative and planning costs.

Conclusion:

1) The audit's claim that administrative and planning costs were not documented is contradicted by its own words in the same paragraph when it states that documentation was provided;
2) The audit failed to give the County credit for the documentation provided therefore making the figure of $189,322 totally a false figure;
3) The audit report displays a lack of understanding of IDIS on the part of the auditors;
4) That the County could not have spent more than 10 percent of its grant on administrative and planning costs;
5) Due to the blatant unacceptable errors and misunderstanding of IDIS, it is requested that this Finding be removed from the final report.

Please see further explanation by Deputy Director of Finance George Graf attached hereto

Comment 3

Ineligible Home Buyer Rehabilitation and Demolition Costs

The audit begins this portion of the report with a statement that is so obviously incorrect that the balance of this section must be viewed with suspect, and in the very least totally rewritten. The audit alleges that the subject contract was "improperly executed". The basis for this false statement is that the contract was signed after February 15, 2002, the date of the contract.

As the audit lacks understanding of IDIS, the audit also lacks understanding of elementary contract law and its 'relation back" theory of contractual effectiveness. Parties to an agreement are free to agree that a document is to take effect prior to the date of execution as long as the obligations of each party is clear.

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Comment 3

This portion of the audit, without any truthful foundation, creates a false impression in a readers mind that the Office of Community Development is a party to a void contract. This is unconscionable and must be stricken.

Another very disturbing and seemingly intentional act by the auditors in this section of the audit is the constant use of the present tense. There appears to be a shocking effort to confuse the reader as to when these events took place. The implication is that the poor policies and procedures used in 2001 are still in effect today. We take offense to that. We see no effort whatsoever to explain to the reader that Office of Community Development in 2001, its policies and procedures have absolutely no relationship to the policies and procedures of the Office of Community Development in 2013. Most of this portion is written in the present tense so the reader would feel that nothing has changed since 2001. Meanwhile, the auditors have full knowledge that present policies and procedures are vastly improved. We can only come to the conclusion that the effort to mislead the reader is an intentional act on the part of the auditor.

Furthermore, it seems that not only do the auditors not understand IDIS, nor contract law, but they also have a very poor understanding of what is a "finding". HUD guidance clearly states that single or isolated errors, by themselves, may not constitute a finding. HUD staff are required to use judgment. Proper judgment would obviously determine that the policies and procedures of the Office of Community Development in 2013 are not the ones used in 2001. This event from 2001, over 10 years old, an event that is clearly not systematic but isolated rises only to a concern, with stated corrective action. Punishing the 2013 Office of Community Development with a finding is poor judgment.

This contract and the events post contract were discussed with the auditors on several occasions. But instead of clearly stating what happened the audit report delves into the obviously confusing procurement and expenditure details of 2001, 2002, and 2003 which is absolutely unnecessary. The subject contract envisioned the purchase of homes in a target area for purchase and renovation. This Office was only one of several sources of funds for the subrecipient. Of the total of $78,530.00 in HOME funds expended on the activity, $55,350.00 was expended for the successful renovation and sale of the property located at 6 Bedford Street in Freeport, New York. The house located at 87 Leonard Street in Freeport was demolished, which was an act outside of the contract. The 2013 Office of Community Development freely admits that the $23,000.00 expended for the demolishment of the house at 87 Leonard Street was an ineligible expenditure.

The documents that the OIG auditors used to make this determination clearly identified 87 Leonard Street, Freeport, as the site where this issue occurred. The amount of the claim voucher that was paid for by the county was $23,000.00. $18,000.00 was in question as to the validity of the procurement process and $5,000.00 for the unauthorized change order. There was no evidence of any problems with the funds that were used to rehab 6 Bedford Avenue, Freeport. That home was completed and sold as an affordable unit as described in Attachment A in the contract. Due to the fact that there did appear to be some irregularities in the procurement of the contractor for this project and there does not appear to be any authorization for the change order this office will work with the New York CPD Field Office to resolve the issue of the $23,000.00 dispersed.

Despite of this Office's admission, and the evidence that $55,350 was successfully used to purchase and renovate a home, the audit continues to demand that the entire $78,350 be returned.

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Comment 3

Conclusion:

1) This portion of the audit is poorly written;
2) This portion of the audit makes a false legal allegation;
3) This portion of the audit should be a concern, not a finding;
4) That the use of the present tense intentionally misleads the reader.
5) That the auditors failed to listen to the true explanation of events or even put explanation into words.
6) That the sum of $23,000 should be returned.

Comment 4

Unsupported Project Delivery Costs

Audit reports should deal with facts. This portion of the report states that County provided the following documentation for the project delivery expenditure of $1,264:

1) The County's general ledger inquiry;
2) an account detail inquiry;
3) a transaction detail inquiry;
4) HUD's IDIS drawdown amount.

The audit then states that this documentation:

> was not descriptive in detailing the purpose and providing justification for the charges to the HOME program.

The mere allegation, without further facts from the auditors describing exactly where, why and how the documentation produced by the County was not 'descriptive" is not adequate to become a finding.

Your serious allegation. on page four of this report, that disbursed HOME program funds were not supported by documentation or were used for ineligible purposes must be backed up by facts. Merely stating that the documentation produced was not "descriptive" is not factual, and should not be a portion of this audit. Audit reports deal in facts. This portion must be deleted.

Finding 2:

Comment 5

Established Procedures for the Subrecipient Application Process Not Followed

The draft report notes that "County officials did not provide documentation to support the existence of an application review committee, including the names of the members." As has been noted, the period of the audit covered a range in which the County underwent significant staffing changes which may have led to the inability to retrieve data at the time of the review to demonstrate the County's process for reviewing HOME applications. A recent review of files on the Office's "common computer drive" has located files demonstrating the existence of HOME application review committees in both FY 2009 and FY 2010 (the period in question). These files consist of application logs showing review assignments and MS Outlook calendar appointments for committee meetings. These records indicate that the committee in FY 2009 consisted of Director Rosemary Olsen, Deputy Director Kevin Crean, HOME Coordinator Andrea Haughton, and OCD staff members Jennifer Waters, and Charlene

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Thompson. In FY 2010 the committee consisted of Director Raymond Thomas, Deputy Director Kevin Crean, HOME Coordinator Charlene Thompson. Deputy Counsel Lindsey Fitzgerald, and NSP Coordinator Jennifer Waters.

Comment 5

As the application log demonstrates, HOME applications are very rarely submitted in a form that allows for immediate review, approval, and award of funds. The long development timeframe for affordable housing projects means that prospective developers seek funding and approvals from various entities at the same time and/or according to individual program application timetables. Many very desirable projects are not funded because local approvals are not obtained or because other financial commitments are not forthcoming. The committee's most important role is to review projects for eligibility under the HOME Program and for consistency with the County's priorities as enumerated in the published Notice of Funding Availability (NOFA) and the HOME Program Guidelines, Funding Application, and Five Year Consolidated Plan. Prospective applications are frequently maintained in an "active" status for many months, well beyond the time that the Action Plan is submitted to HUD for approval. During this time OCD staff gather needed documentations to support claims made in the application and to justify the financial feasibility of the proposed project. During the ensuing period the scope of the project, if ultimately funded, may change significantly in response to requests from local municipal officials, interested parties such as civic groups, and to be better situated to receive funding from other sources, both public and private. It is a fluid process that cannot be confined to several weekly meetings of a committee. However, the attached documents demonstrate that a review committee were formed and utilized by the County during the audit review period.

Records Not Maintained In Accordance With Federal Regulations

Comment 6

The Nassau County Office of Community Development is currently in the process of working with the Office of Information Technology to develop a more comprehensive project tracking system using an Oracle application. In the meantime, the Office has begun the process of scanning and creating an electronic filing system for all of its significant HOME files. A file archiving project is being undertaken as well. These two initiatives are designed to allow the Office to more easily retrieve relevant documents associated with a project for long-term monitoring compliance purposes.

Support for Fiscal Years 2009 and 2010 Grant Commitments Inadequate

Comment 7

This Finding contends that the County was unable to demonstrate the proper commitment of $3,158,546 in FY 2009 and FY 2010 HOME funds. The Highlights section of the Draft report also states: "HUD could not be assured that the County properly committed $3.16 million in HOME funds for fiscal years 2009 and 2010." At the exit conference, Nassau County was presented with a spreadsheet using data from HUD's Integrated Disbursement and Information System (IDIS) along with executed HOME Agreements and other information gathered by the auditors during their review. The County believes the spreadsheets used to calculate the commitment amounts contain numerous errors which will be itemized below.

The County will first acknowledge that it did fail to fully commit its FY2009 HOME allocation. This was documented in a HUD report shared with the OIG auditors several times during the course of their review. Please see attached the "HOME Deadline Compliance Status Report" for "2009 Commitments, 2009 CHDO Reservations and 2006 Disbursements As of 06/30/12". The report shows

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that while Nassau County had successfully met the reservation and expenditure deadlines it had a commitment shortfall of $210,800." The report notes that the shortfall amount remained "Under Review" by HUD. The County does not know why the issue was noted as being under review as that is a HUD matter.

However, it should be pointed out that a different shortfall figure was included in a February 17, 2012 letter from HUD CPD Director, Vincent Hom, advising the County that CPD had concluded its review of materials submitted by the County to demonstrate additional HOME commitments. The letter is provided to demonstrate the County's efforts, in coordination with the CPD Field Office, to meet the noted deadlines. The letter states that the Field Office received copies of contracts submitted by the County for the purpose of demonstrating commitment compliance. The letter indicates that the original amount of the shortfall was $598,109.00 which was offset by $210,800.00 due to a review of contracts and supporting documents provided by the County. If the shortfall amount in the HUD CPD letter is correct, then the shortfall amount shown on the HUD HOME report cited above is an error. The amount on the HUD HOME report represents the subtrahend in the shortfall equation, rather than the difference. Following the narrative in the HUD letter, the shortfall amount should properly be $387,309.00 ($598,109.00 - $210,800.40 = $387.309.00). That the County failed to meet the FY2009 HOME commitment requirement is acknowledged. We will work with the Field Office to confirm the proper amount and to officially resolve the matter.

With regard to the FY 2010 HOME commitment shortfall, the County believes it has met the requirement. County staff worked diligently to meet this deadline and worked with the HUD CPD Field Office to properly account for the commitments in IDIS. The attached "HOME Deadline Compliance Status Report" for "2010 Commitments, 2010 CHDO Reservations and 2007 Disbursements As of 03/13/13" indicates that the County successfully met all three deadlines. The spreadsheet supplied by OIG at the exit conference that was used to calculate the total FY 2010 commitments also appears to acknowledge the deadline was met. As noted, the County's FY2010 HOME allocation was $3,907,638.00. The OIG spreadsheet has a FY 2010 commitment total of $3,915,388.95. Thus we fail to see how the OIG came up with its claim that the County could not demonstrate the proper commitment of FY 2010 HOME dollars.

A review of the OIG spreadsheet presented at the exit interview revealed missing or inaccurate information for several activities that resulted in a miscalculation of the actual commitment amounts. The spreadsheet compares contract amounts to IDIS commitments without taking into consideration that there is frequently not a one-to-one relationship between the two. This matter was discussed at length with the OIG auditors but appears not have been understood. IDIS commitment amounts often include actual project expenses such as the cost of environmental reviews and inspections that are not a part of the contract budget.

The OIG spreadsheet showing the 2009 commitments does not include a commitment amount for two activities: IDIS# 4069 – HOME35-04 and IDIS# 2299 – HOME26-05A. IDIS# 4069 involves the acquisition of a property for site assemblage for a development of townhouses in New Cassel. The contract amount of $250,000 cited in the OIG spreadsheet is correct. While the activity was funded at $250,000 initially in IDIS the funds were removed from the line when a drawdown was not made within a year. Because of other "flagged" items that the County is working to correct, we are unable to re-commit the funds in IDIS at this time but expect to do so shortly as this is an active project. The

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$250,000.00 was committed before the HUD deadline and the County was given appropriate credit for same by HUD CPD Office as outlined by the HOME report.

The issue with IDIS # 2299 is more complicated and it appears that the County was not given proper credit for IDIS commitments simply because the auditors were not able to locate the activity funding. The OIG spreadsheet correctly notes that a contract for $720,000 was executed with New Cassel Housing LLC and Cathedral Place Housing Development Fund Company, Inc. (see attached). Because this project also involves funding awarded to the Town of North Hempstead CDA under a prior contract, the County, in consultation with its HUD CPD Representative and a HUD HQ IDIS specialist, added the new commitment of $720,000 to an old IDIS line: #2299. This activity is identified in IDIS as HOME26-05A – New Cassel Cathedral Place Development. Attached is a print-out of the IDIS screen showing that the additional $720,000 in HOME funds was committed to the activity as CHDO Reserve Funds with $464,575.55 being committed from FY2009 funds.

The OIG spreadsheet also did not properly credit Nassau County with commitments made to IDIS activity #4120. This activity involves a conversion project in the Village of Hempstead. The contract with Conifer Twin Oaks LLC is attached. The confusion with the funding amount for this contract was due to the original intention of the Office to fund the project at $1,000,000 over a two year period with $500,000 coming from the 35th year (FY2009) and $500,000 coming from the 36th year (2010). The contract clearly states on Exhibit A, which follows the signature and notary pages, that the funding was for $1,000,000. Because the 36th Year funding was not available at the time the commitment was made, the routing documents attached to the contract indicate that only $500,000 was committed via the HUD NIFS system. Legally, however, the full $1,000,000 was committed at the time of the contract signing. The second $500,000 was intended to be committed via a contract amendment when the 36th year funds became available. However, because the project was proceeding ahead of schedule and 35th year funds became available due to another project being deemed infeasible, the amendment added 35th year, rather than 36th year funds. Attached as evidence to support this assertion is a copy of the original contract and contract amendment, as well as the NIFS screen shot showing the $1,000,000 in HOME funds coming from the 35th year budget line. The CDC/Conifer Twin Oaks Development was completed in IDIS on April 30, 2012. Its final IDIS budget was $1,031,835.21 which differs slightly from the amount shown on the OIG spreadsheet.

The auditors noted during the exit conference that they were unable to find a contract to coincide with IDIS activity #4377. As was explained, this activity is a subset of the First Time Homebuyer Program set up under IDIS Activity # 4317. Under this program, first time homebuyers receive downpayment and closing cost assistance to aid them in the purchase of an eligible home. It is an extremely popular and successful program that furthers the County's fair housing goals by assisting low and moderate income homebuyers to purchase a home anywhere in the County. The two IDIS activities relate to the same contract with the Long Island Housing Partnership. The amount of the contract is correctly noted on the OIG spreadsheet as being $750,000.00. The County inspects each home prior to approval, as required by the HOME Program, and also attends each sales closing. Thus, additional project delivery expenses are accounted for in the IDIS budget. The reason that the activity is separated into two different IDIS activity lines is for proper reporting purposes. The IDIS system does not allow for beneficiaries with differing affordability periods to be reported in the same activity line. Those program beneficiaries that receive $15,000 or more in HOME funds, triggering a fifteen year affordability period, are reported under IDIS activity #4317. Program beneficiaries that receive less

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than $15,000 in HOME funds, triggering a five year affordability period, are reported under IDIS activity #4377. These affordability periods are proscribed in the HOME regulations at 24CFR 92.254.

Lastly, the OIG spreadsheet shows a HOME IDIS commitment of $100,000 for activity #4565 with a corresponding contract amount of $50,000. In response, we have attached a copy of the subject contract showing that the approved budget is $100,000.

It is requested that the HUD OIG consider the above and make the appropriate adjustments to the final audit report prior to its issuance.

Finding 3:

Comment 8

Inadequate Monitoring of Subrecipients' Performance

The Nassau County Office of Community Development has established monitoring procedures in accordance with the standards of the Department of Housing and Urban Development and the Federal Code of Rules and Regulations.

1) We have established a risk analysis protocol to identify any program, project or organization that is not meeting the performance standard that we feel is acceptable. From this analysis our office then will develop its annual monitoring plan. Such a structure allows our office to use scarce resources in the most economical fashion.

2) Subrecipients using HOME funds to create rental housing are to be monitored on an annual basis for income and lease verification. Rental units are also inspected on an annual basis. Either annually, every two or three years, (depending on the number of HOME rental units) this office requires each subrecipient to produce tax returns and other documentation to prove that each unit is occupied by tenants who are income qualified. This office has set up a desk review of each HOME assisted project to establish which one should be contacted for an onsite monitoring of activities.

3) Applicants for our Down Payment Assistance Program are required to supply our partner, the Long Island Housing Partnership, with tax returns to establish that said applicant falls within the income requirements of the program. We will keep a copy of such returns in our files together with the applicant's mortgage application that states income. First time homebuyers sign an income verification form at the closing of title which verifies that the grantee's income, at the time of closing, is within the range acceptable for the program

4) In order to establish an organized and easily accessible system to retrieve the many documents and files which we receive on a yearly basis, this office has established a procedure by which every document is being scanned and saved in an electronic file. In the future there will be no need to search for paper files, though they will continue to be maintained as required.

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Comment 9

Monitoring of Home Buyer Property Affordability Period Not Adequately Documented

The Long Island Housing Partnership, as subrecipient, monitors the home buyer affordability requirements on an annual basis. Home owners are requested to swear in an affidavit that they reside in the property purchased with HOME funds. The Office of Community Development is notified by the Long Island Housing Partnership of any home owner who does not return the affidavit. The Office of Community Development then performs a title search to ascertain whether or not title is still in the name of the person who was assisted in the purchase of the home. If title has been transferred, then the Nassau County Attorney's office is notified and the information is shared with that Office. If title is still with the party who used the HOME grant funds an inspector is sent to the property to ascertain who is living in the premises. If someone other than the HOME beneficiary is living in the premises then the file is sent to the Nassau County Attorney's Office for collection.

Comment 10

Finding 4:

To ensure information is accurate on the Nassau County website, the OHCD Director will be convening a committee to review all web postings. This advisory committee will include Director Sarcone as the Chair, Joeline Maresco employee OHCD, Terry Dukes OHCD program supervisor and one member of the Nassau County IT department (Commissioner Ed Eisenstein IT will designate a member of his staff to attend).

Assembling this committee will strengthen internal review controls that will help ensure compliance when referring to HUD regulations as well as ensure accurate information is received by the public at large.

We are pleased to note that the HUD OIG staff recognized in the report the fact that when the County was alerted that inaccurate criteria was posted on the County website it was quickly corrected. As this error did not result in any violation of a regulation or federal requirement, OHCD expects that this Finding will ultimately be reduced to a concern in the final version of the report.

I would like to thank you for the opportunity to respond to the audit's findings prior to its issuance. Again, it is our hope and expectation that our comments will be given due consideration by your Office and will be reflected in the final document. If you have any questions, please feel free to contact me. I can be reached at (516) 572-1915.

Respectfully,

John R. Sarcone
Director

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OIG Evaluation of Auditee Comments

Comment 1 County officials misinterpreted that the audit period went as far back as 2001, that the draft audit report was written in the present tense, and that it provides a false picture of current conditions in 2013 by not discussing current policies and procedures. Our audit period covered September 1, 2009, to August 31, 2011; however, our nonstatistical sample included a contract executed and committed on July 10, 2002, with a scheduled project start date of September 1, 2001. Our work found that more than 10 years has lapsed and the project is still not completed. In addition, the contract was not executed properly, contractors were improperly procured by the subrecipient, and an unapproved change order was paid for by County officials. Due to the deficiencies identified, with this contract, it is discussed in the draft audit report in the past tense to conform to our audit period. Therefore, a review of the County's allocation plan for administrative and planning costs in 2013 was not within our audit scope.

Comment 2 County officials disagree that there are unsupported administrative and planning costs, contending that the auditors have an insufficient understanding of HUD's IDIS and that the draft audit report is contradictory on the matter of supporting documentation. However, when we reviewed the vouchers during testing of administrative and planning costs drawdowns, County officials provided records that were not fully acceptable, such as time tracking documentation, some of which contained discrepancies and others that were not properly signed or authorized. Also, the undated, manually created spreadsheets provided were untraceable to source documentation and appeared to have been created based on our inquiries. Even during the audit, officials repeatedly told us that they had little knowledge of the records maintained other than the contract files. Further, the available documents provided did not lay out or present the data in an easily traceable fashion for reconciliation. As noted in the draft audit report, despite several meetings, County officials were unable to fully reconcile the $189,322 in administrative and planning costs due to insufficient records. Thus, the reported result that $189,322 is considered unsupported is accurate.

Further, we agree that IDIS does not allow the participating jurisdiction to withdraw more than 10 percent of HOME funds to be used for administrative and planning costs. Therefore, we have revised the draft audit report by removing the statement, "Therefore, it could not be determined whether the County exceeded the 10 percent limit on administrative and planning costs according to 24 CFR (Code of Federal Regulations) 92.207." However, this revision does not affect our recommendation. Thus, recommendation 1A remains the same.

Comment 3 County officials incorrectly contend that in addition to not understanding IDIS, the auditors also lack an understanding of elementary contract law. Contrary to the officials' contention, the contract was improperly executed because it did not (1) specify the number of HOME units to be created, (2) include a schedule for completing the task, and (3) include a cost budget. Further, as stated above in comment 1, the contractors were improperly procured by the subrecipient, and an unapproved change order was paid for by the officials. The matters in the draft report were discussed with officials throughout the audit, during the preexit conference, and at the exit conference. We are not intentionally misleading the readers; neverthelss, we strongly encourage County officials to correct this issue by following Federal procurement requirements when using Federal funds.

Comment 4 As discussed during the audit and expressed throughout the review, as well as at the preexit and exit conferences, the available documents confirmed only that the expenditures occurred. However, the very same documents did not sufficiently identify the purposes or activities related to the $1,264 charges. We agree with the officials' statement that audit reports deal in facts, which is why it was of the utmost importance that we constantly requested that officials provide factual source documentation to lend credence to the assertion that their program expenditures were necessary and allowable. For example, the documentation provided to support the project delivery costs of $1,264 did not show whether the charges were for employees' salaries and benefits, inspection costs, or environmental review costs. A document merely stating a project delivery amount without further detail is not descriptive and cannot be proven to be factual. Therefore, we consider the project delivery costs of $1,264 to be unsupported.

Comment 5 County officials agree that they did not provide documentation to support the existence of an application review committee during the audit; however, after locating information on their computer system, they provided additional documentation to support the existence of the HOME application review committees for fiscal years 2009 and 2010. Nevertheless, the information that was provided after our onsite review work did not provide evidence of the committees' detailed discussion regarding the selection methods and merits of each application, or their evaluation, rating, and funding recommendations for fiscal years 2009 and 2010. Therefore, recommendation 2A remains the same.

Comment 6 County officials state that they are developing a project tracking system and have begun scanning and creating an electronic filing system for HOME program files. These actions should assist the officials in resolving our recommendation to establish and implement policies and procedures for record keeping in accordance with HUD requirements.

Comment 7 Many times during the audit, we provided the spreadsheets to the officials for explanation and comment. Officials did not provide a response and additional documentation until after the onsite work concluded and the exit conference was conducted. We have reviewed the explanations and additional documentation provided by the officials and will address them below.

County officials acknowledge that they did not fully commit their fiscal year 2009 HOME funds in accordance with time requirements and interpreted that the shortfall amount was $387,309 based on a HUD Office of Community Planning and Development letter. However, our audit work showed that the shortfall amount for fiscal year 2009 was $2,100,908 as noted in the draft audit report. According to the County officials' explanation and additional documentation provided, we accepted the explanation that the small variances between the contracts and the IDIS amounts are for project expenses such as the cost of environmental reviews and inspections that were not part of the contract budget. Therefore, variances of $5,000 and $695 for IDIS 4614 and IDIS 4338 were accepted, and we also accepted the 10 percent of $391,090 set aside for administrative costs for fiscal year 2009. Therefore, shortfall was reduced from $2,100,908 to $1,704,123 {$2,100,908 – ($5,000 + $695 + $391,090)} for fiscal year 2009 as shown in the final report.

County officials also claimed that they had met the commitment deadline for their fiscal year 2010 HOME funds. Contrary to the officials' contention that the spreadsheets we provided during the exit conference acknowledge that the fiscal year 2010 HOME funds deadline was met, the spreadsheets detailed the amounts reported in IDIS. However, according to 24 CFR 92.500(d)(1)(B) and 24 CFR 92.508(a)(2)(x), for the amounts reported in IDIS to be considered as valid commitments, County officials needed to provide signed contracts or amendments to support the amounts shown in IDIS, which they did not.

We reviewed the explanations and additional documentation provided later by the officials for fiscal year 2010 and accepted the variances of $10,000 and $36,169 for IDIS 4612 and IDIS 4317. We also accepted the 10 percent of $367,763 set aside for administrative costs for fiscal yer 2010. In addition, the documents supported only $500,000 of the $1,031,457 related to IDIS 4120 because the amendment contract was not provided. We considered that IDIS 4377 for $70,000 was a subset of IDIS 4317 for $786,169; however, the contract amount was $750,000, and it did not support the additional $70,000. Further, variance of $36,168.74 was accepted for IDIS 4317 as project delivery costs. Therefore, supporting documentation was required for the $70,000. Lastly, there were no contracts or amendments provided for IDIS 4104 and IDIS 4565. Therefore, in summary, the 2010 shortfall included in our draft report was reduced from $1,057,638 to $643,706 {$1,057,638 – ($10,000 + $36,169 + $367,763)} as reported in this final report.

As a result of County officials' explanations and additional documents provided, we reduced the unsupported commitment from $3.16 million ($2,100,908 + $1,057,638 million) to $2.35 million ($1,704,123 + $643,706 million) for our audit period. Thus, we recommend that County officials provide addition contracts to support the remaining $2.35 million during the audit resolution process.

Comment 8 We agree that County officials provided their "OCD Monitoring Plan" to us during the audit. As stated in the audit report, the County is required to, at a minimum, conduct annual subrecipient monitoring and document its subrecipient monitoring results. However, officials did not maintain adequate documentation of their monitoring. Nevertheless, we do agree that the County will strengthen its controls by tracking, centralizing, and scanning the subrecipient documents.

Comment 9 We agree that the County and subrecipient have procedures for monitoring the home buyer property affordability. However, County officials could not make available all of the home buyer affordability affidavits for our audit period and, therefore, will need to do so during the audit resolution process.

Comment 10 The actions implemented by County officials to ensure that accurate information is on the County's Web site are responsive to our recommendations.