OFFICE OF AUDIT
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NEW YORK-NEW JERSEY

Essex County, NJ

HOME Investment Partnerships Program

2013-NY-1009

AUGUST 9, 2013

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TO: Anne Marie Uebbing
Director, Office of Community Planning and Development, Newark Field Office, 2FD

Edgar Moore

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

SUBJECT: Essex County, NJ's HOME Investment Partnerships Program Was not Always Administered in Compliance With Program Requirements and Federal Regulations

Enclosed is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), final audit report on our review of Essex County, NJ's 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.

August 9, 2013

Essex County, NJ's HOME Investment Partnerships Program Was not Always Administered in Compliance With Program Requirements and Federal Regulations

Highlights

Audit Report 2013-NY-1009

What We Audited and Why

We audited Essex County, NJ's HOME Investment Partnerships Program based on a risk assessment that considered grantee funding, the U.S. Department of Housing and Urban Development's (HUD) risk analysis, and prior audit coverage. The objective of the audit was to determine whether County officials established and implemented adequate controls to ensure that the HOME program was administered in compliance with program requirements.

What We Recommend

We recommend that the Director of HUD's Newark, NJ, Office of Community Planning and Development recapture $856,543 not committed and expended as required and instruct County officials to record $63,781 in program income, reimburse the HOME program $73,466 for ineligible disbursements, reimburse tenants of HOME-assisted units $1,504, provide documentation for unsupported costs of $66,206 and drawdowns of more than $1.1 million in entitlement funds, and remove more than $16 million in ineligible reported match contributions.

What We Found

The County's HOME program was not always administered in compliance with program requirements. Specifically, (1) HOME funds were not always committed and expended in a timely manner as required, (2) program income was not always expended or reported properly, (3) HOME funds were expended on ineligible and unsupported costs, and (4) HOME match contribution funds were ineligible and from unsupported sources. We attribute these deficiencies to County officials' unfamiliarity with HOME regulations and inadequate financial and administrative controls. Consequently, (1) $856,543 was not committed and expended as required, (2) $63,781 in program income was not recorded in HUD's Integrated Disbursement and Information System, (3) $73,466 and $66,206 in HOME funds were expended on ineligible and unsupported activities, respectively, (4) $1,504 was paid by HOME tenants in excess of HOME low rent limits, (5) more than $1.1 million in entitlement funds drawn down was unsupported based upon ineligible match contributions, and (6) ineligible match contributions of more than $16 million were reported that could be used for future drawdowns of HOME entitlement funds.

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BACKGROUND AND OBJECTIVE

The HOME Investment Partnerships Program, authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, is designed to create affordable housing opportunities for low-income households. The HOME program is the largest Federal block grant to State and local governments, through which HUD has allocated approximately $2 billion annually in formula grants to the States and hundreds of local governments. Grantees are required to provide matching funds of 25 percent from non-Federal sources. HOME program regulations are found at 24 CFR (Code of Federal Regulations) Part 92. The U.S. Department of Housing and Urban Development (HUD) has provided additional guidance in its guidebook entitled "Building Home," dated March 2008.

The HOME program allows State and local governments flexibility to use HOME funds for a variety of activities to address local housing needs. Funds may be used to support eligible activities through grants, direct loans, loan guarantees or other forms of credit enhancement, or rental assistance or security deposits. Participating jurisdictions may choose among a broad range of eligible activities, including home purchase or rehabilitation financing assistance to eligible homeowners and new home buyers, building or rehabilitating housing for rent or ownership, or other reasonable and necessary expenses related to the development of nonluxury housing, including site acquisition or improvement, demolition of dilapidated housing to make way for HOME-assisted development, and payment of relocation expenses.

HUD awarded Essex County more than $1.73 and $1.72 million in HOME funds for program years 2009 and 2010, respectively.[1] The County designated the Division of Housing and Community Development under the Department of Economic Development, Training, and Employment to administer its HOME program. The County is governed by a nine-member board of freeholders, five of whom are elected from districts and four of whom are elected at large. They are elected for 3-year concurrent terms and may be reelected to successive terms at an annual election in November.

The County's HOME program disbursed almost $7.7 million in HOME funds during program years 2009 through 2011 to assist different types of housing activities, including first-time home buyer, home ownership, and rental housing activities. Approximately $6.5 million, or 84.9 percent, was used for acquisition, rehabilitation, and new construction of rental housing, especially for individuals and families with special needs.

The objective of the audit was to determine whether County officials established adequate controls to ensure that HOME funds were administered in compliance with HOME program requirements.

[1] The County's program year begins on June 1 of each year and ends on May 31 of the next year.

RESULTS OF AUDIT

Finding 1: HOME Funds and Program Income Were Not Committed and Expended in a Timely Manner

County officials did not always ensure that the County's HOME funds were committed and expended in a timely manner in accordance with HOME program regulations, and program income remained on deposit while entitlement funds were drawn down and was not properly reported. We attribute these deficiencies to weaknesses in County controls over ensuring the commitment and expenditure of funds in a timely manner. As result, \$856,543 in HOME program funds was not used in an effective and timely manner, \$2.34 million in HOME entitlement funds was drawn down without need, and \$63,781 in program income was not recorded in HUD's Integrated Disbursement and Information System (IDIS)[2].

HOME Funds Not Committed in a Timely Manner

County officials did not commit \$100,936 of the County's 2008 required commitment in a timely manner. Regulations at 24 CFR 92.500(d)(1)(B) provide for the reduction or recapture of any HOME funds that are not committed within 24 months after the last day of the month in which HUD notifies the grantee of HUD's execution of the HOME agreement. Regulations at 24 CFR 92.2 define commitment as when the grantee executes a legally binding agreement with a subgrantee. County officials had not executed HOME agreements with subgrantees for four of the County's HOME-funded activities before the August 31, 2010, deadline. We attribute this deficiency to weaknesses in the County's management controls over ensuring that commitments of HOME funds are supported with signed subgrantee agreements. Therefore, \$100,936 in HOME funds was not committed for eligible HOME activities in a timely manner.

HOME Funds Not Expended in a Timely Manner

County officials did not expend the County's year 2007 accumulated entitlement funds in a timely manner. Regulations at 24 CFR 92.500(d)(1)(C) provide for the reduction or recapture of HOME funds that are not expended within 5 years after the last day of the month in which HUD notifies the grantee of HUD's execution of the HOME agreement. However, County officials maintained significant amounts of cash in their HOME entitlement local bank account. During the

[2] IDIS is a nationwide database of current information regarding CDBG activities, including HOME. It includes funding and accomplishment data that HUD uses to report to Congress and monitor grantees.

period June 1, 2009, through July 31, 2012, the County's HOME bank account had an average unexpended cash balance of more than $800,000 and a cash balance of $755,607 as of July 31, 2012, the deadline for expending its 2007 program year funds. We attribute this deficiency to weaknesses in the County's management controls over monitoring the progress of housing projects assisted with HOME funds, which did not allow officials to identify projects experiencing delays and reallocate funds from those projects. Therefore, $755,607 in HOME funds was not expended on eligible HOME activities in a timely manner.

Program Income Not Disbursed Before Entitlement Funds Were Drawn Down

County officials drew down more than $2.7 million in HOME entitlement funds from HUD's Line of Credit Control System (LOCCS)[3] while the County had an average monthly balance of approximately $2.34 million in the County's local HOME program income bank account during the period June 1, 2009, through May 31, 2012. Regulations at 24 CFR 902.502(c)(3) require that HOME funds in a grantee's local bank account be disbursed before HOME entitlement funds are drawn down from the U.S. Treasury account. We attribute this deficiency to weaknesses in the County's management controls over monitoring the progress of housing properties assisted with HOME funds. Therefore, the County's HOME entitlement and program income funds were not used in an effective and timely manner as prescribed by regulation.

Program Income Not Properly Recorded

Although County officials had established a HOME program income account in IDIS, they did not record HOME program income of $63,781 received during the period June 1, 2009, through November 30, 2012, in IDIS. Community Planning and Development (CPD) Notice 97-09, section III, subsection (N), entitled IDIS and Program Income, provides that IDIS is designed to record the receipt and use of HOME program income and that a participating jurisdiction should establish a program income fund in IDIS to record the receipt of program income. We attribute this deficiency to weaknesses in the County's management controls over tracking program income, specifically a lack of communication between County employees responsible for receiving program income and reporting program income in IDIS. Therefore, there was no assurance that program income of $63,781 would be used for eligible HOME program activities before the drawdown of HOME program funds from the U.S. Treasury.

[3] LOCCS is the system HUD uses to disburse and track the payment of grant funds to grant recipients.

Conclusion

The County's HOME program was not always administered in compliance with program requirements. HOME funds were not committed and expended in a timely manner as required, and program income was not disbursed before HOME entitlement funds were drawn down and was not always recorded in IDIS. Consequently, HOME entitlement and program income funds were not made available for funding eligible activities in a timely manner. We attribute these deficiencies to weaknesses in County controls over ensuring commitment and expenditure of funds in a timely manner.

Recommendations

We recommend that the Director of HUD's Newark, NJ, Office of Community Planning and Development

1A. Recapture the $100,936 that was not committed as of August 31, 2010, in compliance with program requirements, thus ensuring that these funds are put to better use.

1B. Recapture the $755,607 that was not expended as of July 31, 2012, in compliance with program requirements, thus ensuring that these funds are put to better use.

1C. Instruct County officials to strengthen financial controls to ensure that HOME funds are committed and expended in compliance with program requirements.

1D. Instruct County officials to record program income of $63,781 in IDIS to ensure greater accountability for program income and that future HOME program fund drawdowns are put to better use by using program income before drawing down HOME program funds from the U.S. Treasury.

1E. Instruct County officials to establish and implement controls to ensure that program income is recorded in IDIS and disbursed before entitlement funds are drawn down in accordance with regulations.

Finding 2: HOME Program Funds Were Disbursed for Ineligible Activities and Contrary to Administrative Requirements

HOME funds were disbursed for ineligible and unsupported activities. Specifically, contrary to regulations, HOME funds were provided to a previously assisted rental property during the affordability period, a housing activity in excess of the HOME subsidy limit, an ineligible community housing development organization (CHDO), and HOME-assisted units that were rented for more than HOME rent limits. In addition, HOME funds were disbursed for activities that did not always comply with administrative requirements. We attribute these conditions to County officials' unfamiliarity with HOME regulations and weaknesses in administrative controls. Consequently, $71,551 in HOME funds was used for ineligible activities, two tenants of HOME-assisted units were charged rents in excess of HOME rent limits, the County and HUD lacked assurance that some HOME-assisted activities were carried out as planned, and the public was not always made aware of how HOME funds were spent.

Additional Assistance to a Previously Assisted Property

County officials disbursed $19,935 in HOME funds in 2009 for rehabilitation of a rental property that had been acquired with $250,000 from HOME funds in 2006. This is contrary to regulations at 24 CFR 92. 214(a)(6), which prohibit providing HOME funds to projects that were previously assisted with HOME funds during the affordability period.[4] While these same regulations provide that additional HOME funds may be committed to a project for up to 1 year after project completion, County officials provided the additional funds more than 2 years after completion of the acquisition activity[5]. We attribute this deficiency to County officials' unfamiliarity with HOME program requirements. Therefore, $19,935 was disbursed for an ineligible activity and, thus, was not available for other eligible HOME activities.

Assistance in Excess of HOME Subsidy Limits

County officials disbursed $25,116 for the acquisition and rehabilitation of a rental property in excess of HOME subsidy limits. HUD CPD Notice 94-01(3)(B) provides that the maximum subsidy is calculated on the basis of the number of HOME-assisted units in the structure times the allowable per unit

[4] The affordability period is the time during which the assisted property must comply with the specific provisions of rent affordability contained in 24 CFR 92.504.
[5] The final drawdown for the first IDIS activity was made in July, 2006, more than two years before the second IDIS activity was created and funded. Further, although the first activity should have been closed in IDIS within 120 days of that final drawdown, the activity remained open until January, 2011.

subsidy amount. While the maximum subsidy for the property, which had two single-room occupancy units, should have been $253,738 ($126,869 x 2), County officials provided $278,854 in HOME assistance. We attribute this deficiency to County officials' unfamiliarity with, calculating the allowable maximum HOME assistance. Therefore, $25,116 ($278,854 – $253,738) represented an ineligible cost and, thus, was not available for other eligible HOME activities assistance.

Operating Funds Provided to an Ineligible CHDO

County officials disbursed $26,500 to an ineligible CHDO in program year 2009. Regulations at 24 CFR 92.2 specify the requirements to qualify as a CHDO, one of which is that the CHDO maintains at least one-third of its board member positions for residents of low-income neighborhoods, other low-income community residents, or elected representatives of a low-income neighborhood organization. However, County officials provided CHDO operating funds of $26,500 to a nonprofit entity that had only 2 of its 15 members, or 13 percent, meeting that requirement. We attribute this deficiency to weaknesses in the County's management controls over monitoring its CHDOs and the lack of a CHDO policy that continues to ensure that its CHDOs remain qualified CHDOs. Therefore, $26,500 was disbursed for ineligible CHDO operating costs and, thus, was not available for other eligible HOME activities.

HOME-Assisted Unit Rent Above HOME Rent Limits

County officials did not always ensure that County subgrantees rented HOME-assisted units in compliance with HOME program rent limits. Regulations at 24 CFR 92.252(b)(2) provide that the HOME low-rent limit should not exceed 30 percent of the family's adjusted income and if the unit receives a Federal or State project-based rental subsidy, the maximum rent allowable is the Federal or State project-based rental subsidy assistance allowance. Regulations at 24 CFR 92.252(c) further provide that if a tenant pays utilities, the low-rent limit cannot exceed the maximum rent as determined in section (b)(2) minus the monthly allowance for utilities and service. However, a County subgrantee required tenants of two HOME-assisted units, whose rent was paid from HUD's Housing Choice Voucher program, to pay utility costs without reducing the rent by this cost. We attribute this deficiency to weaknesses in the County's management controls over monitoring its subgrantees' compliance with HOME program rent limits. Consequently, the two tenants were overcharged $1,504 for rent during the period May 1 through December 31, 2012, and would incur excessive rental costs of $2,256 in the next year if the rent were not adjusted.

Program Administration Not Always in Compliance With Program Requirements

County officials did not always administer acquisition and rehabilitation activities for rental and home-ownership properties assisted with HOME funds in compliance with HOME program requirements. Specifically,

- HOME funds were reported as committed for 7 of 14 rental and home-ownership properties reviewed without a HOME subgrantee agreement having been executed contrary to regulations at 24 CFR 92.2(1), which provide that funds are committed when a legally binding agreement is executed between the grantee and the subgrantee.

- HOME funds were disbursed for 6 of 14 rental and home-ownership properties reviewed before a HOME subgrantee agreement was executed[6] contrary to regulations at 24 CFR 92.504(b), which require a grantee to enter into a written agreement with a subgrantee that ensures compliance with the requirements of Part 92 before disbursing any HOME funds to any entity.

- Six of eight loan agreements with HOME-assisted properties did not contain a timeframe for the completion of construction or rehabilitation contrary to regulations at 24 CFR 92.504(c)(3)(i), which require written loan agreements to have a schedule for completing tasks required under the agreement.

- The value of a HOME-assisted property was not determined after rehabilitation work was completed to ensure that the property value did not exceed 95 percent of the median purchase price for the area as required by regulations at 24 CFR 92.254(a)(2)(ii).

- A public notice was not published for public comments for three of eight rental and home-ownership properties, which had experienced substantial changes, although the County's citizen participation plan required public notice, hearings, and comments for substantial changes.

We attribute these deficiencies to County officials' unfamiliarity with HOME program requirements and weaknesses in the County's management controls over administering HOME program activities. Therefore, there was no assurance that the County's HOME funds were committed and expended as required and HOME activities always served the public interest.

[6] Subgrantee agreements have since been executed.

Conclusion

The County's HOME program was not always administered in compliance with program requirements. Consequently, HOME funds were expended for ineligible costs, the County and HUD lacked assurance that some HOME-assisted activities were carried out as planned, and the public was not always made aware of how HOME funds were spent. We attribute these conditions to County officials' unfamiliarity with HOME regulations and weaknesses in administrative controls.

Recommendations

We recommend that the Director of HUD's Newark, NJ, Office of Community Planning and Development instruct County officials to

2A. Reimburse the County's HOME program line of credit $19,935 from non-Federal funds for the ineligible assistance provided to a housing activity during the affordability period.

2B. Strengthen County administrative controls to ensure that HOME funds are not used for previously HOME-assisted activities during the affordability period.

2C. Reimburse the County's HOME program line of credit $25,116 from non-Federal funds for assistance provided in excess of HOME subsidy limits.

2D. Strengthen County administrative controls to ensure that HOME funds are not used to assist HOME units in excess of HOME subsidy limits.

2E. Reimburse the County's HOME program line of credit $26,500 from non-Federal funds for the operating grant provided to the ineligible CHDO.

2F. Strengthen County administrative controls to ensure that CHDOs are certified and continue to operate in compliance with program requirements.

2G. Direct the County's subgrantee to reimburse $1,504 to two tenants of HOME-assisted units for rent charged in excess of HOME rent limits and adjust the rent to comply with HOME rent limits, thus ensuring that the two tenants will not pay $2,256 in excess rent over the next year .

2H. Strengthen County administrative controls to properly monitor its subgrantees' compliance with HOME rent limits applicable to housing units assisted with HOME funds.

2I. Strengthen County administrative controls to ensure that HOME housing activities are administered in compliance with program requirements.

2J. Seek and obtain adequate training from HUD to enable County officials to properly administer the County's HOME program in compliance with program requirements.

Finding 3: There Were Weaknesses in Administrative Controls Over HOME Program Match Contribution Funds

The County did not always use eligible funds and adequately support that funds used were eligible as HOME match contributions. Specifically, County officials reported more than $16 million in HOME match contributions from ineligible sources by using funds from the Federal Tax Credit Exchange Program and various loans and mortgages. We attribute these deficiencies to County officials' unfamiliarity with HOME program match contribution requirements and weaknesses in the County's record-keeping procedures to track match contributions. Consequently, while the County met its match contribution requirement for our audit period, the ineligible excess contributions reported could be used to secure HOME funds in future years.

Ineligible Match Contributions

While County officials reported more than $18.8 million as HOME program match contributions for Federal fiscal years 2009 and 2010, they erroneously counted more than $16 million and $76,873 from ineligible and unsupported sources, respectively. HOME participating jurisdictions are required to make contributions of not less than 25 percent of the funds drawn from the participating jurisdiction's HOME Investment Trust Fund U.S. Treasury account in a fiscal year, and contributions in a fiscal year that exceed a participating jurisdiction's match liability for that year may be carried over and applied to a future year's match liability. HUD CPD Notice 97-03 requires that participating jurisdictions maintain a log identifying match liability as it is incurred and the type and amount of funds used to meet the liability. To be recognized as an eligible match contribution, the source of funds must comply with 24 CFR 92.220. The County match log reported that the following ineligible and unsupported sources were used as HOME match contributions:

- More than $6 million in financing from the Federal Tax Credit Exchange Program.[7] Regulations at 24 CFR 92.220(b)(1) provide that contributions made with or derived from Federal resources or funds, regardless of when the Federal resources or funds were received or expended, are not an eligible source of match contribution.

- More than $8.4 million in loan principal that was borrowed at a discount rate from different lenders, such as the New Jersey Housing and Management Finance Agency, a nonprofit entity, and the City of Orange, NJ, and were not included at the present discounted cash value. Regulations at 24 CFR 92.220(a)(1)(iii)(B) provide that if a loan is made from funds other than funds borrowed by a participating jurisdiction or

[7] This program was authorized by Section 1602 of the American Recovery and Reinvestment Act of 2009 and allowed housing credit agencies to exchange a portion of their 2009 housing credit allocation for cash assistance from the U.S. Treasury.

public agency or corporation, the match contribution is the present discounted cash value of the yield foregone.[8]

- $838,390 from mortgages obtained by first-time home buyers purchasing HOME-assisted properties. Regulations at 24 CFR 92.220(b)(3) provide that owner equity or investment in a project cannot be counted toward meeting a participating jurisdiction's matching contribution requirement.

- $619,015 from two loans that did not represent a permanent contribution obtained by nonprofit entities to rehabilitate HOME-assisted properties. Under the terms of the first loan for $140,065, the nonprofit was reimbursed for the loan amount from the County's HOME funds and proceeds from a loan obtained by the home buyer. The second loan for $478,950 was financed by a mortgage through the Community Loan Fund of New Jersey, Inc. Regulations at 24 CFR 92.220(a)(1) provide that to be recognized as a cash contribution, funds provided must be contributed permanently to the HOME program. Further, to receive match credit for the full amount of a loan to a HOME project, all repayment of principal, interest, or other return on investment of the contribution must be deposited into the local account of the participating jurisdiction's HOME Investment Trust Fund to be used for eligible HOME activities.

- Documentation was lacking that $76,873 reported as a match contribution was eligible. Regulations at 24 CFR 92.508 require each participating jurisdiction to establish and maintain sufficient records to document the type and amount of contribution by project.

We attribute these deficiencies to County officials' unfamiliarity with HOME program match contribution requirements. Therefore, the County incorrectly used ineligible matching contributions and incorrectly applied more than $16 million in excess contributions toward future match liabilities.

HOME Entitlement Funds Matched With Unsupported Contributions

Regulations at 24 CFR 92.218 provide that each participating jurisdiction must make contributions to housing that qualifies as affordable housing under the HOME program throughout the fiscal year in an amount not less than 25 percent of the funds drawn down from the jurisdiction's HOME Investment Trust Fund account in the fiscal year. County records indicated that the County drew down more than $2.5 million during 2009 and 2010. Therefore, the County's HOME match report for Federal fiscal years 2009 and 2010 disclosed that its match

[8] To determine the yield foregone, regulations prescribe a rate equal to the 10-year Treasury note rate plus 300 basis points.

contribution requirement for that period was $640,283. However, review of a sample of $16.6 million, or 88 percent, of the almost $18.9 million in match contributions reported in years 2009 and 2010 disclosed that more than $16.2 million, or approximately 98 percent, was ineligible or unsupported. Consequently, $357,940 was from eligible sources, thus creating a shortfall of $282,343 in required matching contributions.[9] Therefore, there was no assurance that more than $1.1 million in HOME entitlement funds drawn down ($282,343 / .25) in 2009 and 2010 was matched with eligible sources of match contribution funds.

We attribute this deficiency to County officials' unfamiliarity with HOME program matching requirements. Further, County records reported a significant excess match contribution carryover balance of more than $52.28 million at the start of program year 2009. However, the questionable 2009 and 2010 reported match contribution raised concerns about the eligibility of this reported excess match. As a result, to ensure that the County's carryover balance of match contributions remaining at the end of 2010 in the amount of $54.5 million was eligible, the entire 2010 carryover match contribution balance would have to be reevaluated.

Conclusion

County officials did not always comply with HOME requirements for providing matching contributions. The County reported more than $16 million in ineligible matching contributions to secure HOME entitlement funds. Therefore, the County incorrectly applied ineligible excess matching contributions. Consequently, County officials could not ensure HUD that matching contributions were eligible for HOME matching, and HOME entitlement funds were secured with supported matching contributions. We attribute these deficiencies to County officials' unfamiliarity with HOME program match contribution requirements and weaknesses in the County's procedures for maintaining supporting documentation to track match contributions.

Recommendations

We recommend that the Director of HUD's Newark, NJ, Office of Community Planning and Development instruct the County to

3A. Remove the $16,134,596 in ineligible claimed match contributions from its HOME match report, thus ensuring that the match will not be used to draw down HOME entitlement funds.

3B. Provide supporting documentation for the $282,343 in unsupported match

[9] The County reported a significant balance of excess match contributions, which could be made available to meet this shortfall, but specific funds to meet this requirement were not identified during our review.

contributions, and if supporting documentation cannot be provided, the $1,129,372 in HOME entitlement funds drawn down based upon these match contribution funds should be repaid to the program account.

3C. Strengthen administrative controls over the management of HOME match contribution requirements to ensure that County officials properly recognize HOME match contributions, thus ensuring that future HOME entitlement fund drawdowns of $1,280,567[10] will be based upon eligible HOME match funds.

3D. Strengthen administrative controls to ensure that documentation is maintained to adequately support that claimed matching fund sources comply with HOME program matching requirements.

3E. Seek and obtain adequate training from HUD to ensure that County officials are aware that funds included as matching contributions must meet all of the HOME program matching requirements.

3F. Provide HUD with documentation to support the eligibility of the more than $54.5 million in HOME matching contribution carryover at the end of program year 2010.

[10] The $1,280,567 ($2,561,135 / 2) represents average annual HOME fund drawdowns from LOCCS, which was required to be matched during years 2009 and 2010.

Finding 4: There Were Weaknesses in Financial Controls Over Compliance With Federal Regulations and Program Requirements

County officials did not always maintain a financial management system in compliance with Federal regulations. Specifically, unsupported and ineligible costs were charged to the HOME Program, funds were unnecessarily drawn down from LOCCS, and drawdowns from LOCCS did not reconcile with the County's accounting records. We attribute these deficiencies to weaknesses in the County's financial controls that did not ensure that an annual reconciliation of financial records was performed and documentation was maintained supporting the eligibility of costs. Consequently, $66,206 was expended on unsupported costs, $1,915 was expended on unallowable costs, $26,525 was not available for eligible HOME expenses, and the County's accounting records were not completely reconciled to IDIS.

Unsupported Costs Charged to the HOME Program

County officials did not maintain adequate accounting records, including general ledgers or general journals for its HOME planning and administrative costs, to identify the source and application of funds. Regulations at 24 CFR 85.20(b)(2) require grantees to maintain records that adequately identify the source and application of funds provided for financially assisted activities. However, the County's accounting records did not adequately support $438,325, or 61 percent, of the $719,182 drawn down for planning and administrative costs during the period June 1, 2009, through May 31, 2012. After we analyzed the County's biweekly payroll records for the 3-year period, $37,166 charged to the HOME program was deemed unsupported since we were not provided with adequate records. We attribute this deficiency to weaknesses in the County's financial controls over reconciling financial information included in the County's accounting records to the County's drawdowns from LOCCS for the HOME Program's planning and administrative costs. Therefore, there was no assurance that the $37,166 charged to the HOME program was for eligible planning and administrative costs.

County officials also charged $29,040 in indirect costs to the County's HOME program without a cost allocation plan to support that the costs were reasonable. Regulations at 2 CFR Part 225, appendix (A)(C)(3)(d), provide that when indirect costs will result in charges to a Federal award, a cost allocation plan is required. However, County officials charged indirect costs of 19.26 percent of the total biweekly employee salaries during program year 2011 without a basis for the charge. We attribute this deficiency to weaknesses in the County's financial controls over the allocation of indirect costs among programs. Therefore, there was no assurance that the $29,040 represented an allowable cost to the HOME program.

Ineligible Employee's Compensation Paid With HOME Funds

County officials charged the County's HOME program for $1,915 in salary, fringe benefits, and indirect costs associated with a HOME program employee after he resigned from the County's workforce. Regulations at 2 CFR Part 225, appendix (A)(C)(1), provide that costs must be necessary and reasonable for proper and efficient performance to be allowable under Federal awards. We attribute this deficiency to weaknesses in the County's financial controls that should have prevented charging costs to the HOME program that were not applicable, thereby safeguarding assets. Therefore, $1,915 from HOME funds was used for unallowable costs and, thus, was not available for eligible HOME activities.

Unnecessary Drawdown From LOCCS

County officials drew down $26,525 from LOCCS and maintained the funds in the County's entitlement bank account for more than 6 months. Regulations at 24 CFR 92.502(c)(2) provide that any funds that are drawn down and not expended for eligible costs within 15 days of the disbursement must be returned to HUD for deposit in the participating jurisdiction's U.S. Treasury account of the HOME Investment Trust Fund. We attribute this deficiency to weaknesses in the County's financial controls over cash management that allowed drawdowns to be made without supporting documentation to ensure that the related purchases were actually made and funds were needed to reimburse a subgrantee. As a result, $26,525 was not used for eligible activities in a timely manner.

Information in IDIS Not Always Reconciled With the County's Accounting Records

Information recorded in IDIS did not always reconcile with that in the County's accounting records. Regulations at 24 CFR 85.20(b)(1) require grantees to maintain accurate financial records. However, the source of three drawdowns from LOCCS totaling $288,400 was recorded in IDIS as HOME program income, while the source was recorded as HOME entitlement funds in the County's accounting records. We attribute this deficiency to weaknesses in the County's procedures that did not require reconciling IDIS with the County's accounting records to ensure that financial records were accurate. As a result, program income was understated by $288,400 in IDIS.

Conclusion

County officials did not always maintain a financial management system in compliance with Federal regulations. As a result, $66,206 was expended on unsupported costs, $1,915 was expended on unallowable costs, $26,525 was not made available for eligible HOME activities, and the County's accounting records were not completely traceable to information recorded in IDIS. We attribute these deficiencies to weaknesses in the County's financial controls over the maintenance and reconciliation of financial records for the HOME program.

Recommendations

We recommend that the Director of HUD's Newark, NJ, Office of Community Planning and Development instruct the County to

4A. Provide documentation to support that $37,166 in indirect planning and administrative costs charged to the HOME program represented eligible costs and if such documentation cannot be provided, reimburse the HOME program line of credit from non-Federal funds.

4B. Provide a cost allocation plan or other documentation to support the allocation of $29,040 in indirect costs charged to the HOME program in program year 2011 and if such documentation cannot be provided, reimburse the HOME program line of credit from non-Federal funds.

4C. Strengthen the County's financial controls to ensure that documentation is maintained to support the eligibility of costs paid from HOME funds, and the methodology to allocate annual indirect costs to the County's HOME program is documented and reasonable.

4D. Reimburse the County's HOME program line of credit $1,915 from non-Federal funds for the unallowable employee salary, fringe benefits, and indirect costs charged to the HOME program.

4E. Strengthen the County's financial controls to ensure that terminated HOME program employees are removed from the payroll account in a timely manner to prevent ineligible payments.

4F. Reimburse the County's HOME line of credit for $26,525 that was drawn down from LOCCS without need so that these funds can be put to better use.

4G. Strengthen the County's financial controls to ensure that HOME drawdowns are expended within 15 days of the drawdown date or returned to the County's HOME program line of credit.

4H. Reconcile the $288,400 discrepancy between IDIS and the County's accounting records, thus ensuring that this amount will be put to better use.

4I. Strengthen the County's financial controls to ensure that financial information reported in IDIS and the County's records is reconciled in a timely manner.

SCOPE AND METHODOLOGY

The audit focused on whether County officials established and implemented adequate controls to ensure that HOME funds were administered in compliance with program requirements and Federal regulations. We performed the audit fieldwork from November 2012 to April 2013 at the County's office at 20 Crestmont Road Verona, NJ.

To accomplish our objective, we

- Reviewed relevant HOME program requirements and applicable Federal regulations to gain an understanding of HOME administration requirements.

- Interviewed staff from the HUD Newark, NJ, Office of Community Planning and Development and the County.

- Obtained an understanding of the County's management controls and procedures through analysis of the County's responses to management control questionnaires.

- Reviewed the County's consolidated annual performance and evaluation reports and action plan for HOME program years 2009 through 2011 to gather data on the County's expenditures.

- Reviewed the County's audited financial statements for the fiscal year ending December 31, 2010, and personnel files for three of the County's HOME program employees.

- Analyzed reports from IDIS to obtain HOME disbursements and program income data for the audit period and reports from LexisNexis to obtain information related to real properties assisted with HOME funds. Our assessment of the reliability of IDIS and Lexis-Nexis data was limited to the data sampled and was reconciled with data in County records; therefore, we did not assess the reliability of these systems.

- Reviewed the County's organizational chart for its HOME program and the County's HOME program policies, including home-buyer, monitoring, and administrative policies.

- Reviewed the County's monitoring reports for HOME activities and the County board of freeholders' resolutions for years 2009 through 2011.

- Reviewed documentation for annual recertification of two nonprofit entities that received CHDO operating or reserve funds during program years 2009 through 2011.

- Selected and reviewed a sample of 18 of 48 HOME-assisted properties that received more than $4.5 million, or approximately 58.9 percent of the County's total HOME drawdowns made in program years 2009 through 2011, and $748,003 from the County's HOME drawdowns made before or after program years 2009 through 2011. The sample of properties was selected based on one or more of the following factors: the county did not impose liens on the property; the assisted property address differed from that listed on the County's action plan; the actual assistance exceeded the authorized amount listed on the action plan; and the dollar value of assistance provided to HOME properties was material[11]. The results of this sample were limited to the items tested and were not projected to the universe of HOME assisted properties.

- Reviewed documentation, including subgrantee agreements, environmental reviews, appraisal reports, deeds, invoices, contract requests for payment, and canceled checks to support the eligibility of the 18 HOME-assisted properties included in our sample and costs associated with these 18 HOME-assisted properties.

- Selected and reviewed a sample of documents supporting matching contributions representing more than $16 million, or 88 percent, of total contributions reported by the County for Federal fiscal years 2009 and 2010. All documents selected for sampling supported contributions were associated with first time homebuyers, acquisition and rehabilitation of rental properties and homeowner rehabilitation. The results of this sample were limited to the items tested and were not projected to the universe of HOME assisted properties.

- Reviewed bank statements for three bank accounts used for the County's HOME entitlement and program income funds and traced payments and deposits listed on the statements to the County's accounting records and IDIS reports for its HOME program. Our assessment of the reliability of data included in bank statements, IDIS reports, and accounting records was limited to the data sampled, which were reconciled among the different sources; therefore, we did not assess systems generating the data.

The audit generally covered the period June 1, 2009, through May 31, 2012, and was extended as needed to accomplish the objective.

We conducted the audit in compliance 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 objective.

[11] In this case materiality means the property was provided over $1 million in funding.

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 objective:

- 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 resource use is consistent with laws and regulations.

- Safeguarding resources – Policies and procedures that management has implemented to reasonably ensure that resources 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 Deficiencies

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

- The County did not always implement adequate internal controls to ensure achievement of program objectives because HOME housing activities were not always administered in compliance with program requirements and Federal regulations (see findings 1 through 4).

- The County did not always establish or implement adequate internal controls to ensure that resources were used in compliance with laws and regulations because HOME funds were not committed and expended as required, program income was not recorded in IDIS and disbursed before drawdowns were made from entitlement funds, additional HOME funds were provided to a previously assisted HOME property during the affordability period, HOME funds were provided to a housing unit in excess of HOME subsidy limits and to an ineligible CHDO, rent charged to HOME-assisted units exceeded HOME rent limits, and ineligible sources of HOME matching funds were used to meet matching requirements (see findings 1, 2, and 3).

- The County did not always establish or implement adequate internal controls to ensure that resources were safeguarded against waste, loss, and misuse as HOME funds were used for unsupported and ineligible costs (see findings 2 and 4).

- The County did not always establish or implement adequate internal controls to ensure that valid and reliable data were obtained, maintained, and fairly disclosed in reports as financial information included in the County's accounting records was not traceable to IDIS reports and program income was not recorded in IDIS (see finding 4).

APPENDIXES

Appendix A

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			$ 100,936
1B			755,607
1D			63,781
2A	$ 19,935		
2C	25,116		
2E	26,500		
2G	1,504		2,256
3A			16,134,596
3B		$1,129,372	
3C			1,280,567
4A		37,166	
4B		29,040	
4D	1,915		
4F			26,525
4H			288,400
	$74,970	$1,195,578	$18,652,668

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 unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. If HUD implements the recommendation to (1) recapture the $100,936 and $755,607, the funds will be put to better use; (2) report program income of $63,781 in IDIS, the program income will be available for eligible HOME activities; (3) adjust the two tenants' rent, they will not pay $2,256 in excess rent during the next year; (4) ensure that the County complies with HOME match requirements, HUD will be assured that $16,134,596 in ineligible match contributions will not be used to drawdown HOME funds, and eligible match contributions will be used to support drawdowns of more than $1.2 million in HOME funds; (5) reimburse $26,525 to the line of credit, the funds will be available for other eligible HOME activities; and (6) reconcile IDIS and County records, HUD will be assured that $288,400 in program income will be properly recorded.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation | **Auditee Comments**

Joseph N. DiVincenzo, Jr.
Essex County Executive

COUNTY OF ESSEX
NEW JERSEY

Lucia A. Guarini
Acting Department Director

George F. Serio, Jr.
Division Director

DEPARTMENT OF ECONOMIC DEVELEOPEMENT, TRAINING & EMPLOYMENT
DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT
Kip's Castle Park, 20 Crestmont Road, Verona, NJ 07044
Telephone # (973) 655-0200 / Fax # (973) 655-0982

July 22, 2013

Mr. Edgar Moore, Regional Inspector General for Audit
U.S. Department of Housing and Urban Development
Office of Inspector General
26 Federal Plaza, Room 3430
New York, NY 10278

Dear Mr. Moore:

Comment 1

This letter is in response to your draft audit report regarding the above referenced subject. As you have indicated in your report, HUD has awarded the County of Essex HOME Investment Partnership Program (HOME) funds to fund a variety of activities to address local housing needs. Over the past twenty years the County has been awarded $27,214,609.90 in HOME funds that have been used for a myriad of affordable housing activities, including housing for the developmentally disabled, housing for formerly homeless families, new housing construction for special needs individuals and multi-unit rental developments for low income individuals and families. The County was awarded $1.7 million and $1.72 million in HOME funds in program year s 2009 and 2010 respectively. The audit report indicates that the audit period covered fiscal years 2009 and 2010 and was extended as needed to accomplish the objective. The findings reference activities that precede these program years; i.e., Finding 1 refers to 2008 funds not committed in a timely manner.

The County of Essex funded projects during this period that would lead to the creation of over 148 units of affordable housing. In addition, 2 low-income individuals received assistance to purchase their first home.

The Division of Housing & Community Development has worked steadfastly to reconstitute its HOME program since 2010. The Division had lost senior staff to retirement in 2010 and reassigned responsibilities to personnel that were new to implementing the program. The Division requested a wellness assessment in 2010 from the Newark Field Office to assist staff with assessing the HOME Program and its implementation. The report that was generated from that assessment was utilized by the Division to make changes to the program design. During the past two years the Division has developed the following policies to ensure compliance:

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Ref to OIG Evaluation **Auditee Comments**

- Incorporate written agreements that are executed with developers which enable the Division to commit funds to an activity as required in the HOME regulations
- In addition to written agreements, the Division enhanced its loan agreements to properly secure the federal investment in all housing activities.
- The Division instituted a credit enhancement requirement in 2010, whereby developers had to provide evidence of value in the property assisted which could also be enhanced by pledging additional assets necessary to guarantee the loan.
- Issued an RFQ for CHDO's in 2012 in order to solicit eligible CHDOs and recertify existing CHDOs
- The Division recently added a requirement to its program that fully executed agreements with all sources must be provided to ensure compliance with the HOME match requirement.
- Instituted a document management system to properly secure all documents executed by the Division that is consistent with NJ State Division of Archive and Records Management
- Implemented a reconciliation policy that reconciles bank accounts with IDIS on a monthly basis
- Implemented enhanced program monitoring of affordable housing activities. Construction officials perform on-site visits prior to disbursement of funds and program monitors conduct compliance reviews for tenant eligibility

Finding 1: HOME Funds and Program Income Were Not Committed and Expended in a Timely Manner

HOME Funds Not Committed in a Timely Manner

Comment 2

County Response: Specifically identified in the report is an amount of $100,936. The Division provided evidentiary material to support the closing of the four activities thereby meeting the regulations at 24 CFR 92.500(d)(1)(B). The Division committed funds in IDIS for 4 projects, before executing a legally binding agreement with a sub-grantee. The 4 projects were:

Activity #	Sub Grantee	Address	Agreement Date	Funding Date	Amount
1935	HomeCorp Inc	4 Washington St, Montclair	3/21/11	3/10/10	$200,000.00
1934	HomeCorp Inc	10 Miller Street, Montclair	2/4/11	3/09/10	$176,846.00
1939	SEED Corp	Sunkist I	10/7/10	6/23/10	$252,000.00
1794	HomeCorp Inc.	87 Mission Street, Montclair	2/24/11	1/13/09	$ 80,000.00

The prior Division policy prescribed that HOME funds should be committed to an activity upon the execution of a commitment letter. These loans were closed prior to the wellness

Ref to OIG Evaluation	Auditee Comments

assessment report. After a review by the HUD authorized consultant, the Division implemented a change to only commit funds in IDIS for projects after having binding agreements.

These projects met national objectives by creating 16 units of affordable housing for low-income persons and have been fully paid to the sub-grantee.

HOME Funds Not Expended in a Timely Manner

The report further identifies 2007 accumulated entitlement funds that were not expended in a timely manner.

Comment 3

County Response: Portions of the balances are attributable to Administrative Costs (Salaries, Fringe and Indirect Costs) being drawn down from IDIS on a monthly basis, but not transferred to the County's General Ledger accounts until later in the year.

Program Income Not Disbursed Before Entitlement Funds Drawn Down

Comment 4

County Response: The County acknowledges program income was not receipted consistently into IDIS. To ensure that program income is receipted on a consistent basis the County will implement a monthly reconciliation of the bank account, IDIS, and the County's General Ledger System. Upon completion of the monthly reconciliation, program income will be credited to IDIS.

Our review of County records for the period June 1, 2009 through November 30, 2012 identified the following sources of potential program income:

September 2009	NVB Holdings	$4,610.00
January 2010		$31,730.66 (*)
April 2010	NVB Holdings	$4,610.00
August 2010	NVB Holdings	$4,610.00
December 2010		$37,097.00 (a)
June 2011	NVB Holdings	$4,610.00
May 2012	NVB Holdings	$4,610.00
November 2012	LUA Homes	$9,000.00
Total		$100,877.66

* County investigating source of these amounts.

Once the difference is identified and the source of the above * amounts are confirmed, the county will credit the program income to IDIS.

Comment 5

(a) The amount $37,097.00 is attributable to the LUA Homes Project (PO #223932, IDIS #1933). This was a drawdown requested from IDIS on 12/17/10 (see attached Green Drawdown sheet), transferred to County General Ledger Account (County provided as Attachment A: check #1116), and then paid out as check #287587, 12/13/10 (County provided as Attachment B: listings from County accounting system).

Ref to OIG Evaluation	Auditee Comments
	The $37,097.00 is not program income and should be reduced from the amount.
	Program Income Not Properly Recorded
Comment 5	The audit report states that program income in the amount of $100,878 was received during program years 2009 through 2012.
	Response to Recommendations:
Comment 2	1A. The funds identified in the audit report were committed to eligible activities and expended. Therefore, recapture is not necessary.
Comment 3	1B. The funds identified in the audit report were expended on eligible activities. Internal transfers between County accounts did not take place on a regular basis which led to a high bank balance. The Division will make internal transfers on a regular basis and reconcile accordingly. A key indicator of this issue is reflected in the balance as of May 2013, which was $252,240.87, significantly lower than the balance of $755,607, that was in the account at the time of the review.
Comment 4	1C. The County had already instituted the policy in late 2010 of committing funds in IDIS only to those developers that had entered into written agreements with the County.
Comment 4	1D. The County receipts program income in a segregated bank account identified as HOME program income and will institute a policy to reconcile this account with IDIS on a monthly basis.
Comment 4	1E. The County has implemented controls to ensure that program income is recorded in IDIS and disbursed before entitlement funds are drawn in accordance with regulations.
	Finding 2: HOME Program Funds Were Disbursed for Ineligible Activities and Contrary to Administrative Requirements
	Additional Assistance to a Previously Assisted Property
	The additional assistance in the amount of $19,935 with funds from PY 2004 for rehabilitation of a rental property was presented to the loan advisor as a new activity by the developer. The activity was processed by the loan advisor as a new activity. The former Director, in an effort to disburse funds for affordable housing activities, approved funding for the project. The former Program Manager did not perform a review of the IDIS report PR 02 to determine if the address improved had received funding in the past. Therefore the project was processed as a new activity in IDIS.
Comment 4	Corrective Action: The County has since implemented the use of the PR 02 in its review process to determine if a proposal has received assistance for the same site in the past.

Ref to OIG Evaluation	**Auditee Comments**

Assistance in Excess of HOME Subsidy Limits

The County disbursed $25,116 for the rehabilitation of a rental property for people with special needs. The loan advisor examined the maximum subsidy limit for an SRO and approved the project based upon the site identified. However the applicant amended their application and the new site had a different room configuration, which necessitated a new calculation, which was not performed.

Comment 4

Corrective Action: The County requires applicant's to submit a new application when requesting HOME funds for a new site. The County provides the 221 (d)(3) limits with the application so that both applicant and loan advisor utilize the correct calculation for each project site.

Operating Funds Provided to an Ineligible CHDO

The County disbursed $26,500 to an ineligible CHDO in 2009 based upon the certified CHDO's board not maintaining at least one-third of its member positions for residents of low-income neighborhoods, other low income community residents, or elected representatives of a low income neighborhood.

County Response: The CHDO had utilized the 1990 census data map to justify the eligibility of its board composition when it was initially certified. The CHDO did not utilize the most recent 2000 census data map to qualify the residences of its board members, which had reduced the eligible area the CHDO could utilize.

Comment 4

Corrective Action: The County recently issued a Request for Qualifications for CHDO's. The purpose of the RFQ was to solicit eligible CHDOs and to ensure all CHDO's met the eligibility criteria. The CHDO identified in the audit is currently not certified as an eligible CHDO with the County.

HOME-Assisted Unit Rent Above HOME Rent Limits

A County sub-grantee required tenants of two HOME-assisted units, whose rent was paid from HUD's Housing Choice Voucher program, to pay utility costs without reducing the rent by this cost.

Comment 6

County Response: The monitor reviewed the project's rents and found them in compliance based upon the high HOME rent limits. The published high HOME rent limits were $1289.00 for a two-bedroom unit. In order to determine the affordability, The landlord utilized the FY 2012 income limit for two persons at $52,000 and multiplied that amount by 30% in order to determine affordability. They determined that the affordable rent to be charged to the tenant would be $1284.00 gross. The tenant is receiving a Newark Section 8 project based voucher, which only pays for the actual rent for the unit. In order to determine the utility allowance for each unit they utilized form HUD 52530.c. The amount of $94.00 was determined for the utility allowance, the remainder of $1190.00 is the amount of the voucher paid directly to the landlord. The landlord never receives the $94.00 and the $1190.00 is the actual monthly rent reflected in the lease. Therefore, the County cannot advise the landlord to reimburse the two tenants $752 each. The County has provided the Newark Section 8

Ref to OIG Evaluation	Auditee Comments

agreement for tenants and the LUA Homes explanation of NJHMFA calculated rents (County provided as Attachment C.)

Comment 4

Corrective Action: All future HOME loan agreements will designate which HOME assisted units are high HOME rent units and low HOME rent units.

Program Administration Not Always in Compliance With Program Requirements

HOME funds were reported as committed for 7 rental and homeownership properties reviewed without a HOME sub-grantee agreement having been executed.
County Response: Prior to 2010 the County utilized award letters as a basis to commit funds in IDIS. Since that time the County has drafted written agreements that are executed prior to the commitment of funds in IDIS.

No Corrective Action Required.

HOME funds were disbursed for 6 rental and home-ownership properties reviewed before a HOME sub-grantee agreement was executed.

County Response: Prior to 2010 the County entered into loan agreements without first entering into a written agreement to disburse funds for an activity. The six identified activities followed the previously described process and the checks were dated prior to the actual loan agreement, but were not disbursed until the time of closing. The staff at the time believed they were in compliance since the commitment letter was executed and funds for the activity were committed in IDIS.

Comment 7

Corrective Action: The County requested a wellness assessment of its HOME Program from the Newark Field Office in mid 2010. The wellness assessment produced by the HUD authorized technical assistance provider recommended the County change its process to include execution of written agreements with recipients of HOME dollars. The County made the recommended changes, including executing written agreements with recipients prior to the commitment of funds in IDIS and executing loan agreements for activities, which specify securitization and disbursement procedures. The County maintains that the Division has remedied this issue in mid 2010 when it began executing written agreements in order to commit HOME funds for activities.

Six loan agreements with HOME-assisted properties did not contain a timeframe for the completion of construction or rehabilitation.

Comment 4

County Response: The County will add provisions in all future loan agreements identifying time frames and bench marks for completion of construction and rehabilitation activities.

Corrective Action: Add timeframe provision in loan agreements.

The Value of a HOME-assisted property was not determined after rehabilitation work was completed to ensure that the property value did not exceed 95 percent of the median purchase price for the area.

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County Response: The developer was not able to provide a before and after apprised value for the project. The County acknowledges that the developer did not adhere to the HOME regulation and believes this was an isolated incident.

Comment 4

Corrective Action: The County has recently changed its policy to ensure that developers provide before and after appraised values for developments to ensure that properties do not exceed 95 percent of the median purchase price for the area.

A public notice was not published for the public comments for three rental and home-ownership properties, which had experienced substantial changes.

County Response: The County reviewed the activities cited and realizes the changes warrant a public notice. Division personnel believed a public notice was not needed for the activities since developers and programs were identified previously in the County's public notice detailing the One Year Action Plan. The County recognizes that site changes constitute a substantial amendment and therefore require a public notice.

Comment 4

Corrective Action: The loan advisor will review each proposed change and ensure that any changes that constitute a substantial change are performed in accordance with the County's citizen participation plan.

Response to Recommendations:

Comment 4

2A. The County will seek reimbursement from the developer from non-federal funds for the assistance provided for the rehabilitation since it was not performed within a year of initial commitment of funds.

Comment 4

2B. The County's loan agreements will have controls that specify benchmarks for completion and deadlines for disbursement of funds.

Comment 4

2C. The County will seek reimbursement from the developer from non-federal funds for assistance provided in excess of the HOME subsidy limits.

Comment 4

2D. The County had updated its program applications in 2011 to include the subsidy limits for the corresponding program year. Applicants and staff alike utilize the applications as source documentation to establish program year funding and utilization of the corresponding subsidy limit when making recommendations for funding.

Comment 4

2E. The identified CHDO received operating funds based upon a previously approved board composition. The Director and Program manager at the time who have both left the County, did not request an updated board composition. The County issued an RFQ in the fall of 2012 for qualified CHDOs and recertified one eligible CHDO. The County will seek repayment from the developer for the disallowed cost and reimburse the County's line of credit $26,500.

Comment 4

2F. The County as previously stated issued an RFQ in the fall of 2012 for eligible CHDOs and require CHDOs to re-certify each year.

Ref to OIG Evaluation	Auditee Comments

Comment 6

2G. The County's Program Monitor had monitored the property identified, however the tenants cited were considered to be compliant by the monitor based upon the loan agreement. The rent charged to the two tenants was paid with subsidy from the Newark Section 8 Program with the utility allowance factored in the subsidy, therefore the Division cannot instruct the property manager to reimburse two tenants since these tenants did not pay their rent in real cash.

Comment 7

2H. The County monitors its projects that are assisted with HOME funds based upon information prescribed in the loan agreement. When a project is closed a copy of the loan agreement is provided to the program monitor for scheduling of the monitoring visits.

Comment 4

2I. The County has begun and will continue to strengthen administrative controls to ensure that HOME activities are administered in compliance with program requirements.

Comment 4

2J. The County will seek and obtain training from HUD in the future.

FINDING 3: WEAKNESSES IN ADMINISTRATIVE CONTROLS OVER HOME PROGRAM MATCH CONTRIBUTION FUNDS

Comment 8

County Response: The County acknowledges errors, primarily due to a misinterpretation of match requirements, and inadequate support documentation, when calculating match contributions for some of the projects closed in 2009 and 2010. However, the County has identified and addressed weaknesses in the administration of HOME match contributions that will ensure the reporting of future match contributions will be accurate. Furthermore, the County has obtained supporting documentation for projects cited in the audit, and has prepared an updated assessment of the match contributions for 2009 and 2010 that shows the County exceeded its minimum requirement of 25% matching funds for projects closed during this period. Finally, the County believes the match carryover of $52 MM through 2009 is valid.

INELIGIBLE AND UNSUPPORTED MATCH CONTRIBUTIONS

County Response:

1. $6,158,258 for Tax Credit Exchange Program (Project #2029)

The County initially considered the tax credit exchange funds as match eligible because the program was processed by the State. After an extended review period of this program by local and federal offices, it was ultimately determined that the benefits were originally derived from federal sources and therefore ineligible for match.

Comment 4

Result: the County will remove this match contribution from its HOME match report

2. $8.24 MM in loan principal that was borrowed at a discount from the NJ HMFA, and $200,000 in loan principal that was borrowed at a discount from the City of Orange, should have been listed at the present discounted cash value (Project #2029)

Ref to OIG Evaluation **Auditee Comments**

The County acknowledges that the match contribution for these funding sources should have been based on the present discounted value of these lower than market rate loans.

Comment 4

Result: The County has recalculated the eligible match contribution for these funding sources based on present discounted cash value and the relative number of units funded by County HOME funds, and will make the necessary modifications to the HOME match report.

3. $ 838,390 from mortgages obtained by first time home buyers (Project #s: 1811, 1812, 1890, 1922,1937)

The County acknowledges that the match contributions for these funding resources were not calculated correctly due to a misinterpretation of the match requirements.

Comment 4

Result: The County will remove this match contribution from its HOME match report. Furthermore, the County will report future match contributions from similar projects based on the match regulations.

4. Funding of $140,065 (Project # 1934) and $478,950 (1935) did not represent a permanent contribution obtained by non profit entities to rehabilitate HOME assisted properties.

The County acknowledges that the match contributions for these funding resources were not calculated correctly due to a misinterpretation of the match requirements.

Comment 4

Result: The County will remove these match contributions from its HOME match report.

5. Match of $176,873 (Project # 1794) was not adequately supported by documentation

The County recently obtained the supporting documentation for all the funding sources for this project. Based on a reassessment of the supporting documentation, the County has determined that the eligible match contribution for this project is $100,000.

Comment 9

Result: The County will modify the reported match contribution for this project on its HOME match report

HOME ENTITLEMENT FUNDS MATCHED WITH UNSUPPORTED CONTRIBUTIONS

County Response:

1. To achieve a minimum 25% match for the years under review by this audit, the County must document eligible match contributions totaling $640,283 for 2009 and 2010. To date, the County has documented eligible match contributions totaling

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$357,940, thereby leaving a balance of $282,343 required to meet the minimum match contribution requirements for 2009 and 2010.

Comment 10

The County has prepared an updated match report which shows that documented eligible match contributions total $ 4,451,613.00, which exceeds the minimum requirement of $640,283. As a result, there is no shortfall in required match contributions. It is noted that total match contributions may be higher as the County receives additional supporting documentation.

2. The carryover match balance of $52.28 MM at the start of 2009 may not be accurate.

Comment 11

The County believes that the carry over balance is valid based on the type of projects that yielded match contributions in the past.

CONCLUSIONS

1. The County was deficient in calculating match contributions due to an unfamiliarity with HOME program match contribution requirements and weaknesses in maintaining support documentation

Comment 4

County Response: The County acknowledges that for some projects, the reported match contribution was incorrect. However, the County has identified and addressed its weaknesses, and expects future match contributions will be accurate. Furthermore, the County will modify the existing match log to reflect the corrections described above.

Response to Recommendations:

Comment 4

3A. As noted above, the County will remove $16,057,723 in ineligible claimed match contributions.

Comment 8

3B. The County has obtained the supporting documentation for the funding sources of this project #1794 (County provided as Attachment D). Furthermore, based on this documentation, the reported match contribution has been modified to $100,000.

Comment 10

3C. The County has obtained the supporting documentation for match contributions totaling $4,451,613.00 (County provided Attachment E). As a result, no HOME program funds need to be repaid to the program account because of a lower than required match contribution.

Comment 4

3D. The County has and will continue to enhance its management and oversight of match contribution reports in order to strengthen administrative controls over the management of HOME match contribution requirements.

Comment 4

3E. The County has implemented policies and procedures, including the collection of support documentation from applicable funding resources, to ensure that claimed matching fund sources comply with HOME program matching requirements

Ref to OIG Evaluation **Auditee Comments**

Comment 4

3F. The County will seek and obtain training from HUD

The County will follow through on this recommendation.

Finding 4: There Were Weaknesses in Financial Controls Over Compliance with Federal Regulations and Program Requirements

Unsupported Costs Charged to the HOME Program

County Response: The County utilizes a cost allocation plan that is issued each year. The cost allocation plan describes the fringe and indirect costs to be charged to each division in the County. The Division utilized the percentages that were indicated in the plan and have provided a copy as Attachments F & G.

Comment 12

No Corrective Action Required

Ineligible Employee's Compensation Paid With HOME Funds

County Response: The Division processed the employee's paperwork when the resignation was tendered. Accounts and controls was not notified of the resignation in time to withhold the direct deposit to the employee's account. The Division moved to recover the funds.

Comment 4

Corrective Action: The Division maintains this was an isolated incident, since additional employees have left the Division without a similar occurrence.

Unnecessary Drawdown From LOCCS

County Response: The Division was provided a voucher in the amount of $26,525 for the purchase of windows. The Division held the check upon notification that the windows had not been delivered to the work site. The Division cancelled the check and returned the funds to its local bank account to be used for an eligible voucher submission.

Comment 13

No Corrective Action Required

Information in IDIS Not Always Reconciled With the County's Accounting Records

County Response: The Division acknowledges that IDIS was not always reconciled with the County's accounting records on a consistent basis. The Division attributes the issue to staff turnover.

Comment 4

Corrective Action: The County is currently reconciling past balances between IDIS and the County's accounting records. The County will conduct regular reconciliations and have the Director approve accordingly.

Ref to OIG Evaluation	Auditee Comments

Response to Recommendations:

Comment 12 — 4A. The County has provided documentation to support that $37,166 in indirect administrative costs charged to the HOME program represented eligible costs.

Comment 12 — 4B. The County has provided a cost allocation plan to support the allocation of $78,103 in indirect costs charge to the HOME program in program years 2009-2011.

Comment 4 — 4C. The County will maintain the cost allocation plan from the Division of Accounts and Controls on site for fringe and indirect planning costs.

Comment 4 — 4D. The County will reimburse its line of credit $1,915 from non-federal funds for the employee salary, fringe benefits and indirect costs charged to the HOME program.

Comment 4 — 4E. The County has strengthened its financial controls to ensure that employee terminations are removed from County payroll in a timely manner. The personnel liason provides the Department with termination forms and verifies that employees are removed from the payroll.

Comment 13 — 4F. The County did not disburse the $26,525 as stated above and has deposited the funds in its local bank account. The County will return the funds to its line of credit.

Comment 4 — 4H. The County is currently reconciling the $288,400 discrepancy between IDIS and the County's accounting records.

Comment 4 — 4I. The County's will perform regular reconciliations of its accounts and have the Director approve accordingly.

If you have any questions, please contact me at (973) 655-0200.

Sincerely,

George F. Serio, Jr.

CC: Lucia A. Guarini, Acting Department Director
John Soares, Finance Coordinator
Esther Martinez, Sr. Loan Advisor
Craig Lombardi, Data Processing Systems Processor

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Putting Essex County First

Essex County is an Equal Opportunity / Affirmative Action Employer

OIG Evaluation of Auditee Comments

Comment 1 County officials stated that the finding that 2008 funds were not committed in a timely manner refers to activities that precede the stated audit period of fiscal years 2009 and 2010. However, the scope and methodology section of the audit report does note that the audit period was extended as needed to accomplish the audit objective. Since the timeframe for year 2008 funds to be committed was from fiscal year 2008 through 2010, activities used to commit these funds fell within the stated audit scope and needed to be reviewed to verify proper program year 2008 commitments.

Comment 2 While County officials stated that they provided material to support that the four questionable activities were closed in compliance with the commitment deadline requirement, they added that legally binding agreements with subgrantees were not executed before committing HOME funds for these activities. Therefore, we maintain that $100,936 of HOME funds expended for the four activities were not committed in compliance with HOME commitment requirements because legally binding agreements were not executed with the subgrantees before committing the funds.

Comment 3 County officials stated that a portion of the unexpended balance is attributable to administrative costs, which were not reimbursed to the County's general bank account in timely manner. Since this documentation was not provided during the audit, County officials will need to provide it to the HUD field office as part of the audit resolution process, and any unsupported funds should be recaptured.

Comment 4 County officials' planned actions are responsive to the recommendation.

Comment 5 County officials provided documentation at the exit conference to support that the $37,097 was not program income. Therefore, the unrecorded program income amount of $100,878 included in finding 1 was reduced by $37,097 and the remaining balance of $63,781 ($100,878-37,097) will remain unsupported as unrecorded program income.

Comment 6 County officials stated that the rent of $1,284, including utilities of $94, was within the applicable high HOME rent limit of $1,289, and that the landlord received $1,190 for rent from the City of Newark Section 8 program and the tenant paid for utilities directly to the utility company. However, since these two units were designated as HOME low-rent units, they are required to be rented for the applicable HOME low-rent limit of $1,021. However, HOME rent requirements allow HOME recipients to increase the HOME low-rent limit, which includes utilities, up to the amount of the Federal or state housing subsidy, as long as the units are receiving such subsidy. Therefore, the maximum rent limit, which includes utilities, cannot be more than $1,190. Consequently, the landlord needs to reimburse the two tenants $752 each for utilities and adjust the rent to comply with HOME program rent limits.

Comment 7 County officials maintain that they implemented corrective action in mid-2010. If they comply with these newly established procedures, funds should not be disbursed prior to executing a subgrantee agreement, thus addressing the noted weakness.

Comment 8 County officials acknowledged errors in calculating eligible match contributions and stated that they have addressed weaknesses, which led to these errors. They further said that they have prepared an updated assessment of their match contribution and believe that the over $52 million carryover balance is valid. County officials should provide documentation to verify this belief to the HUD field office during the audit resolution process.

Comment 9 County officials removed $76,873 of the 176,873 from the County's matching contribution log because it is an ineligible matching contribution and provided documentation to support the eligibility of the remaining balance of $100,000. We reviewed the additional documentation and concluded that the remaining balance of $100,000 is eligible because it is a non-interest bearing grant from a local authority. Therefore, the $176,873 is reduced and $76,873 is reclassified as ineligible.

Comment 10 County officials stated that they have prepared an updated match report which details eligible match contributions of over $4.4 million. This documentation should be provided to the HUD field office for verification as part of the audit resolution process.

Comment 11 County officials believe that the carryover match balance of $52.28 million at the start of 2009 is accurate. However, given the high amount of ineligible match contribution we found and County officials agreed was not valid, HUD should request that the County officials provide reasonable documentation to verify this amount during the audit resolution process.

Comment 12 County officials stated that the County utilizes an annual costs allocation plan and at the exit conference provided a copy of the calendar year 2009 and 2010 allocation plans. We reviewed the provided allocation plans and concluded that the County used a reasonable basis to support indirect costs allocated to its HOME program in year 2009 and 2010. Therefore, the $78,103 in unsupported indirect costs allocated to the County's HOME program is reduced by $49,063 for year 2009 and 2010 and the remaining balance of $29,040 represents the unsupported indirect costs allocated in year 2011.

Comment 13 County officials stated that they cancelled a check of $26,525, which was unnecessary drawn down from the County's HOME program line of credit and returned the $26,525 to the County's local bank account to be used for an eligible voucher submission. However, County officials need to provide HUD Newark CPD office with documentation to support that the fund was returned to the County's HOME program line of credit or used toward future eligible HOME costs.