City of Olathe, KS

Neighborhood Stabilization Program, Community Development Block Grant Program, and HOME Investment Partnerships Program

September 28, 2016
HUD-OIG Audit Report Number: 2016-KC-1005
HUD-OIG Office of Audit, Region 7
Kansas City, KS

Johnson County, KS Audit Report Number: 2016-02
Johnson County Audit Services
Olathe, KS

To: Dana Buckner, Director, Office of Community Planning and Development, Kansas City, KS, 7AD

Board of County Commissioners, Johnson County, KS

County Manager, Johnson County, KS

//**signed**//

From: Ronald J. Hosking, Regional Inspector General for Audit, 7AGA

//**signed**//

Ken Kleffner, County Auditor, Johnson County, KS

Subject: The City of Olathe, KS, Did Not Always Comply With the Requirements of HUD's Neighborhood Stabilization Program, Community Development Block Grant Program, and HOME Investment Partnerships Program

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) and the Johnson County, KS, Audit Services' final results of our joint review of a complaint pertaining to the City of Olathe, KS's housing programs.

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 8M, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at http://www.hudoig.gov. Also, it will be posted on the Johnson County, KS, Audit Services' website, http://www.jocogov.org/audit.

If you have any questions or comments about this report, please do not hesitate to call Ronald Hosking at 913-551-5870 or Ken Kleffner at 913-715-1833.

HUD-OIG Audit Report Number: 2016-KC-1005
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The City of Olathe, KS, Did Not Always Comply With the Requirements of HUD's Neighborhood Stabilization Program, Community Development Block Grant Program, and HOME Investment Partnerships Program

Highlights

What We Audited and Why

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General, and Johnson County Audit Services, Johnson County, KS, audited the City of Olathe, KS, based on a hotline complaint. The complaint allegations are discussed further in the background and objectives section. Our audit objectives were to determine whether (1) the complainant's allegations were substantiated, (2) the City listed the proper affordability period for the Neighborhood Stabilization Program (NSP) homes it sold, and (3) the City received maximum benefit from the HOME Investment Partnerships Program grant funds it received.

What We Found

We substantiated some of the complainant's allegations. Specifically, the City did not properly allocate administrative costs to its housing rehabilitation programs, and it improperly sold an NSP home to a City employee's daughter. In addition, the City did not select applicants appropriately and ensure that its NSP waiting list was accurate and updated. In addition to the complainant's allegations, we found the City forgave its NSP promissory notes much sooner than required, and it did not fully use its HOME funds.

What We Recommend

We recommend that the Director of the Kansas City, KS, Office of Community Planning and Development work with the State of Kansas and Johnson County to require the City to provide adequate support for $575,855 in unsupported salary costs and $38,711 in unsupported management fees or reimburse HUD from non-Federal funds any portion it cannot support. We also recommend that the City reimburse its NSP $39,500 for the promissory note that it satisfied when the homeowners sold their home before completion of the correct affordability period and up to $52,150 from the net proceeds for the promissory note that it satisfied for the home that went into claim after our review. In addition, we recommend that the City implement detailed NSP policies and procedures, checklists, and applications that disclose potential conflict-of-interest relationships. The City should receive monitoring by the appropriate grantee to ensure that it implements the recommendations. Further, we recommend that the County pursue the efficiencies to be gained by consolidating the two entities' HOME programs, and the City should amend previous HOME agreements to be aligned with the County's HOME program and release all loans that have met the 10-year affordability period.

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Background and Objectives

Olathe, KS, is the second largest city among the 21 communities in Johnson County, KS, and is located just 20 miles southwest of downtown Kansas City, MO. Since the 1950s, Olathe's population has quadrupled, and it is the fifth largest city in Kansas. In 1986, its voters selected a modified mayor-council-manager form of government.

The City of Olathe, through its Parks and Recreational Department, manages the Housing and Transportation Services Division. Within this division, the housing rehabilitation staff manages three U.S. Department of Housing and Urban Development (HUD), Office of Community Planning and Development, programs. These include the Neighborhood Stabilization Program (NSP), Community Development Block Grant (CDBG), and HOME Investment Partnerships Program (HOME).

Title III of the Housing and Economy Recovery Act of 2008 authorized NSP and provided grants to every State and certain local communities to purchase foreclosed on or abandoned homes and rehabilitate, resell, or redevelop them to stabilize neighborhoods and stem the declining value of neighboring homes. The State of Kansas executed a grant agreement with the County for more than $4.5 million in NSP1 funds. The City was the County's subrecipient of this NSP1 grant and received more than $1.9 million. The City used these funds to purchase and rehabilitate properties for resale and for use as rental units.

Title I of the Housing and Community Development Act of 1974 authorized the CDBG program. Communities can use the funds to address critical and unmet community needs, including those for housing rehabilitation, public facilities, infrastructure, economic development, public services, and more. HUD executed grant agreements with the County totaling more than $6.1 million in CDBG funds from 2011 to 2015. The City was the County's subrecipient of the CDBG funds and received more than $1.9 million from 2011 to 2015. The City used these funds for full- and part-time community enhancement officers, administrative salaries and costs, home improvement needs, roof replacement, kitchen repair, road repair, and its taxi coupon program.

HOME is a program in which HUD allocates funds by formula among eligible State and local governments to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing with primary attention to rental housing for very low-income and low-income families. Generally, HOME funds must be matched by non-Federal resources. HUD executed grant agreements with the County totaling more than $4.8 million in HOME funds from 2011 to 2015. The City was the County's subrecipient of the HOME funds and received more than $554,900 from 2011 to 2015. The City used these funds for housing rehabilitation projects through a deferred loan program.

We initiated this audit based on a hotline complaint alleging the City's misuse and mishandling of CDBG and NSP funds. Some of the allegations included the City's not properly allocating administrative costs to its housing rehabilitation programs, conflicts of interest, and preferential treatment. We substantiated these allegations. In addition, we did not substantiate the complainant's allegations on providing assistance to individuals who are not income qualified, funding projects without environmental reviews, improperly upgrading an individual's property who never applied for the program, and failing to place required data into the Consolidated Annual Performance and Evaluation Report. Also, we could not substantiate another preferential treatment allegation.

This was a joint audit between HUD's Office of Inspector General (OIG) and the Johnson County, KS, Audit Services. We conducted a joint audit because Johnson County, KS, is the grantee for several of the City's HUD housing programs.

Our audit objectives were to determine whether (1) the complainant's allegations were substantiated, (2) the City listed the proper affordability period for the NSP homes it sold, and (3) the City received maximum benefit from the HOME grant funds it received.

Results of Audit

Finding 1: The City Did Not Properly Allocate Administrative Costs to Its Housing Rehabilitation Programs

The City did not properly allocate administrative costs to its housing rehabilitation programs. This deficiency occurred because the City did not have policies or procedures requiring its staff to track time spent on activities, and it relied on incorrect guidance on charging management fees. As a result, HUD lacked assurance that the City properly used $614,566.

The City Did Not Properly Allocate Administrative Costs

The City's housing rehabilitation staff timesheets did not track time spent among HOME, CDBG, and NSP. Federal regulations at 2 CFR (Code of Federal Regulations) Part 225, appendix B, paragraph (8)(h), require employees who work on multiple activities or cost objectives to use personnel activity reports or equivalent documentation to support their salaries or wages. The regulations also require these reports or equivalent documentation to reflect an after-the-fact distribution of the actual activity worked on, account for the total activities for which an employee is compensated, be prepared at least monthly, and be signed by the employee. Federal regulations at 2 CFR 200.430(a)(3) requires the total compensation for individual employees to be determined and supported. Regulations at 2 CFR 200.430 replaced 2 CFR Part 225 in 2014. In addition, the NSP Policy Alert, Guidance on NSP Activity Delivery and Administrative Costs, dated May 18, 2012, states, "…for staff costs, this includes a timecard, timesheet, or other time keeping mechanism that demonstrates the time that was spent on the eligible NSP activity."

From January 2011 through August 2015, City staff members did not track their time spent among HOME, CDBG, and NSP. In September 2015, they began to track time to their various activities. The City charged most of the salaries and benefits to its CDBG administrative grants. The City's salaries and benefits totaled $575,855 from 2011 through 2015. The table below shows the salaries and benefits.

Year	Salary	Benefits	Totals
2011	$90,241	$25,573	$115,814
2012	95,843	26,468	122,311
2013	88,650	29,719	118,369
2014	86,729	36,117	122,846
2015*	67,147	29,368	96,515
Totals	428,610	147,245	575,855

*Salaries and benefits were prorated for 2015 because the City began tracking activities on September 28, 2015.

Also, the City's housing services manager did not document her timesheets to track time spent among her duties with the City's housing rehabilitation programs and as the City's housing authority executive director.

In addition, the City improperly charged a 10 percent management fee for managing its NSP properties, with 5 percent allotted to the housing rehabilitation staff and 5 percent to the Olathe Housing Authority. The City stated that it used the Olathe Housing Authority portion to pay the housing services manager's salary. From January 1, 2011, to December 31, 2015, the City received $38,711 in improper management fees.

The City Did Not Have Policies and Procedures and Relied on Incorrect Guidance on Management Fees

The City did not have policies or procedures for tracking time spent on HOME, CDBG, and NSP activities until September 2015. During our review, the housing services manager began tracking time spent on specific activities. In addition, the City relied on an incorrect form the State of Kansas provided concerning the use of management fees. City staff members stated that they completed NSP rental property income and expenses statements and these statements listed management fees. The City completed this form and sent it to the State; however, the State did not inform the City that the management fees were improper.

HUD Lacked Assurance That the City Properly Used $614,566

The accurate way to allocate salaries to individual grants is to allocate the costs based on the actual amount of time staff spends working on each grant. Because the City did not properly allocate costs to its housing rehabilitation activities, HUD lacked assurance that it properly used $614,566 in administrative costs.

Recommendations

We recommend that the Director of HUD's Kansas City, KS, Office of Community Planning and Development work with the State of Kansas and the County to require the City to

1A. Provide adequate support for $575,855 in CDBG unsupported salary costs or reimburse the affected programs from non-Federal funds any portion it cannot support.

1B. Provide adequate support for $38,711 in unsupported NSP management fees or reimburse the City's NSP program from non-Federal funds any portion it cannot support.

1C. Implement a detailed tracking system to ensure that it properly tracks activities.

1D. Receive training on salary distribution methods and documentation requirements for Federal grants.

1E. Receive monitoring by the appropriate grantee to ensure that it establishes and implements a new activity tracking system.

Finding 2: The City Improperly Sold an NSP Home to a City Employee's Daughter

The City improperly sold an NSP home to a City employee's daughter. This deficiency occurred because the City's NSP policies and procedures, checklists, and application did not require City employees or applicants to disclose potential conflict-of-interest relationships. This sale resulted in a loss of public trust.

The City Improperly Sold an NSP Home to a City Employee's Daughter

On February 19, 2010, an NSP applicant submitted her application to buy an NSP home. She met the income and other requirements. However, the applicant's mother worked on the housing rehabilitation staff that managed the NSP housing rehabilitations and home sales. On March 5, 2010, HUD sold a foreclosed on home to the City for $158,000. The City rehabilitated the home, and the applicant signed a sales contract to purchase the property on April 10, 2010, for $118,500. On June 28, 2010, the applicant and the City executed the settlement statement for $118,500, and on June 30, 2010, the City and the applicant signed a 3-year promissory note for $39,500 to meet the City's $158,000 purchase price.

Although the City stated that the employee handled only the NSP rehabiliation duties, this action violated various Federal and local conflict-of-interest policies. Federal regulations at 24 CFR 570.611(b) state, "…no person who is in a positon to participate in a decision making process or gain inside information with regard to such activities may obtain a financial interest or benefit or those whom they have business or immediate family ties, during their tenure or for one year thereafter." In addition, 24 CFR 570.611(c) states that this applies to "subrecipients that are receiving funds under this part." Also, 24 CFR 570.611(d) states that HUD may grant an exception on a case-by-case basis when it has satisfactorily met the threshold requirements. However, the City did not submit a waiver request to HUD.

In the City's employee handbook, dated March 3, 2010, section 2-8 addresses conflicts of interest and states, "…employees have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest. An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative as a result of the City's business dealings. A relative is any person who is related by blood, marriage, or adoption."

Also, the City's Code of Conduct states, "…employees shall not engage in any business transaction or have financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of their duties, or would tend to impair their independence of judgment or action in the performance of their duties." In addition, the City's Code of Ethics tells employees to "…avoid conflicts of interest by refraining from participating in dccisions or being involved in transactions in which they or their family has an interest, and make full disclosure of association when involvement cannot be avoided."

The housing services manager believed this was not a conflict of interest because the employee was not directly involved in the application or sales transaction. The City employee stated that she worked primarily on clerical duties on the rehabilitation portion. However, several emails showed that she had influenced repairs on the property before and after it was sold. After the house was sold, the employee's supervisior told the employee that only the daughter should request the repairs.

Further, the City did not list the correct affordability period on the promissory note for this property. The promissory note listed 3 years, but it was supposed to be 10 years. The City attempted to have the daughter sign a new promissory note with a 10-year affordability period, but she refused to sign the new promissory note. The homeowner sold the house in June 2016. We addressed this issue in finding 3.

Potential Conflict-of-Interest Relationships Were Not Disclosed

The City's NSP policies and procedures, checklists, and application did not require City employees or applicants to disclose potential conflict-of-interest relationships. The 2015 and 2010 NSP policies and procedures did not address actual or potential conflict-of-interest relationships.

Public Trust Was Damaged

This NSP home sale resulted in a loss of public trust. The public expects its government to use tax dollars wisely, fairly, and for the intended purpose.

Recommendations

We recommend that the Director of HUD's Kansas City, KS, Office of Community Planning and Development work with the State of Kansas to require the City to

2A. Develop and implement detailed NSP policies and procedures, checklists, and applications that require City employees or applicants to disclose potential conflict-of-interest relationships.

2B. Receive conflict-of-interest training that addresses Federal regulations.

2C. Receive monitoring by the appropriate grantee to ensure that it establishes and implements detailed NSP policies and procedures, checklists, and applications that require City employees or applicants to disclose potential conflict-of-interest relationships.

Finding 3: The City Forgave Its NSP Promissory Notes Much Sooner Than Required

The City forgave its NSP promissory notes much sooner than required. This condition occurred because the City did not have a system for obtaining current guidance from HUD. As a result, it could not recapture the $91,650 in financial assistance provided to two NSP homeowners.

The City Forgave Its NSP Promissory Notes Much Sooner Than Required

According to the NSP Policy Alert, Guidance on NSP-Supported Homeownership: Affordability, Financial Structure, and Program Income, dated March 3, 2009, when an NSP applicant qualifies for an NSP home, the NSP grantee reviews the applicant's income to determine an affordable mortgage payment for the home. In many cases, a subsidy in the form of a reduced sales price or a second mortgage at favorable terms may be required to make the transaction initially affordable for the family.

The amount of subsidy to make the house initially affordable becomes the basis for determining continued affordability. Based on HOME or stricter standards, the house must remain affordable for 5, 10, 15, or more years. When the family sells the house, the NSP grantee must determine whether the period of continued affordability has been completed. If the family meets the affordability terms, it owes no money and may sell the house free of conditions. If the family does not meet the affordability terms, the NSP grantee may recapture the funds. The following table lists the affordability period for owner-occupied homes.

Home-ownership assistance amount per unit	Minimum period of affordability in years
Under $15,000	5
$15,000-$40,000	10
More than $40,000	15

The City sold three NSP homes, and each home initially had a promissory note listing a 3-year affordability period. One homeowner had a $15,000 promissory note, one had a $39,500 promissory note (see finding 2), and one had a $52,150 promissory note. The promissory notes should have included affordability restrictions for 10 years, 10 years, and 15 years, respectively. In 2011, the City was notified that it was using the wrong affordability period. The City tried to renegotiate the promissory notes and was able to get one homeowner to change the $15,000 promissory note to the correct 10-year period. The other two homeowners refused to sign a new promissory note.

The City's promissory note stated that if the borrower sold the property or transferred title during the 3-year affordability period, the City would be entitled to recapture the entire loan amount at zero percent interest. If a property went into foreclosure, the City was entitled to recapture the entire loan amount from net proceeds. The net proceeds were the sales price minus repayments on any primary or first mortgage loan and any closing costs. If the net proceeds were insufficient to repay the investment due, the City would only recapture its investment amount up to the amount of the available net proceeds. If there were no net proceeds, the City would not receive any repayment.

In this case, the homeowner with the $39,500 promissory note sold the home in June 2016. The home with the $52,150 promissory note went into foreclosure proceedings in January 2016 but was still active as of July 28, 2016.

The City Did Not Have a System for Obtaining Current HUD Guidance

The City received its guidance from the State of Kansas's NSP frequently asked questions Web site and NSP training slide. One of the frequently asked questions stated, "…soft loans for prospective homebuyers should be for not less than three years and will be forgiven on a pro-monthly basis." The Web site still showed this information as of August 2016. In addition, the City referenced an NSP training slide that listed a 3-year recapture period for properties sold to homeowners. The NSP Policy Alert, Guidance on NSP-Supported Homeownership: Affordability, Financial Structure, and Program Income, dated March 3, 2009, listed the correct affordability period; however, the City could not find the NSP Policy Alert in its NSP notebook with applicable policies and procedures. The City did not have a system for obtaining current guidance from HUD.

The City Could Not Recapture the $91,650 in Financial Assistance

By listing the incorrect affordability period on the promissory note, the City could not recapture $39,500 when one NSP homeowner sold her home after the incorrect 3-year affordability period but within the correct 10-year affordability period. In addition, the City would not be able to recapture any of the $52,150 when the bank completed foreclosure proceedings on another NSP home after the incorrect 3-year affordability period but within the correct 15-year affordability period. As a result, the City could not recapture the $91,650 in financial assistance provided to the NSP homeowners.

Recommendations

We recommend that the Director of HUD's Kansas City, KS, Office of Community Planning and Development work with the State of Kansas to require the City to

3A. Reimburse its NSP $39,500 from non-Federal funds for the promissory note that it satisfied when the homeowner sold her home before completing the correct affordability period.

3B. Once the foreclosure proceedings are complete, reimburse its NSP from non-Federal funds up to $52,150 from the net proceeds for the promissory note that it satisfied for the home that went to claim after our review.

3C. Develop a system to ensure that it is informed about NSP policy alerts and other related guidance.

3D. Receive monitoring by the appropriate grantee to ensure that it develops a system to receive NSP policy alerts and other related guidance.

Finding 4: The City Did Not Select Applicants Appropriately and Ensure That Its NSP Waiting List Was Accurate and Updated

The City did not select applicants appropriately and ensure that its NSP waiting list was accurate and updated. This deficiency occurred because the City's NSP policies and procedures were incomplete and its housing management staff did not always provide the necessary oversight. As a result, there was an appearance of preferential treatment.

The City Did Not Select Applicants Appropriately and Its Waiting List Was Not Accurate

The City's housing rehabilitation staff managed eight NSP rental properties. The City used its NSP waiting list to track applicants wishing to rent the properties. Although the City does have a current NSP waiting list, the City created one version of its NSP waiting list on February 23, 2010, and last modified it on April 16, 2010. According to the City's NSP application policies and procedures created on February 19, 2010, "…placement on the waiting list will not take place until a household has met all of the eligibility requirements… Households will be placed on the waiting list according to the date their file was determined to [be] complete and approved by the Housing Services Office according to NSP guidelines. If more than one family is approved on the same date, then they will be placed on the waiting list according to the date and time they submitted an application."

The City's NSP waiting list that was modified on April 16, 2010, contained names of eligible applicants who had applied before June 2010. Although the NSP waiting list recorded some applicants as no-shows or ineligible, there was no indication of resolution for some applicants on the NSP waiting list. When the City initially selected tenants for the eight rental properties, it approved three applicants to live in the NSP rental properties who were not listed on the waiting list.

One of these applicants was another City employee's son. He applied for an NSP home, and the City declared him an eligible applicant in June 2010. He signed a lease agreement with the City in July 2010. In addition, there were two applicants without an apparent affiliation with the City who submitted their applications in September 2010 and were selected to live in the NSP rental properties without their names appearing on the NSP waiting list.

We interviewed the last applicant listed on the NSP waiting list, with an application dated April 15, 2010. The applicant's file included a letter, dated June 4, 2010, stating that the applicant was eligible and two homes were available. However, the applicant stated that he did not receive notification of his family's eligibility. He stated that his family would have accepted the home.

NSP Policies and Procedures Were Incomplete and There Was a Lack of Management Oversight

The City's NSP policies and procedures were incomplete, and housing management staff did not always provide the necessary oversight. The City's NSP policies and procedures did not adequately address the NSP waiting list procedures, and the City did not have an updated NSP waiting list at the time the preferential treatment took place.

Further, the NSP applicant files did not always indicate proper followup. Management involvement may have prevented these problems. Although the housing services manager stated that she was heavily involved in the foreclosed-on home acquisitions, she did not handle the program's daily involvement.

There Was an Appearance of Preferential Treatment

The City's selection of the three applicants not listed on the NSP waiting list was not appropriate. As a result, there was an appearance of preferential treatment.

Recommendations

We recommend that the Director of HUD's Kansas City, KS, Office of Community Planning and Development work with the County to require the City to

4A. Develop and implement detailed waiting list procedures to prevent future waiting list difficulties.

4B. Receive monitoring by the appropriate grantee to ensure that its waiting list policies and procedures are implemented and the NSP waiting list is accurate and updated.

Finding 5: The City Did Not Fully Use Its HOME Funds

The City did not fully use its HOME funds. This deficiency occurred because the City did not always direct adequate resources to its HOME program. As a result, it did not offer more than $420,900 in grant funding to homeowners for assistance with housing restoration needs.

The City Did Not Fully Use Its HOME Funds

For program years 2011 through 2015, the City received $554,927 in HOME allocations from the County and $313,583 in program income from homeowners repaying their loans, totaling $868,510 in available funds. Yet, the City distributed only $331,738 (38 percent) of that amount to eligible homeowners.

The City and the County have a memorandum of understanding that identifies the method for determining the City's HOME allocation. As the grantee, the County has the responsibility to monitor the City's administration and execution of the HOME program. The memorandum further states that the City must remain in compliance with the County's HOME policies and procedures, with the exception of a repayment provision in the City's policy.

Since the beginning of the HOME program and continuing until 2014, the City provided interest-free loans to eligible HOME applicants and required 100 percent of the loan be repaid when the title transferred or the homeowner was no longer the owner and occupant of the home. Loan repayments are referred to as program income and are required to be redistributed before each year's County allocation is drawn. As of July 2016, the City had more than $1.9 million in outstanding HOME loans that would become program income at some time in the future.

In 2014, the City changed its HOME repayment requirement. Instead of requiring 100 percent repayment, HOME loan recipients are now required to repay only 50 percent of the loan if they remain in the home for 7 years. In contrast, the County forgives the loan at a rate of 10 percent each year. The County forgives the entire amount of the loan if the recipient remains in the home for 10 years.

In 2011 and again in 2013, 2014, and 2015, the County reported to the City its concerns that the City was not using its available HOME funds for loan assistance. County staff recommended that the City consider increasing outreach efforts, changing loan payback requirements to broaden the program's appeal, and monitoring funding levels quarterly to ensure timely spending and compliance.

The City Did Not Always Direct Adequate Resources to Its HOME Program

City officials said they had advertised the HOME program to residents via the local City television channel, the City's newsletter, and targeted mailings over the past 6 years to increase outreach efforts. Officials also noted that the City accomplished the revision to the repayment requirements in 2014 to broaden the program's appeal to future applicants.

City officials said they completed seven HOME loan projects in 2011, five in 2012, three in 2013, one in 2014, and two in 2015. They recognized that the program's recent performance had not been successful and cited the following reasons as obstacles: program income (criteria and amount), employee turnover, and poor employee performance. The City did not provide sufficient evidence of a plan to overcome the obstacles to ensure successful program execution in the future. The HOME program waiting list was an indicator of performance as it identified 12 applicants, the oldest of which dated back to June 11, 2015. HOME funds were available for these applicants, but the applicants remained on the waiting list.

The City Did Not Offer More Than $420,900 to City Homeowners for Assistance

HOME funds carry a 2-year commitment deadline. In 2011, the County amended its memorandum of understanding with the City to include a provision that if the City did not commit its HOME funds within 18 months, the County would recapture the HOME funding and use it during the remaining 6-month period in other areas within the County. This action does not violate HUD rules as HUD allows the proper recapture of HOME funds. However, the City did not receive maximum benefit from its HOME funds since they were being returned to the County and its citizens could no longer use these funds.

The table below shows the City's HOME grant funds, HOME program income, total available, amount spent, and amount the County recaptured by the year noted.

Year*	2011	2012	2013	2014	2015	Total
HOME allocation	$129,735	$103,484	$104,636	$111,357	$105,715	$554,927
HOME program income	23,127	78,417	120,439	56,361	35,239	313,583
Total available	152,862	181,901	225,075	167,718	140,954	868,510
Spent	106,283	78,417	69,042	52,911	25,085	331,738
Recaptured	**46,579**	**103,484**	**156,033**	**114,807**	**	**420,903**

* The year reflects the City's activity during the 18-month program fund period.
** The 2015 HOME allocation commitment period expires on January 30, 2017.

The audit identified $420,903 in HOME funds the County recaptured. The County used these funds to fund other HOME projects outside the City's boundaries.

Recommendations

This finding contains no HUD violations; therefore, it does not include recommendations to HUD. However, the finding does contain County recommendations since the City should be using its HOME funds to their maximum benefit.

Johnson County Audit Services recommends that the County

5A. Work with the City to pursue the efficiencies to be gained by consolidating the two entities' HOME programs.

Johnson County Audit Services recommends that the City

5B. Amend previous HOME agreements to a 10-year affordability period with 10 percent loan forgiveness each year to be aligned with Johnson County's HOME program affordability period and release all loans that have already met the 10-year affordability period.

Scope and Methodology

Our audit period generally covered January 1, 2011, through December 31, 2015. However, we expanded our review through July 2016 to review the NSP waiting list. We conducted fieldwork at the City's Housing Services offices located at 200 West Santa Fe Street, Olathe, KS. We also visited the County offices located in Lenexa, KS, and Olathe, KS.

To accomplish our audit objectives, we

- Interviewed the hotline complainant and reviewed the complainant's documents;
- Interviewed management and staff at the City, County, and HUD's Office of Community Planning and Development (CPD) in Kansas City, KS;
- Interviewed NSP staff in the State of Kansas and CPD staff in HUD headquarters;
- Reviewed the applicable public laws, CFR regulations, Federal Register notices, HUD guidebook, CPD notices, NSP policy alerts, HOME frequently asked questions, and CDBG memorandum;
- Reviewed the City's employee handbook and other policies and procedures, files, payroll records, and timesheets;
- Reviewed the memorandum of understandings and subrecipient agreements the County executed with the City;
- Reviewed HUD's monitoring reviews of the County and the County's monitoring reviews of the City; and
- Reviewed the City's audited financial statements.

The City received $555,458 in voucher drawdowns for its CDBG housing rehabilitation administration grants for grant years 2011-2015. The vouchers list the amount of funds obtained for administrative expenses from each CDBG grant. We selected the City's smallest voucher amount drawn down from each grant year for review because it met our audit objectives while using fewer audit resources than reviewing larger drawdowns. Our sample consisted of five CDBG vouchers totaling $44,989, or 8.1 percent of the total voucher drawdowns. Our results apply only to the items reviewed and cannot be projected to the portion of the population that we did not test.

We primarily used hardcopy data from the City's files to meet our audit objectives. In addition, we used HUD's Integrated Disbursement and Information System (IDIS). As a nationwide database, IDIS provides HUD with current information regarding the program activities underway across the Nation, including funding data. HUD uses this information to report to Congress and to monitor grantees. IDIS is the drawdown and reporting system for CDBG and HOME, among others. We determined that the IDIS data were sufficiently reliable to meet our objectives.

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 objective(s). 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:

- Controls over the City's allocation of administrative costs to its housing rehabilitation programs.
- Controls over the City's NSP policies and procedures, applications, checklists, and waiting lists.
- Controls over receiving guidance.
- Controls over the use of HOME funds.

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 City did not have policies and procedures requiring staff to track time spent on activities (finding 1).
- The City did not have detailed NSP policies and procedures, applications, and checklists that required City employees or applicants to disclose potential conflict-of-interest relationships (finding 2).
- The City did not have a system for obtaining current HUD guidance (finding 3).

- The City did not have detailed NSP waiting list policies and procedures and lacked proper management oversight (finding 4).
- The City did not direct adequate resources to its HOME program (finding 5).

Separate Communication of Minor Deficiencies

We reported minor deficiencies to the auditee in a separate management memorandum, dated September 28, 2016.

Appendixes

Appendix A

Schedule of Questioned Costs

Recommendation number	Ineligible 1/	Unsupported 2/
1A		$575,855
1B		38,711
3A	$39,500	
3B	52,150	
Totals	**$91,650**	**$614,566**

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.

Appendix B

Auditee Comments and Auditor Evaluation

Ref to Auditor Evaluation

Auditee Comments

September 19, 2016

OLATHE
KANSAS

Ronald J. Hosking
Reginal Inspector General for Audit
Office of Audit Region 7
400 State Avenue, Suite 501
Kansas City, KS 66101

Ken Kleffner
County Auditor
111 S. Cherry St.
Suite 1050
Olathe, KS 66061

RE: HUD-OIG Audit Report Number: 2016-KC-XXXX
Johnson County, KS Audit Report Number: 2016-02

Dear Mr. Hosking and Mr. Kleffner:

On behalf of the City of Olathe ("Olathe" or the "City"), I am responding to the Draft Report ("Draft") which the Office of the Inspector General ("OIG") and the Johnson County Auditor ("Johnson County" or "the County") provided to Olathe on September 9, 2016. I appreciate the efforts that OIG and the County took during the March – September 2016 audit period ("the audit"). We believe the audit will result in stronger NSP, HOME, and CDBG programs administered by Olathe.

The City will address the five findings from the audit:

<u>Finding 1: The City Did Not Properly Allocate Administrative Costs to Its Housing Rehabilitation Programs</u>

The City disagrees that its allocation was not proper.

Comment 1

The City acknowledges that:

A. Its Housing Rehabilitation staff's timesheets from January 2011 through August 2015 did not allocate the time spent between NSP, HOME and CDBG activities.
B. Its Housing Services Manager did not document her timesheets to track time spent among NSP, HOME and CDBG programs.
C. It charged a 10% management fee for managing its NSP properties, with 5% allotted to the housing rehabilitation staff and 5% to the Olathe Housing Authority.

The City interpreted various documents (including HUD guidelines and Federal regulations[1]) to permit the use of CDBG funds for HOME and NSP activities, including staff time.

[1] CPD-92-19 (Attachment #1), Basically CDBG (November 2007) 1.5.1 and 4.1 (Attachment #2), Program Administration Posted 2/24/2009 (Attachment #3), Code of Federal Regulations 570.206 (Attachment #4) and CDBG Guidebook Part 3 (Attachment #5)

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Auditee Comments

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In reliance on this information, the Housing Service Manager did not direct staff to track the time spent doing NSP, HOME and CDGB activities on their timesheets.

The City also relied on advice, guidance and documents provided by the State of Kansas regarding the City's Housing Rehabilitation program. As the auditors noted on page six of the Draft, the City relied on an incorrect form which the State of Kansas provided concerning the use of management fees. The City completed this form and sent it to the State, and the State did not inform the City that the utilization of management fees were not allowable.

Comment 1

The City also disagrees that HUD lacked assurance that the City properly used $614,566. During 2011-15 the City had two staff members whose only job responsibility was to administer the housing rehabilitation activities. The amounts reflected in the table that the auditors noted on page five of the Draft is the entire salary and benefits of those two staff members.

The auditors had the following recommendations related to Finding 1:

1A. Provide adequate support for $575,855 in unsupported salary costs or reimburse the affected programs from non-Federal funds any portion it cannot support.

1B. Provide adequate support for $38,711 in unsupported NSP management fees or reimburse the City's NSP program from non-Federal funds any portion it cannot support.

1C. Implement a detailed tracking system to ensure that it properly tracks activities.

1D. Receive training on salary distribution methods and documentation requirements for Federal grants.

1E. Receive monitoring by the appropriate grantee to ensure that it establishes and implements a new activity tracking system.

The City is confident that it can and will diligently provide all the necessary documentation to support the amounts identified in recommendations 1A and 1B.

Comment 2

The City believes it has already addressed recommendations 1C and 1D. Since September 2015, Housing Rehabilitation staff has been tracking their time according to the activity in which they are engaged. Since May 9, 2016, the Housing manager started tracking her time according to the activity. In May 2016, the City's Payroll Coordinator trained Housing staff on the proper way to record time on electronic timecards according to activity or program.

The City welcomes HUD, the State of Kansas, and the County to review the processes it has implemented pertaining to these recommendations and welcomes any advice which can be provided concerning the allocation of time within the various functions of the City's Housing Rehabilitation program.

Finding 2: The City Improperly Sold an NSP Home to a City Employee's Daughter

Comment 3

The City disagrees that it improperly sold a NSP home to a City employee's daughter.

2

Appendix B

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Auditee Comments

The City acknowledges that it did not have policies, procedures, checklists, or an application that required City employees or applicants to disclose potential conflict of interest relationships. As the auditors noted on page seven of the Draft, the City's employee manual had (and still has) a section titled "conflicts of interest" and a section titled "code of conduct" which the City believed addressed the situation which is the subject of this finding.

The auditors had the following recommendations related to Finding 2:

2A. Develop and implement detailed NSP policies and procedures, checklists, and applications that require City employees or applicants to disclose potential conflict-of-interest relationships.

2B. Receive conflict-of-interest training that addresses Federal regulations.

2C. Receive monitoring by the appropriate grantee to ensure that it establishes and implements detailed NSP policies and procedures, checklists, and applications that require City employees or applicants to disclose potential conflict-of-interest relationships.

Comment 2

The City believes it has already addressed parts of recommendation 2A and 2B. Since June 9, 2016, the City implemented a process which requires Housing to request the City's Legal Department ("Legal") to review the Conflict of Interest Request for Waiver/Exception form.[2] If Legal determines there is a potential conflict, Housing will submit the form to HUD and request a formal opinion on whether HUD will approve or deny the waiver.

The City is preparing policies and procedures to ensure compliance with applicable federal conflict of interest provisions pertinent to the NSP Program. In advance of this, all Housing Staff received conflict of interest training on September 14, 2016. Housing staff will sign a document verifying that they participated in the training and understand the federal conflict of interest regulations. Housing staff will receive conflict of interest training on no less than an annual basis.

The City welcomes HUD, the State of Kansas, and the County to review the processes it has implemented pertaining to these recommendations and remains open to any advice that can be provided to ensure the adequacy of the City's conflict of interest policies and procedures.

Finding 3: The City Forgave Its NSP Promissory Notes Much Sooner Than Required

Comment 4

The City disagrees that it forgave certain NSP promissory notes sooner than required. The City acknowledges it forgave certain NSP promissory notes after three years. The City relied on the advice, guidance and documents provided by the State of Kansas. As the auditors noted on page ten of the Draft, the City received its guidance from the State of Kansas' NSP Frequently Asked Questions website and NSP training slide. One of the frequently asked questions stated, ". . . soft loans for prospective homebuyers should be for not less than three years and will be forgiven on a pro-monthly bases." The website still showed this information as of August 2016. As the auditors noted on page ten of the Draft, the City relied on an "NSP

[2] See Attachment # 9

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Auditee Comments

training slide that listed a 3-year recapture period for properties sold to homeowners." The State of Kansas sent Parking Lot questions from the March 3, 2009 meeting with grantees and sub-recipients to HUD. Question #7 asked about including a repayment provision and if the "Home affordability guidelines" were applicable. The response from HUD was that "Soft-loans for prospective homebuyers should be for no less than three years (36 months) and will be forgiven on a pro-rated monthly basis."[3]

Comment 5

The City disagrees that it did not have a system for obtaining current HUD guidance. The City had a system in place to review applicable guidelines provided on the State of Kansas' website and training conducted by the State of Kansas and HUD. However, this audit has revealed that the City's reliance on these sources of information lead to a misunderstanding by Housing staff. Additionally, the aggressive timeline outlined in the Federal Register for training, establishing action plans, policies, procedures and spend down of grant funds contributed to an inability to timely cure the affordability period on the promissory notes.

The auditors had the following recommendations related to Finding 3:

3A. Reimburse its NSP $39,500 from non-Federal funds for the promissory note that it satisfied when the homeowner sold her home before completing the correct affordability period.

3B. Once the foreclosure proceedings are complete, reimburse its NSP from non-Federal funds up to $52,150 from the net proceeds for the promissory note that it satisfied for the home that went to claim after our review.

3C. Develop a system to ensure that it is informed about NSP policy alerts and other related guidance.

3D. Receive monitoring by the appropriate grantee to ensure that it develops a system to receive NSP policy alerts and other related guidance.

Timeframe:

1) Prior to December 1, 2008, Johnson County prepared an NSP Action Plan. Under the section titled "JOHNSON COUNTY HOUSING SERVICES NSP ACTIVITY", the plan provides "A sliding fee scale will determine the sale price of the property to approved applicants. If a family is provided a discount through the sliding scale, a soft second will be placed against the property equal to the discount for a period of three (3) years. If sold before the three year period expires, the remaining debt will be prorated by the length of residency." The Action Plan was submitted to the State of Kansas for approval in accordance with applicable Federal regulations.[4]

[3] See Attachment # 12

[4] See Attachment #13

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Auditee Comments

residency." The Action Plan was submitted to the State of Kansas for approval in accordance with applicable Federal regulations.[4]

2) Training was conducted by the State of Kansas in March of 2009 pertaining to its NSP Action Plan. Training materials showed the same three (3) year period.

3) In April, 2009, Johnson County amended their NSP Action Plan.[5] The amended Action Plan had the same three (3) year period.

4) In June, 2009, Olathe and Johnson County entered into a Cooperative Agreement for the 2009 Neighborhood Stabilization Program.[6] Exhibit B listed the same soft second provision as the County's NSP Action Plan. The City of Olathe was given nine (9) months to spend its NSP grant proceeds.

Comment 6

5) Between April and June of 2010, OIG audited the State of Kansas NSP I program. OIG reviewed contracts which included Johnson County with Olathe as a sub-recipient. While OIG did make a finding that certain required provisions were not included in NSP I contracts, OIG did not identify the incorrect affordability period as a finding. If the audit had made this finding at the time, the City could have made the corrections to the promissory notes prior to homeowners closing on their NSP houses.

6) In April, 2011, the City was notified by State of Kansas (through Johnson County) of incorrect affordability dates on promissory notes issued before March, 2011. Email from State of Kansas stated that NSP program participants were to use the affordability periods "effective today (April 12, 2011) and also stated any sales you've already undertaken are water under the bridge."[7] Staff corrected the procedure at that time and contacted homebuyers in hopes of changing their promissory notes to match the Affordability Period to the Subsidy Amount. One homebuyer was cooperative and agreed to a modification of their outstanding promissory note. Unfortunately, two of the homebuyers were uncooperative and unwilling to modify their outstanding promissory notes.

Housing staff is regularly reviewing websites for federal updates or changes to program guidelines or regulations.

Finding 4: The City Did Not Select Applicants Appropriately and Ensure That Its NSP Waiting List Was Accurate and Updated

[4] See Attachment # 8

[5] See Attachment # 9

[6] See Attachment # 10

[7] See Attachment # 11

Ref to Auditor Evaluation

Auditee Comments

Comment 7

The City disagrees that it did not select applicants appropriately and did not ensure that its NSP waiting list was accurate and updated.

Comment 8

The City disagrees that Housing management staff did not always provide the necessary oversight in administering the NSP Program. Housing management staff concluded that a waiting list (and any oversight of a waiting list) was unnecessary since the number of applicants did not exceed the number of houses available. This determination was made in accordance with the City's NSP program guidelines.[8]

The City acknowledges that its NSP policies and procedures need to be dated when modifications are made to avoid the appearance of inconsistency. The City is in the process of updating its NSP policies and procedures so there is written guidance to Housing staff concerning the waiting lists.

The auditors had the following recommendations related to Finding 4:

4A. Develop and implement detailed waiting list procedures to prevent waiting list difficulties.

4B. Receive monitoring by the appropriate grantee to ensure that its waiting list policies and procedures are implemented and the NSP waiting list is accurate and updated.

The City realizes the value of having detailed and dated waiting list procedures that address the NSP Program. The City looks forward to working with HUD, the State of Kansas, and the County to develop and implement a detailed waiting list procedure which is acceptable to HUD.

Finding 5: The City Did Not Fully Use Its Home Funds

The City acknowledges it encountered challenges which prevented it from using all the allocated HOME funds during the review period covered by the Draft. However, the City has taken steps to ensure successful program execution in the future.

On July 15, 2014, Housing staff informed the Olathe City Council of a revision to the City's Housing Rehabilitation Program administrative procedure. The amendment to the procedure established a forgiveness period and the amount of payback per project.[9] Olathe Housing staff believes that between the policy change and the implementation of new procedures, the City will be able to more fully use its HOME funds in the future.

Additionally, Housing staff have instituted an aggressive marketing campaign to increase awareness of the availability of its allocation of HOME funds. Housing will run ads in the City's seasonal Parks & Recreation catalog, the Olathe Link newsletter, on Olathe Cable Channel 7, and through market-based mailings.

[8] See Attachment # 12

[9] See Attachment # 13

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Auditee Comments

Housing staff will also track quarterly benchmarks of grant funds and will use these performance measures to enhance the overall efficiency of its HOME program.

The City acknowledges that its needs to overcome the obstacles it faced to commit HOME funds within the time period required in the City's agreement with the County. The City will work with the County to adopt and implement policies and procedures which address the obstacles that the City encountered in 2011- 2015. All 2015 HOME grant funds and program income has been committed.

The auditors had the following recommendations related to Finding 5:

5A. [The County should] Work with the City to pursue the efficiencies to be gained by consolidating the two entities' HOME programs.

5B. [The City should] Amend previous HOME agreements to a 10-year affordability period with 10 percent loan forgiveness each year to be aligned with Johnson County's HOME program affordability period and release all loans that have already met the 1-year affordability period.

The City stands willing as always to explore opportunities to improve the quality of life of Olathe residents. To that end, City staff will continue to meet with the County concerning recommendation 5A with the hope of determining a mutually agreeable service arrangement between the City and the County which will be to the greatest benefit for residents of Olathe and also residents throughout Johnson County.

The City understands the intent of recommendation 5B and will continue to explore that option with the appropriate decision makers within the City and the County.

Sincerely,

J. Michael Wilkes
City Manager

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Ref to Auditor Evaluation

Auditee Comments

JOHNSON COUNTY
KANSAS
County Manager's Office

111 S. Cherry Street, Suite 3300
Olathe, Kansas 66061

Date: September 16, 2016

To: Ken Kleffner, County Auditor

From: Maury Thompson, Assistant County Manager *MT.*

Re: The following is Johnson County Kansas' written comments in regards to the fifth finding of the report.

"Assistant County Manager, Maury Thompson and Human Services Department Director, Deborah Collins have begun meeting with appropriate staff of the City of Olathe, including the Assistant City Manager, to identify the efficiencies to be gained by consolidating the County and the City of Olathe's HOME Programs."

Thank-you for the opportunity to provide this comment.

Please let me know if there is additional information or clarification desired.

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Auditor Evaluation of Auditee Comments

Comment 1 We disagree with the City that the allocation was proper and that it properly supported $614,566 in salary costs and management fees. The City's housing rehabilitation staff members did not track their time spent among HOME, CDBG, and NSP activities. Also, the City's housing services manager did not document her timesheets to track her time spent among her duties with the City's housing rehabilitation programs and as the City's housing authority executive director. In addition, the City improperly charged a 10 percent management fee. The City acknowledged these facts. However, Federal regulations at 2 CFR Part 225, appendix B, paragraph (8)(h), require employees who work on multiple activities or cost objectives to use personnel activity reports or equivalent documentation to support their salaries or wages. Federal regulations at 2 CFR 200.430(a)(3) require the total compensation for individual employees to be determined and supported. Regulations at 2 CFR 200.430 replaced 2 CFR Part 225 in 2014. In addition, the NSP Policy Alert, Guidance on NSP Activity Delivery and Administrative Costs, dated May 18, 2012, states, "…for staff costs, this includes a timecard, timesheet, or other time keeping mechanism that demonstrates the time that was spent on the eligible NSP activity." There were seven different housing rehabilitation staff members that had a total of $614,566 in salary and benefit costs from January 1, 2011 through September 27, 2015 and not just two employees as the City indicated.

Comment 2 The City acknowledged the finding and provided the steps it has taken to prevent further occurrence of the violations. All recommendations are currently open. HUD needs to coordinate with the appropriate grantee and verify the recommendations are implemented.

Comment 3 We disagree with the City. The sale of an NSP home to a City employee's daughter violated Federal and local conflict-of-interest policies.

Comment 4 We disagree with the City. It forgave its NSP promissory notes much sooner than required when it sold three NSP homes with initial promissory notes listing a 3-year affordability period. However, the initial 3-year affordability period was not correct. Instead, the affordability period is based on the amount of assistance. One homeowner had a $15,000 promissory note, one had a $39,500 promissory note, and one had a $52,150 promissory note. The promissory notes should have included affordability restrictions for 10 years, 10 years, and 15 years, respectively. The City was only able to sucessfully renegotiate the $15,000 promissory note to the correct 10-year period. In addition, the guidance that the soft second loan should be for not less than three years was also incorrect.

Comment 5 We acknowledge the City relied on guidance which lead to the City's misunderstanding; however, we disagree with the City's assertion that it had a system for obtaining HUD guidance. If a proper system had been in place, the City would have known about the proper affordability period in the NSP Policy Alert, Guidance on NSP-Supported Homeonwership: Affordability, Financial Structure, and Program Income, dated March 3, 2009. During our audit, the City acknowledged it could not find this NSP Policy Alert in its NSP notebook with applicable policies and procedures.

Comment 6 We acknowledge HUD OIG reviewed the State of Kansas NSP program (report 2010-KC-1006 issued August 20, 2010). We disagree with the City's assertion that HUD OIG should have identified the affordability period as a finding, and the City would have then made corrections in its NSP promissory notes. The NSP affordability period was outside of the scope of the aforementioned HUD OIG audit.

Comment 7 We disagree with the City's assertion that the applicants were selected appropriately and the NSP waiting list was accurate and updated. When the City initially selected tenants for eight rental properties, it approved three applicants to live in the NSP rental properties who were not listed on the waiting list while appearing to skip over other applicants on the waiting list with no indication of resolution for those applicants.

Comment 8 We disagree with the City's assertion that it provided the necessary oversight for the NSP waiting list. During our review, we found management oversight was lacking. With proper management oversight, all applicants on the NSP waiting list would have experienced some type of resolution. Also, an interview with an NSP applicant determined he did not receive notification of his family's eligibility. We also disagree with the City's assertion that a waiting list was not necessary. The City appeared to skipped over other applicants on the waiting list with no indication of resolution for those applicants.