



Issue Date June 11, 2008

Audit Report Number 2008-CH-1010

TO: Jorgelle Lawson, Director of Community Planning and Development, 5ED

FROM: 
Heath Wolfe, Regional Inspector General for Audit, 5AGA

SUBJECT: The City of Cincinnati, Ohio Lacked Adequate Controls over Its System Reporting and Rental Rehabilitation Projects for Its HOME Investment Partnerships Program

HIGHLIGHTS

What We Audited and Why

We audited the City of Cincinnati's (City) HOME Investment Partnerships Program (Program). The audit was part of the activities in our fiscal year 2007 annual audit plan. We selected the City based upon a request from the U.S. Department of Housing and Urban Development's (HUD) Columbus Office of Community Planning and Development and our analysis of risk factors relating to Program grantees in Region V's jurisdiction. Our audit objectives were to determine whether the City effectively administered its reporting of Program activity (activity) data in HUD's Integrated Disbursement and Information System (System) and followed HUD's and its requirements. This is the second of three audit reports on the City's Program.

What We Found

The City did not effectively administer its reporting of activity data in HUD's System and failed to follow HUD's and its requirements. It did not comply with HUD's requirements in its reporting of activity data into HUD's System. As a result, it did not decommit more than \$114,000 in Program funds accurately and in a timely manner, and obligated more than \$816,000 and drew down and

disbursed nearly \$442,000 in Program funds for an activity without entering into a written agreement or contract with the owner or developer of the property or having a current specified plan for how the property would be used to provide affordable housing to low- and moderate-income individuals.

The City did not comply with HUD's regulations and its rental rehabilitation program manual (manual) in providing housing rehabilitation assistance for rental rehabilitation projects (projects). As a result, it provided more than \$397,000 in Program funds to assist 11 units in three projects that did not qualify as affordable housing, was unable to support that it used more than \$590,000 in Program funds for appropriate projects, and did not ensure that it sufficiently protected more than \$561,000 in Program funds.

We informed the director of the City's Department of Community Development and Planning (Department) and the Director of HUD's Columbus Office of Community Planning and Development of minor deficiencies through a memorandum, dated May 12, 2008.

What We Recommend

We recommend that the Director of HUD's Columbus Office of Community Planning and Development ensure that the Program funds the City decommitted as a result of our audit are committed and used for eligible activities. We also recommend that the Director require the City to decommit Program funds for completed activities, move forward on providing housing for an activity or reimburse its Program from nonfederal funds and decommit Program funds remaining for the activity, reimburse the appropriate parties from nonfederal funds for the overpayment of rents or reimburse its Program from nonfederal funds, provide support or reimburse its Program from nonfederal funds for the unsupported payments, ensure that projects' owners obtain title insurance naming the City as coinsured for the projects or reimburse its Program from nonfederal funds, and implement adequate procedures and controls to address the findings cited in this audit report. These procedures and controls should help ensure that nearly \$304,000 in Program funds is appropriately used over the next year.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence issued because of the audit.

Auditee's Response

We provided our discussion draft audit report and supporting schedules to the director of the City's Department, the City's mayor, and HUD's staff during the audit. We held an exit conference with the City's director on April 28, 2008.

We asked the City's director to provide comments on our discussion draft audit report by May 20, 2008. The director provided written comments, dated May 16, 2008. The director generally agreed with finding 1, but only partially agreed with finding 2. The complete text of the written comments, except for 11 pages that were not necessary to understand the director's comments, along with our evaluation of that response, can be found in appendix B of this report. We provided the Director of HUD's Columbus Office of Community Planning and Development with a complete copy of the City's written comments plus the 11 pages of supporting documentation.

TABLE OF CONTENTS

Background and Objectives	5
Results of Audit	
Finding 1: The City Needs to Improve Its Controls over System Reporting	6
Finding 2: Controls over the City’s Program Projects Were Inadequate	11
Scope and Methodology	15
Internal Controls	17
Appendixes	
A. Schedule of Questioned Costs and Funds to Be Put to Better Use	19
B. Auditee Comments and OIG’s Evaluation	20
C. HUD’s Requirements and the City’s Policies	41

BACKGROUND AND OBJECTIVES

The Program. Authorized under Title II of the Cranston-Gonzales National Affordable Housing Act, as amended, the HOME Investment Partnerships Program (Program) is funded for the purpose of increasing the supply of affordable standard rental housing; improving substandard housing for existing homeowners; assisting new homebuyers through acquisition, construction, and rehabilitation of housing; and providing tenant-based rental assistance. The American Dream Downpayment Assistance Act established a separate funding formula for the American Dream Downpayment Initiative (Initiative) under the Program to provide downpayment assistance, closing costs, and rehabilitation assistance to eligible first-time homebuyers.

The City. Organized under the laws of the state of Ohio, the City of Cincinnati (City) is governed by a mayor and a nine-member council, elected to two-year terms. The City’s Department of Community Development and Planning (Department) administers the City’s Program. The Department’s overall mission is to serve as an innovative, proactive partner in supporting comprehensive economic and workforce development, quality housing development, historic conservation, land use management, arts and cultural amenities, and social services for all of the City’s citizens. The City’s Program records are located at 805 Central Avenue, Cincinnati, Ohio.

The following table shows the amount of Program and Initiative funds the U.S. Department of Housing and Urban Development (HUD) awarded the City for Program years 2003 through 2007.

Program year	Program funds	Initiative funds
2003	\$4,434,528	\$228,566
2004	4,428,285	269,714
2005	4,219,448	153,797
2006	3,977,487	76,743
2007	<u>3,942,313</u>	<u>76,743</u>
Totals	<u>\$21,002,061</u>	<u>\$805,563</u>

The City used Program funds to provide housing rehabilitation assistance for rental rehabilitation projects (projects).

Effective June 2007, the City executed an agreement with HUD and the U.S. Department of Justice to settle all outstanding issues regarding the City’s improper use of Program funds for the Huntington Meadows apartment project. The settlement agreement requires the City to reimburse its Program \$3.95 million. The final payment under the agreement is due by January 31, 2009.

Our audit objectives were to determine whether the City effectively administered its reporting of activity data in HUD’s Integrated Disbursement and Information System (System) and followed HUD’s and its requirements. This is the second of three audit reports on the City’s Program.

RESULTS OF AUDIT

Finding 1: The City Needs to Improve Its Controls over Reporting in HUD's System

The City did not comply with HUD's requirements, as cited in Appendix C of this report, in its reporting of Program activity (activity) data in HUD's System. It inappropriately drew down, decommitted, obligated, and disbursed Program funds because it lacked adequate procedures and controls to ensure that HUD's requirements were followed. As a result, it did not decommit more than \$114,000 in Program funds accurately and in a timely manner, and obligated more than \$816,000 and drew down and disbursed nearly \$442,000 in Program funds for an activity without entering into a written agreement or contract with the owner or developer of the property or having a current specified plan for how the property would be used to provide affordable housing to low- and moderate-income individuals. In addition, the City could not provide documentation to show whether activities with remaining balances of Program funds were active or that the City had recently reviewed the status of the activities.

The City Lacked Controls over Its System Reporting

As of March 22, 2007, the City had 54 activities in HUD's System in which at least 120 days had elapsed since it had made a draw of Program funds. The 54 activities had remaining balances of Program funds totaling nearly \$2.4 million. The time elapsed since the City's last draws for the activities ranged from 149 through 3,048 days; for 25 activities, the time elapsed was more than one year.

Over a three month period, the number of activities in HUD's System in which at least 120 days had elapsed since the City had made a draw of Program funds increased by 62 (88 less 54, then divided by 54) percent. As of June 29, 2007, the City had 88 activities in HUD's System in which at least 120 days had elapsed since it had made a draw of Program funds. The 88 activities had remaining balances of Program funds totaling nearly \$1.9 million. The time elapsed since the City's last draws for the activities ranged from 189 through 3,147 days; for 26 activities, the elapsed time was more than one year.

From the 88 activities, we selected 39 activities for review. We selected the nine activities in which the City had not made draws of Program funds for more than 30 months. We then statistically selected an additional 30 activities for review from the remaining 79 (88 minus 9) activities.

As a result of our audit, the City did the following regarding the 39 activities:

- ❖ Drew down \$157,515 in Program funds from July 25, 2007, through January 10, 2008, for 18 activities,
- ❖ Decommited \$34,410 in Program funds on December 4, 2007, for two activities it cancelled, and
- ❖ Decommited \$11,379 in Program funds from August 1, 2007, through December 24, 2007, for eight activities it closed out.

As of January 10, 2008, the City had not made draws of Program funds for more than 120 days for 21 of the remaining 29 active activities (39 activities reviewed minus the two activities cancelled minus the eight activities closed out). The 21 activities had remaining balances of Program funds totaling \$753,062. The time elapsed since the City's last draws for the 21 activities ranged from 155 through 3,342 days; for 15 activities, the time elapsed was more than one year.

The City's files for 10 of the 21 activities showed that the activities had been completed. As of May 15, 2008, it closed out five of the 10 activities. The City drew down \$730 in Program funds from February 1 through May 15, 2008, and decommitted \$250 in Program funds on January 29, 2008, for the five activities. Therefore, the City should have closed out the remaining five activities and decommitted the outstanding \$68,453 in Program funds.

The City set up activity number 1279 in HUD's System on July 3, 2001, when it obligated \$815,000 in Program funds for the activity. It obligated an additional \$1,093 for the activity as of March 22, 2007. The City's council passed ordinance number 0114-2001 on April 25, 2001, approving the development of 25 new single-family homes for sale to moderate-income first-time homebuyers for the activity. However, the City did not enter into a written agreement or contract with South Cumminsville Community United for Better Housing, Incorporated (South Cumminsville), the nonprofit owner of the property, or Working in Neighborhoods, the nonprofit developer of the property. In March 2003, the City discovered two 55-gallon drums, containing unknown contents, while installing a public storm sewer for the property. In July 2003, the City requested that the U.S. Environmental Protection Agency (U.S. Agency) perform a critical action removal of any and all drums at the property. As of October 2004, 3,350 55-gallon drums containing petroleum, foundry sand, and solvent had been removed from the property. In May 2005, the State of Ohio's Environmental Protection Agency (State Agency) conducted water and soil tests and determined that anomalies, such as lead and arsenic above voluntary action plan minimums, existed at the property. The City had not drawn down any Program funds for the activity since December 2006. As of April 2008, the City had drawn down and disbursed \$441,899 in Program funds for the activity and did not have a specified plan for how the property would be used to provide affordable housing to low- and moderate-income individuals. In addition, the City had not requested a final environmental determination by the State Agency to determine whether housing can be built on the property.

The City could not provide documentation as of March 2008 to show whether the remaining 10 activities with remaining balances of Program funds totaling \$310,040 were active or that it had recently reviewed the status of the activities.

Since September 2006, HUD's Columbus Office of Community Planning and Development had provided the City a monthly activity report, which provided information regarding open activities. The monthly activity reports showed the amount of Program funds obligated, date of last drawdown, amount of Program funds drawn, and percentage of completion for each open activity. HUD's Columbus Office of Community Planning and Development requested that the City review the monthly activity reports and update, cancel, or close out activities that were not current.

The City Lacked Adequate Procedures and Controls

The weaknesses regarding the City's failure to update HUD's System accurately and in a timely manner occurred because the City lacked adequate procedures and controls to ensure that it appropriately followed HUD's requirements. The City did not ensure that it fully implemented HUD's requirements.

The City did not periodically review the status of all activities to identify those that needed to be cancelled or closed. The housing division manager for the City's Department stated that the supervising accountant had been updating and closing the activities identified during the audit and that the City was becoming more proactive in closing completed activities. The housing division manager also stated that the City's staff needed additional training regarding reporting activity data in HUD's System.

The supervising accountant for the City's Department stated that the City's accounting system contained information that had not been updated in HUD's System and, therefore, contained the most current information. The City was more concerned with the accuracy of its accounting system than with what it reported in HUD's System.

The City's Department could not explain why it had not entered into a written agreement or contract with the owner or developer of the property or obtained a final environmental determination from the State Agency for activity number 1279.

Conclusion

The City did not comply with HUD's requirements in its reporting of activity data in HUD's System. As previously mentioned, the City did not decommit more

than \$114,000 (\$34,410 decommitted for two activities it cancelled, \$11,379 decommitted for eight activities it closed out, \$250 decommitted for five activities it closed out, and \$68,453 which it should have closed out and decommitted for five activities) in Program funds accurately and in a timely manner, and obligated more than \$816,000 and disbursed nearly \$442,000 in Program funds for activity number 1279 without entering into a written agreement or contract with the owner or developer of the property or having a specified plan for how the property would be used to provide affordable housing to low- and moderate-income individuals. In addition, the City could not provide documentation to show whether activities with remaining balances of Program funds were active or that the City had recently reviewed the status of the activities. Further, HUD and the City lacked assurance that Program funds were used efficiently and effectively.

By not implementing adequate procedures and controls to ensure timely reporting in HUD's System, the City underreported its true accomplishments and negatively affected its Program performance. HUD uses the information reported in its System to determine whether the City is meeting its goals and objectives.

The City also placed an unnecessary burden on Program participants by imposing low- and moderate-income household, rental limit, and principal residence restrictions for an extended period beyond HUD's established affordability period. The affordability period does not begin until the final drawdown of Program funds has been made and all of the completion information has been entered into HUD's System. The City extended the affordability period by not entering completion information into HUD's System in a timely manner.

Recommendations

We recommend that the Director of HUD's Columbus Office of Community Planning and Development

- 1A. Ensure that the \$46,039 in Program funds the City decommitted for the 10 activities (\$34,410 for two activities it cancelled, \$11,379 for eight activities it closed out, and \$250 for five activities it closed out) as a result of our audit is committed and used for eligible activities.

We recommend that the Director of HUD's Columbus Office of Community Planning and Development require the City to

- 1B. Close out and decommit the \$68,453 in Program funds for the remaining five activities that the City's files showed were completed.
- 1C. Obtain a final environmental determination from the State Agency. If the State Agency determines that housing can be built on the property, the City should enter into a written agreement or contract with South

Cumminsville for activity number 1279 that contains a specified plan for how the property will be used to provide affordable housing to eligible low- and moderate-income individuals. If the State Agency determines that housing cannot be built on the property or if the City is unable to enter into a written agreement or contract with South Cumminsville, the City should reimburse its Program from nonfederal funds for the \$441,899 in Program funds it used for the activity and cancel and decommit the \$374,194 (\$816,093 obligated for the activity less \$441,899 used for the activity) in Program funds remaining for the activity.

- 1D. Review the status of the remaining 10 activities cited in this finding to determine whether the activities need to be cancelled or closed out and Program funds need to be decommitted in HUD's System.
- 1E. Implement adequate procedures and controls to ensure that it enters activity data into HUD's System accurately and in a timely manner.

Finding 2: Controls over the City’s Program Projects Were Inadequate

The City did not comply with HUD’s regulations and its rental rehabilitation program manual (manual), as cited in Appendix C of this report, in providing housing rehabilitation assistance for projects. It provided assistance for projects with improper units, lacked documentation to support that units were eligible, and failed to ensure that it sufficiently protected Program funds because it lacked adequate procedures and controls to ensure that HUD’s regulations and its manual were appropriately followed. As a result, it provided more than \$397,000 in Program funds to assist 11 units in three projects that did not qualify as affordable housing, was unable to support its use of more than \$590,000 in Program funds, and did not ensure that it sufficiently protected more than \$561,000 in Program funds used for housing rehabilitation assistance. Based on our sample, we estimate that over the next year, the City will use nearly \$304,000 in Program funds for improper projects.

The City Provided More Than \$397,000 in Program Funds for Units That Did Not Qualify as Affordable Housing

We selected for review all seven projects the City completed from January 1, 2005, through June 30, 2007. The seven projects contained 54 units. The City provided \$397,262 in Program funds to assist 11 (20 percent) units that did not qualify as affordable housing. The 11 units were in three of the projects. The City failed to ensure that the projects’ owners set initial rents for the units at or below HUD’s established rent limits. The initial rents ranged from \$8 to \$117 per month more than HUD’s established rent limits. The City could not provide sufficient documentation as to how long rents for the units exceeded HUD’s requirements.

The City Lacked Documentation to Support Its Use of More Than \$590,000 in Program Funds

The City lacked documentation for 22 (40 percent) of the 54 units selected for review to support that it used \$590,458 in Program funds for appropriate projects. It could not provide sufficient income documentation for the households in the 22 units to demonstrate that households were income eligible and initial rents for three of the units to show that the units qualified as affordable housing.

In addition, the City could not provide an executed lease between the projects’ owners and the initial households for 11 units in four projects. Further, the leases for nine units in one project contained language prohibited by HUD’s regulations.

Section 13 of the leases stated that the project’s owner shall not be liable for any loss of the households’ property or accidental damage to persons or property in or about the premises whether caused by the negligence of the project’s owner, employees of the project’s owner, contractors, agents, or by any other cause. The households agreed not to make such a claim against the project’s owner for any such loss or damage. In section 31, the households agreed to waive their right to trial by jury.

The City Did Not Ensure That It Sufficiently Protected More Than \$561,000 in Program Funds

The City provided \$561,227 in Program funds to four projects without requiring the projects’ owners to obtain title insurance for the properties naming the City as coinsured for the amount of Program funds the City loaned to the projects’ owners. As a result, the City might not be protected against loss or damage due to defects in the title, liens, or any other matters affecting the title. The following table shows the project numbers, number of units assisted, and the amount of Program funds the City loaned to the projects’ owners for which the City did not ensure that the projects’ owners obtained title insurance naming the City as coinsured.

<i>Project number</i>	<i>Number of units</i>	<i>Loan amount</i>
1885	11	\$431,239
1881	5	61,988
2072	3	42,000
2046	<u>2</u>	<u>26,000</u>
Totals	<u>21</u>	<u>\$561,227</u>

The City Lacked Adequate Procedures and Controls

The weaknesses regarding the City’s providing housing rehabilitation assistance for units that did not qualify as affordable housing and without requiring the projects’ owners to obtain title insurance naming the City as coinsured and lacking documentation to support that projects were appropriate occurred because the City lacked adequate procedures and controls to ensure that it appropriately followed HUD’s regulations and its manual. The City did not ensure that it fully implemented HUD’s regulations and its manual.

The City did not determine whether the projects’ owners set initial rents for the units at or below HUD’s established rent limits and unit leases complied with

HUD's regulations or consistently required the projects' owners to provide household income documentation. The housing division manager for the City's Department stated that the City's Department ensured that households in the projects' units paid appropriate rents by including a rent calculation sheet in the written agreement between each owner and the City. However, the City's Department did not require the projects' owners to return the rent calculation sheets or determine whether the projects' owners set initial rents for the units at or below HUD's established rent limits.

The housing division manager stated that the City relied on the Program projects' owners to perform household income certifications. It did not require income verifications at the time of the projects' applications because it did not realize it was a requirement. Instead, the Department believed that the household profiles provided by the projects' owners, without supporting documentation, were sufficient. The housing division manager also stated that the City would add reviewing unit leases for compliance with HUD's regulations to its procedures and controls.

Conclusion

The City did not properly use its Program funds when it failed to comply with HUD's requirements. As previously mentioned, the City provided more than \$397,000 in Program funds to assist 11 units in three projects that did not qualify as affordable housing and was unable to support its use of nearly \$590,000 in Program funds for the 22 units without sufficient documentation supporting eligibility. In addition, the City did not ensure that it sufficiently protected more than \$561,000 in Program funds for four projects.

If the City implements adequate procedures and controls over Program funds to ensure compliance with HUD's regulations, we estimate that it will not use \$303,597 in Program funds over the next year for improper units and/or projects which it does not sufficiently protect. Our methodology for this estimate is explained in the Scope and Methodology section of this audit report.

Recommendations

We recommend that the Director of HUD's Columbus Office of Community Planning and Development require the City to

- 2A. Determine the total amount the rents for the 11 units that exceeded HUD's established rent limits and reimburse the appropriate parties from nonfederal funds for the overpayment of rent. If the City does not reimburse the appropriate parties, it should reimburse its Program

\$397,262 from nonfederal funds for the 11 units that did not qualify as affordable housing.

- 2B. Provide supporting documentation or reimburse its Program from nonfederal funds for the \$590,458 in Program funds used for the 22 units cited in this finding for which the City lacked sufficient income documentation to demonstrate that households were income eligible and/or units qualified as affordable housing.
- 2C. Ensure that the four projects' owners obtain title insurance naming the City as coinsured for the amount of Program funds the City loaned to the projects' owners or reimburse its Program \$561,227 from nonfederal funds as applicable.
- 2D. Implement adequate procedures and controls to ensure that housing rehabilitation assistance is only provided to appropriate projects and sufficiently protected to prevent \$303,597 in Program funds from being used over the next 12 months contrary to HUD's regulations and the City's manual.
- 2E. Implement adequate procedures and controls to ensure that project owners execute proper leases with households.

SCOPE AND METHODOLOGY

To accomplish our objectives, we reviewed

- Applicable laws; HUD’s regulations at 24 CFR [*Code of Federal Regulations*] Parts 5, 85, 92, and 983; HUD’s Office of Community Planning and Development Notice 01-13; Office of Management and Budget Circulars A-87 and A-122; HUD’s “Building HOME: A Program Primer”; HUD’s HOMEfires; HUD’s Community Planning and Development System Manual; and Ohio Revised Code.
- The City’s accounting records; annual audited financial statements for 2005 and 2006; most recent internal audit report, dated October 2004; data from HUD’s System; Program, project, and activity files; computerized databases; by-laws; policies; procedures; organizational chart; consolidated annual plans; and consolidated annual performance and evaluation reports.
- HUD’s files for the City.

We also interviewed the City’s employees and HUD staff.

Finding 1

We selected 39 of the City’s 88 activities in HUD’s System in which at least 120 days had elapsed since it had made a draw of Program funds as of June 29, 2007. We selected the nine activities in which the City had not made draws of Program funds for more than 30 months. We then statistically selected an additional 30 activities for review using data mining software from the remaining 79 (88 minus 9) activities. Our statistical sampling criteria used a 90 percent confidence level, 50 percent error rate, and precision of plus or minus 10 percent. The 39 activities were selected to determine whether the City followed HUD’s requirements in its reporting of activity data in HUD’s System.

Finding 2

We selected all 54 units in the seven projects the City completed from January 1, 2005, through June 30, 2007. The 54 units were selected to determine whether the City effectively administered its Program and provided assistance for eligible projects. The City assisted 11 units that did not qualify as affordable housing and 21 units without requiring the projects’ owners to obtain title insurance for the properties naming the City as co-insured for the amount of Program funds the City loaned to the projects’ owners. Five of the units were deficient in regards to both the affordable housing and title insurance requirements. Therefore, our sampling results determined that the City inappropriately provided rental rehabilitation assistance to and/or did not adequately protect its use of Program funds for 27 (50 percent) of the 54 units. The City provided \$1,561,382 in Program funds for the 54 units for an average of \$28,914 per unit. The City completed approximately 21 (54 units divided by 30 months times 12 months) units per year.

We estimated that the City will annually use at least \$303,597 (21 units times \$28,914 times 50 percent) in Program funds for improper units and/or projects which it will not adequately protect. This estimate is presented solely to demonstrate the annual amount of Program funds that could be put to better use on eligible projects and/or by sufficiently protecting the City's interest if it implements our recommendations. While the benefits would recur indefinitely, we were conservative in our approach and only included the initial year in our estimate.

We performed our on-site audit work from August 2007 through March 2008 at the City's office located at 805 Central Avenue, Cincinnati, Ohio. The audit covered the period January 2005 through June 2007 and was expanded as determined necessary.

We performed our audit in accordance with generally accepted government auditing standards.

INTERNAL CONTROLS

Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved:

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

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

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

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

We assessed the relevant controls identified above.

A significant weakness exists if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

Significant Weakness

Based on our review, we believe the following item is a significant weakness:

- The City lacked adequate procedures and controls to ensure compliance with HUD's regulations and its manual regarding its reporting of activity data in HUD's System, use of Program funds for appropriate projects, and adequately protecting its interest (see findings 1 and 2).

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			\$46,039
1B			68,453
1C	\$441,899		374,194
2A	397,262		
2B		<u>\$590,458</u>	
2C	<u>561,227</u>		
2D			<u>303,597</u>
Totals	<u>\$1,400,388</u>	<u>\$590,458</u>	<u>\$792,283</u>

- 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 polices 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 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. This includes reduction in outlays, deobligation of funds, withdrawal of interest subsidy costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In these instances, if the City implements our recommendations, it will cease using Program funds for improper projects and will properly protect its Program assets. Once the City successfully improves its procedures and controls, this will be a recurring benefit. Our estimate reflects only the initial year of this benefit.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

City of Cincinnati



Department of Community Development

Two Centennial Plaza
Suite 700
805 Central Avenue
Cincinnati, Ohio 45202
Phone (513) 352-6146
Fax (513) 352-6113

May 16, 2008

Michael L. Cervay
Director

Mr. Brent Bowen, Assistant Regional Inspector General for Audit
U.S. Department of Housing and Urban Development
Office of Inspector General
77 West Jackson Boulevard, Suite 2646
Chicago, Illinois 60604-3507

Dear Mr. Bowen:

This letter serves as the City of Cincinnati's response to your letter dated April 21, 2008 related to the Phase II discussion draft audit report of HUD's Office of Inspector General for Audit. Our City Manager has highlighted numerous times that Community Development and Economic Development are the leading engines driving our City's commitment to our residents. Therefore, be assured, the City is committed to effectively administering federal programs in compliance with HUD and all federal agency guidelines. My thanks to you and your staff for allowing us this opportunity to resolve outstanding issues related to HUD HOME programs operating in Cincinnati.

I will address each finding, specific issue and recommendation in the order in which they were presented in your letter. HUD information is in italics. The City response follows the recommendation.

Recommendation 1A:

Ensure that the \$45,789 in Program funds the City de-committed for the 10 activities (\$34,410 for two activities it cancelled and \$11,379 for eight activities it closed out) as a result of our audit is committed and used for eligible activities.

City Response to Recommendation 1A:

This recommendation is addressed to the Director of HUD's Columbus Office of Community Planning and Development. The City of Cincinnati will cooperate with the Columbus office to verify these funds are committed and used for eligible activities.

HUD Recommendation 1B:

Close out and de-commit the \$68,828 in Program funds for the 10 activities that the City's files showed had been completed.

Equal Opportunity Employer

Comment 1

Page 2 of 16

City Response to Recommendation 1B:

The City has been working diligently to address this issue and get these projects closed out. The action taken is listed after each activity number and the balance committed as of 1/10/08.

IDIS #1106 (\$0.00) – This project has been completed and closed out in the IDIS system.

IDIS #1794 (\$0.00) – This activity was completed. HUD Rental Housing Completion Form was submitted to our Budget office for inputting into IDIS. Information to reconcile the activity will be submitted for project close out by June 30, 2008.

IDIS #1885 (\$0.00) – This project has been closed out in the IDIS system.

IDIS #1951 (\$0.00) - This project has been closed out in the IDIS system.

IDIS #2046 (\$0.00) - This project has been closed out in the IDIS system.

IDIS #2058 – (485.00) – This activity was completed. HUD Rental Housing Completion Form was submitted to our Budget office for inputting into IDIS. Information to reconcile the activity will be submitted for project close out by June 30, 2008.

IDIS #2107 – (750.00) – This activity was completed. HUD Rental Housing Completion Form was submitted to our Budget office for inputting into IDIS. Information to reconcile the activity will be submitted for project close out by June 30, 2008.

IDIS #2118 – (375.00) – This project has been closed out in the IDIS system.

IDIS #2157 –(\$32,788.34) – Rehabilitation was completed and property sold to an eligible buyer. The project will be closed upon receipt of final project costs. Will be closed in IDIS by June 30, 2008.

IDIS #2158 – (\$34,449.55) – Rehabilitation was completed and property sold to an eligible buyer. The project will be closed upon receipt of final project costs. Will be closed in IDIS by June 30, 2008.

HUD Recommendation 1C:

Obtain a final environmental determination from the State Agency. If the State Agency determines that housing can be built on the property, the City should enter into a written agreement or contract with South Cumminsville for activity number 1279 that contains a specified plan for how the property will be used to provide affordable housing to eligible low-and moderate-income individuals. If the State Agency determines that housing cannot be built on the property or if the City is unable to enter into a written agreement or contract with South Cumminsville, the City should reimburse its Program from nonfederal funds for the \$441,899 in Program funds it used for the activity and cancel and de-commit the \$374,194 (\$816,093 obligated for the activity less \$441,899 used for the activity) in Program funds remaining for the activity.

Comment 2

City Response to Recommendation 1C:

The process outlined by this recommendation is not possible as described. The State of Ohio's Environmental Protection Agency (EPA) cannot issue a final environmental determination for the site. The State provides a report with testing results for the site. However, it is the responsibility of the City, via its consultants, to evaluate the site and

Ref to OIG Evaluation

Auditee Comments

Comment 2
Comment 3

Page 3 of 16

compare the Ohio EPA's results to acceptable standards. The City's consultant, ATC Associates, completed a Phase II Environmental Site Assessment and a determination has been made by the City and its consultants, that the site is clean enough for multi-family or senior housing (with concrete cover).

The developer, our local CHDO named Working In Neighborhoods (WIN) and the community continue to work through their various options for developing the site. Based on the need for additional affordable senior housing within the City and WIN's track record in developing senior housing, this is the preferred option if single-family housing is not feasible. However, since this represents a significant change from the original plan which was to construct single-family housing, the City has been working with WIN and South Cumminsville Community United for Better Housing, Inc. to develop a revised plan for the site and a feasibility analysis for the potential senior housing. This includes development of project plans and specifications, a revised budget and proforma, a revised infrastructure plan, and securing new financing for the project.

The City expects to complete this work by the end of 2008. The City will enter into a contract with South Cumminsville after all due diligence has been completed and all parties are agreed that the proposed project will be successful.

Comment 4

Regarding the expenditure of funds to date on this project, it should be reiterated that WIN is one of the City's CHDO's. The City did not have a contract with the CHDO at the time the infrastructure work commenced because the City had assumed the responsibility of contracting for that portion of the project due to the complexity of the infrastructure to be installed. The non-profit developer's expertise is building housing. The City properly bid the project and executed a contract with a general contractor. The contract also contained federal prevailing wages. HOME funds were not committed without a written contract. The City maintains that the CHDO was still obligated to construct the units based on the dedication of property for the installation of the infrastructure.

Comment 5

Additionally, approximately fifty-percent (50%) of the HOME funds expended to date on this property are related to the clean-up, testing and inspection of the site, an effort led by the City and the U.S. Environmental Protection Agency. These expenses were totally unforeseen by the CHDO and the City as all appropriate levels of environmental review at the beginning of the project indicated a clean site. It wasn't until excavation of the site started that the illegal dumping was discovered.

Comment 6

The City requests an opportunity to continue to work with the HUD Office of Community Planning and Development in Columbus and apprise them of the status of the project. It is the City's goal to bring this project to a successful conclusion and to do so in the most efficient manner to benefit our populations and to meet HUD regulations.

Ref to OIG Evaluation

Auditee Comments

Page 4 of 16

HUD Recommendation 1D:

Review the status of the remaining 10 activities cited in this finding to determine whether the activities need to be cancelled or closed out and Program funds need to be de-committed in HUD'S system.

Comment 7

City Response to Recommendation 1D:

The City has performed a review of the 10 activities cited in this finding. The City's response is listed after each activity number and the balance remaining in the IDIS system.

Comment 7

IDIS #346 -- (\$21,949):

This project is an old project that was funded through the Rental Rehabilitation Program (RRP) in 1994. It appears from information on the project that the developer never completed the project but paid off the outstanding amount in June 2002. The mortgage was released and the release of mortgage was recorded in July 2002. Project information will be submitted to the City's Budget Office to cancel this project.

Comment 7

IDIS #730 --(\$9,955):

This project is an old RRP project that was funded in 1997. It appears from available information that the project underwent foreclosure proceedings in 2002. This information will be verified and steps taken to cancel this project if appropriate.

Comment 7

IDIS #1219 --(\$5,000):

This project consisted of the new construction of two (2) single-family homes that were completed in 2003 with the final HOME funds being drawn down in February 2004. The original contract was for \$50,000 with an additional \$5,000 to be encumbered for a 10% construction contingency. In this case, the developer was able to complete the project without the use of the \$5,000 contingency. The first home was sold to an income eligible homebuyer. However, to date, the second home has still not sold. Per the contract, the developer had 36 months from project completion to sell the unit to an income-eligible buyer. If the unit did not sell, the owner would have to repay the HOME funds for the unit that was not in compliance. The developer of this property has tried to sell the second home to no avail, so as stated in the contract, he has been in compliance with the contract and has been repaying the City on a monthly basis the funds that were spent on the 2nd unit. The City believes that the developer is in compliance with the terms of the contract. In addition, the funds that are being repaid to the City from the developer could be used for another HOME eligible project. From the time of project completion until January 2008 the unit was vacant. In January 2008, the unit was rented to a tenant and the developer is still repaying the City on a monthly basis. The City is researching whether the current tenant meets the income qualifications of the HOME program to determine if the unit can be changed from a homeowner unit to a rental unit. The outstanding \$5,000 will be de-committed in the IDIS system and the City will work with the Columbus CPD office to arrive at a solution for closing the activity.

Ref to OIG Evaluation

Auditee Comments

Comment 7

Page 5 of 16

IDIS #1301 --(\$65,000):

This activity has been completed. Beneficiary data and project costs will be to reconcile the activity will be submitted in final form to our Budget Office to close this activity by June 30, 2008.

Comment 7

IDIS #1446 -- (\$50,000):

This is a very large HOPE VI project that is still underway. Upon completion of the project infrastructure, the activity will be complete and closed in IDIS. The project is projected to be complete by December 2008.

Comment 7

IDIS #1585 --(\$9,187.24):

This activity has been completed. Beneficiary data and project costs will be to reconcile the activity will be submitted in final form to our Budget Office to close this activity by June 30, 2008.

Comment 7

IDIS #1626 -- (\$81,143.12):

The project is complete and will be closed in IDIS upon reconciliation of project soft costs, such as legal and architectural expenses. It is expected this will be completed by June 30, 2008.

Comment 7

IDIS #1638 -- (\$49,712):

This project is currently in litigation and will be closed upon completion or resolution of the lawsuit.

Comment 7

IDIS #1765 - (\$86.10):

This project went into foreclosure. This file has been sent to our Law department to start collection proceedings on this outstanding loan. The remaining funds committed to the project will be de-committed so they can be utilized elsewhere.

Comment 7

IDIS #1792 -- (\$18,007.98):

This project is still under construction. Due to both construction cost overruns, scheduling overruns and poor rental market conditions, the developer requested that the City extend the time to complete the project. After an analysis of the project, the City agreed and City Council passed an Ordinance in January 2008 allowing City staff to amend the contract to extend the loan terms (i.e., time during which construction could be completed). The amendment indicates that construction has to be completed by April 2009, so this project is still under construction.

HUD Recommendation 1E:

Implement adequate procedures and controls to ensure that it enters activity data into HUD's System accurately and in a timely manner.

Comment 8

Page 6 of 16

City Response to Recommendation 1E:

In an effort to ensure proper controls of HUD funds, the City instituted procedures that required handling of HUD IDIS projects by various departments (Community Development, Budget, Finance, and Treasury) and several staff members within these departments. The timeframe for transmission of inter-departmental IDIS information along with follow up to close the loop at various intervals of the process, have been identified as major factors hindering accuracy and timeliness. In 2007, some City departments, including Community Development, hired new employees who identified issues, suggested solutions and began working with colleagues within City government more efficiently and effectively. One area of focus by these employees has been to target HUD and other fiscal-related problems spawned by the needs of development projects and to resolve them in a timely manner.

To further increase efficiency and effectiveness, a meeting among all departments handling any portion of IDIS will be held by mid June. Expected outcomes include a more streamlined City system, increased communications, and strategies to red flag issues before they become major IDIS/HUD problems. Community Development will also research other Ohio governments to get a sense of their processes related to IDIS to share among the group.

The Department of Community Development leadership has issued a directive for development staff to work on project closeout stemming from longstanding IDIS issues. Department leadership will host quarterly meetings with development staff to increase problem-solving related to projects. For those projects needing higher-level assistance, Community Development will work with Columbus CPD to determine the best approach for resolution. Additionally, Community Development is fine-tuning components of an internal database. The database enables staff to track IDIS project activities and expenditures. This will allow project staff to cross reference IDIS activities with reports from other departments, thus increasing accuracy. Community Development is also working with the database consultant to hopefully create a tickler system that can provide a warning at 60 and 90 days before the 120-day IDIS requirement. These projects will then be given priority for attention and response.

Collectively, the upcoming meeting among City departments, focused attention on IDIS/project issues, along with the database will be the most proactive means by which to crosscheck accuracy of activity input information, voucher amounts, the timeliness of draws for projects, and impending deadlines.

HUD Recommendation 2A:

Determine the total amount the rents for the 22 units that exceeded HUD's established rent limits and reimburse the appropriate parties from nonfederal funds for the overpayment of rent. If the City does not reimburse the appropriate parties, it should reimburse its Program \$713,597 from nonfederal funds for the 22 units that did not qualify as affordable housing.

Ref to OIG Evaluation

Auditee Comments

Page 7 of 16

Comment 9

City Response to Recommendation 2A:

Though we will discuss each of the 22 units individually, many of the units cited in this recommendation are Low Income Housing Tax Credit (LIHTC) projects that received project based rental subsidy and were funded by Ohio Housing Finance Agency (OHFA). It is our understanding that an exception is made for units that have federal or state project-based rental subsidy and are occupied by families who have incomes below 50% of area median income and pay no more than 30% of their adjusted income toward rent. In these circumstances, the maximum rent may be the rent allowable under the project-based rental subsidy program. This is the case in the households for the following IDIS activities: #1794, #1890 and #1951. All three of these projects received project-based rental subsidy and the City believes that they meet the requirements for the exception as stated above.

Comment 10

Comment 10

IDIS#1794/Tenant ID #8 (Over-payment annualized \$216):

The rent for this unit is Project Based Section 8 and was established by the HUD Office of Multifamily Housing in Columbus, Ohio. The property owner did not set the rent limits in this development. The tenant is responsible for paying 30% of their income, which is less than the maximum Low HOME rent for this size unit. The balance of the rent is paid through the Office of Multifamily Housing. Because the rent limits were established by HUD and were set at this level to provide the project with enough income to have a positive cash flow, we believe they are reasonable. We request that HUD's Community Planning and Development accept the limits currently set for this development.

Comment 11

IDIS #1885/Tenant ID #20 (Over-payment annualized \$156):

The rent for this unit was set by Cincinnati Metropolitan Housing Authority (CMHA) and was in compliance with their rent structure. Further investigation will be done to determine if rent levels established by a local Housing Authority take precedence over HOME rent levels. If it is determined that HOME rents should have been used, the owner/developer will be expected to repay the amount to the Housing Authority (or appropriate organization). As the tenant pays only 30% of their income toward the rent, any excess payment would not be due to the tenant but the agency supplying the supplemental payment.

Comment 11

IDIS #1885/Tenant ID #22 (Over-payment annualized \$348):

The total rent charged for this unit was \$890 with the Tenant paying \$0 and the Housing Assistance Payment paying \$890. The rent was set by Cincinnati Metropolitan Housing Authority (CMHA) and was in compliance with their rent structure. Further investigation will be done to determine if rent levels established by a local Housing Authority take precedence over HOME rent levels. If it is determined that HOME rents should have been used, the owner/developer will be expected to repay the amount to the Housing Authority (or appropriate organization). As this tenant is paying nothing toward the rent, any excess payment would not be due to the tenant but the agency supplying the supplemental payment.

Ref to OIG Evaluation

Auditee Comments

Page 8 of 16

Comment 11

IDIS #1885/Tenant ID #23 (Over-payment annualized \$264):

The total rent charged for this unit was \$890 with the Tenant paying \$236 and the Housing Assistance Payment paying \$649. The rent was set by Cincinnati Metropolitan Housing Authority (CMHA) and was in compliance with their rent structure. Further investigation will be done to determine if rent levels established by a local Housing Authority take precedence over HOME rent levels. If it is determined that HOME rents should have been used, the owner/developer will be expected to repay the amount to the Housing Authority (or appropriate organization). As the tenant pays only 30% of their income toward the rent, any excess payment would not be due to the tenant but the agency supplying the supplemental payment.

Comment 11

IDIS #1885/Tenant ID #24 (Over-payment annualized \$156):

The total rent charged for this unit was \$850 with the Tenant paying \$159 and the Housing Assistance Payment paying \$691. The rent was set by Cincinnati Metropolitan Housing Authority (CMHA) and was in compliance with their rent structure. Further investigation will be done to determine if rent levels established by a local Housing Authority take precedence over HOME rent levels. If it is determined that HOME rents should have been used, the owner/developer will be expected to repay the amount to the Housing Authority (or appropriate organization). As the tenant pays only 30% of their income toward the rent, any excess payment would not be due to the tenant but the agency supplying the supplemental payment.

Comment 11

IDIS #1885/Tenant ID #28 (Over-payment annualized \$156):

The total rent charged for this unit was \$850 with the Tenant paying \$6 and the Housing Assistance Payment paying \$844. The rent was set by Cincinnati Metropolitan Housing Authority (CMHA) and was in compliance with their rent structure. Further investigation will be done to determine if rent levels established by a local Housing Authority take precedence over HOME rent levels. If it is determined that HOME rents should have been used, the owner/developer will be expected to repay the amount to the Housing Authority (or appropriate organization). As the tenant pays only 30% of their income toward the rent, any excess payment would not be due to the tenant but the agency supplying the supplemental payment.

**Comments 10,
12, and 13**

IDIS #1890/Tenant ID #31, 33, 34, 35, 37, 38, 39, 40 (Over-payments annualized \$2998):

The rents for these units are Project Based Section 8 and were established by the HUD Office of Multifamily Housing in Columbus, Ohio. The owner did not set the rent limits in this development. The tenant is responsible for paying 30% of their income toward the rent, which is less than the maximum Low HOME rent for this size unit. The balance of the rent is paid through the Office of Multifamily Housing. Because the rent limits were established by HUD and were set at this level to provide the project with enough income to have a positive cash flow, we believe they are reasonable. We request that HUD Office of Community Planning and Development accept the limits currently set for this development. If it is determined that HOME rents should have been used, the

Ref to OIG Evaluation

Auditee Comments

**Comments 10,
12, and 13**

Page 9 of 16

owner/developer will be expected to repay the amount to the Housing Authority (or appropriate organization). As the tenant pays only 30% of their income toward the rent, any excess payment would not be due to the tenant but the agency supplying the supplemental payment.

**Comments 10,
12, and 14**

IDIS #1951/Tenant ID #42, 43, 44, 45, 48, 49, 51, 52 (Over-payments annualized \$5832):

The rents for these units are Project Based Section 8 and were established by the HUD Office of Multifamily Housing in Columbus, Ohio. The owner did not set the rent limits in this development. The tenant is responsible for paying 30% of their income toward the rent, which is less than the maximum Low HOME rent for this size unit. The balance of the rent is paid through the Office of Multifamily Housing. Because the rent limits were established by HUD and were set for this project to properly cash flow, we believe they are reasonable. We request that HUD Office of Community Planning and Development accept the limits currently set for this development. If it is determined that HOME rents should have been used, the owner/developer will be expected to repay the amount to the Housing Authority (or appropriate organization). As the tenant pays only 30% of their income toward the rent, any excess payment would not be due to the tenant but the agency supplying the supplemental payment.

HUD Recommendation 2B:

Provide supporting documentation or reimburse its Program from nonfederal funds for the \$688,244 in Program funds used for the 25 units cited in this finding for which the City lacked sufficient income documentation to demonstrate that the households were income eligible and/or units qualified as affordable housing.

Comment 15

City Response to Recommendation 2B:

Though we will discuss each of the 25 units individually, the majority of the units cited in this recommendation house tenants that either receive tenant based rental assistance (Section 8) through CMHA or the units are part of a LIHTC project which receive project based rental assistance through Ohio Housing Finance Agency (OHFA). The City relied on a letter or other documentation from the Housing Authority or OHFA as sufficient documentation to demonstrate tenant eligibility. We felt that as both of these agencies are governmental entities, that certification by them that a tenant is low-income should be sufficient for our files. However, in the future, the City will request documentation related to certification accuracy.

Comment 16

IDIS #1794/Tenant ID #2 (\$29,131):

The tenant was income certified by Model Management in October 2005 during the initial application intake and review process. The household income consisted of employment income with zero assets. The total annual household income was projected to be \$3,042. Documentation included the income certification and 3rd Party verification from the employer. In addition, Model Management received the HUD-50059 that also verifies and documents the household income. Based on the 2005 Adjusted HOME

Ref to OIG Evaluation

Auditee Comments

Comment 16

Page 10 of 16

Income Limits published in February 2005, the annual household income for 1 person is below the maximum low income limit of \$36,100 and therefore eligible for assistance under the HOME program. We request that HUD remove this finding.

IDIS #1794/Tenant ID #9 (\$29,131):

The tenant was income certified by Model Management in October 2005 during the initial application intake and review process. The household income consisted of employment income with zero assets. The total annual household income was projected to be \$13,182. Documentation included the income certification and 3rd Party verification from the employer. In addition, Model Management received the HUD-50059 that also verifies and documents the household income. Based on the 2005 Adjusted HOME Income Limits published in February 2005, the annual household income for a 2 person household is below the maximum low income limit of \$41,300 and therefore eligible for assistance under the HOME program. We request that HUD remove this finding.

Comment 17

IDIS #1881/Tenant ID #12 (\$12,400):

The tenant was income certified by Rohe Holdings, Inc in September 2005 during the initial application intake and review process. The total annual household income was projected to be \$4008. Rohe Holdings received several documents from the local Public Housing Agency that confirmed income eligibility. Based on the 2005 Adjusted HOME Income Limits published in February 2005, the annual household income for a 1 person household is below the maximum low income limit of \$36,100 and therefore eligible for assistance under the HOME program. We request that HUD remove this finding.

Comment 18

IDIS #1881/Tenant ID #16 (\$12,400):

The tenant was income certified by Rohe Holdings, Inc in September 2005 during the initial application intake and review process. The total annual household income was projected to be \$540.00. Rohe Holdings received several documents from the local Public Housing Agency that confirmed income eligibility. Based on the 2005 Adjusted HOME Income Limits published in February 2005, the annual household income for a 2 person household is below the maximum low income limit of \$41,300 and therefore eligible for assistance under the HOME program. We request that HUD remove this finding.

Comment 19

IDIS #1881/Tenant ID #17 (\$12,400):

The tenant was income certified by Rohe Holdings, Inc in October 2005 during the initial application intake and review process. The total annual household income was projected to be \$13,300.00. Rohe Holdings received several documents from the local Public Housing Agency that confirmed income eligibility. Based on the 2005 Adjusted HOME Income Limits published in February 2005, the annual household income for a 1 person household is below the maximum low income limit of \$36,100 and therefore eligible for assistance under the HOME program. We request that HUD remove this finding.

Ref to OIG Evaluation

Auditee Comments

Page 11 of 16

Comment 20

IDIS #1881/Tenant ID #18 (\$12,400):

The tenant was income certified by Rohe Holdings, Inc in October 2005 during the initial application intake and review process. The total annual household income was projected to be \$6,661.00. Rohe Holdings received several documents from the local Public Housing Agency that confirmed income eligibility. Based on the 2005 Adjusted HOME Income Limits published in February 2005, the annual household income for a 1 person household is below the maximum low income limit of \$36,100 and therefore eligible for assistance under the HOME program. We request that HUD remove this finding.

Comment 21

IDIS #1881/Tenant ID 19 (\$12,400):

The tenant was income certified by Rohe Holdings, Inc in October 2005 during the initial application intake and review process. The total annual household income was projected to be \$480.00. Rohe Holdings received several documents from the local Public Housing Agency that confirmed income eligibility. Based on the 2005 Adjusted HOME Income Limits published in February 2005, the annual household income for a 1 person household is below the maximum low income limit of \$36,100 and therefore eligible for assistance under the HOME program. We request that HUD remove this finding.

Comment 22

IDIS #1885 / Tenant ID #20 (39,226):

Though we do not have complete income documentation at this time for Household #20, we are in the process of working with the developer to obtain this information.

IDIS #1885 / Tenant ID #21 (39,226):

The City believes that we have provided sufficient income documentation for this household. The income information that we obtained for this unit was documentation from Cincinnati Metropolitan Housing Authority (CMHA) and should be sufficient to demonstrate eligibility. We request that HUD remove this finding.

Comment 22

IDIS #1885 / Tenant ID #22 (39,226):

The City believes that we have provided sufficient income documentation for this household. The income information that we obtained for this unit was documentation from Cincinnati Metropolitan Housing Authority (CMHA) and should be sufficient to demonstrate eligibility. We request that HUD remove this finding.

Comment 22

IDIS #1885 / Tenant ID #23 (39,226):

The City believes that we have provided sufficient income documentation for this household. The income information that we obtained for this unit was documentation from Cincinnati Metropolitan Housing Authority (CMHA) and should be sufficient to demonstrate eligibility. We request that HUD remove this finding.

Ref to OIG Evaluation

Auditee Comments

Comment 22

Page 12 of 16

IDIS #1885 / Tenant ID #24 (39,226):

The City believes that we have provided sufficient income documentation for this household. The income information that we obtained for this unit was documentation from Cincinnati Metropolitan Housing Authority (CMHA) and should be sufficient to demonstrate eligibility. We request that HUD remove this finding.

IDIS #1885 / Tenant ID #25 (39,226):

Though we do not have complete income documentation at this time for Household #25, we are in the process of working with the developer to obtain this information.

Comment 22

IDIS #1885 / Tenant ID #26 (39,226):

The City believes that we have provided sufficient income documentation for this household. The income information that we obtained for this unit was documentation from Cincinnati Metropolitan Housing Authority (CMHA) and should be sufficient to demonstrate eligibility.

Comment 22

IDIS #1885 / Tenant ID #27 (39,226):

The City believes that we have provided sufficient income documentation for this household. The income information that we obtained for this unit was documentation from Cincinnati Metropolitan Housing Authority (CMHA) and should be sufficient to demonstrate eligibility.

Comment 22

IDIS #1885 / Tenant ID #28 (39,226):

The City believes that we have provided sufficient income documentation for this household. The income information that we obtained for this unit was documentation from Cincinnati Metropolitan Housing Authority (CMHA) and should be sufficient to demonstrate eligibility.

Comment 22

IDIS #1885 / Tenant ID #29 (39,226):

The City believes that we have provided sufficient income documentation for this household. The income information that we obtained for this unit was documentation from Cincinnati Metropolitan Housing Authority (CMHA) and should be sufficient to demonstrate eligibility.

Comment 22

IDIS #1885 / Tenant ID #30 (39,226):

The City believes that we have provided sufficient income documentation for this household. The income information that we obtained for this unit was documentation from Cincinnati Metropolitan Housing Authority (CMHA) and should be sufficient to demonstrate eligibility.

Comment 23

IDIS #1890/ Tenant ID #39 (21,518):

The tenant was income certified by Model Management in December 2005 during the initial application intake and review process. The household income consisted of

Ref to OIG Evaluation

Auditee Comments

Page 13 of 16

employment income with zero assets. The total annual household income was projected to be \$9,856. Documentation included the income certification and 3rd Party verification from the employer. In addition, Model Management received the HUD-50059 that also verifies and documents the household income. Based on the 2005 Adjusted HOME Income Limits published in February 2005, the annual household income for 1 person is below the maximum low income limit of \$36,100 and therefore eligible for assistance under the HOME program.

Comment 16

IDIS #1951/ Tenant ID #47 (39,524):

This tenant was income certified by Model Management in July 2005 during the initial application intake and review process. The household income consisted of employment income with zero assets. The total annual household income was projected to be \$11,897. Documentation included the income certification and 3rd Party verification from the employer. In addition, Model Management received the HUD-50059 that also verifies and documents the household income. Based on the 2005 Adjusted HOME Income Limits published in February 2005, the annual household income for 1 person is below the maximum low income limit of \$36,100 and therefore eligible for assistance under the HOME program.

Comment 22

IDIS #2046/ Tenant ID #53 (16,190):

The City believes that we have provided sufficient income documentation for this household. The income information that we obtained for this unit was documentation from Cincinnati Metropolitan Housing Authority (CMHA) and should be sufficient to demonstrate eligibility. This tenant is now deceased. There is no additional information that we can provide for this tenant.

Comment 24

IDIS #2046/ Tenant #ID 54 (16,190):

The developer has recently provided the 2008 tenant income information and the initial analysis indicates that the 2008 gross income for this one (1) person household will be \$25,902.74 which is less than the 60% maximum income of \$27,800 for a one person household. The gross income was calculated by dividing the gross pay by the number of hours worked in the pay period and multiplying it by 2080 hours that are the number of work hours in a year ($\$1079.20/86.6 \times 2080 = 25,920.74$). The City received three paycheck stubs from this household dated 01/31/2008; 02/15/2008; 02/29/2008; and a signed copy of the income certification from the tenant to confirm the income eligibility. The City believes the household met the income qualifications but will further verify all income and the household financial information.

Comment 22

IDIS #2072/ Tenant ID #55 (14,358):

The City believes that we have provided sufficient income documentation for this household. The income information that we obtained for this unit was documentation from Cincinnati Metropolitan Housing Authority (CMHA) and should be sufficient to demonstrate eligibility.

Ref to OIG Evaluation

Auditee Comments

Comment 22

Page 14 of 16

IDIS #2072/ Tenant ID #56 (14,358):

The City believes that we have provided sufficient income documentation for this household. The income information that we obtained for this unit was documentation from Cincinnati Metropolitan Housing Authority (CMHA) and should be sufficient to demonstrate eligibility.

IDIS #2072/ Tenant ID #57 (14,358):

The City is still working with the developer to submit this information. If the developer does not provide the information, by the expressed timeframe requested, then the City will consult with our Law Department to determine what legal recourse we have to recover our funds from this unit.

HUD Recommendation 2C:

Ensure that the three projects' owners obtain Title Insurance naming the City as coinsured for the amount of Program funds the City loaned to the projects' owners or reimburse its Program \$690,239 from nonfederal funds applicable.

Comment 25

City Response to Recommendation 2C:

The City is in the process of working with the owners to provide Title Insurance for the properties cited in the recommendation. However, the City would like to point out that this is not a HUD regulation and its only purpose is to enhance the City's existing mortgage interests in the properties.

IDIS #1885 - 3080 McHenry (431,239):

The City is working with the developer to obtain Title Insurance for the property naming the City as co-insured. The City anticipates that the insurance will be in place by June 30, 2008.

Comment 26

IDIS #1890 - Wesley Estates (233,000):

The developer has provided evidence of Title Insurance (see attached) naming the City as coinsured. The Title Insurance is dated April 20, 2005; therefore it was in place when the mortgage was recorded.

IDIS #2046 - 274 Dorchester (26,000):

The City is working with the developer to obtain Title Insurance for the property naming the City as co-insured. The City anticipates that the Title Insurance will be in place by July 30, 2008.

HUD Recommendation 2D:

Provide supporting documentation or reimburse its Program from nonfederal funds for the \$103,998 in Program funds used for the two projects cited in this finding for which the City lacked sufficient documentation to demonstrate that it required the projects' owners to obtain Title Insurance naming the City as coinsured for the amount of Program funds the City loaned to the projects' owners.

Ref to OIG Evaluation

Auditee Comments

Comment 27

Page 15 of 16

City Response to Recommendation 2D:

The City believes that it has supplied sufficient documentation that it required the project's owners to obtain Title Insurance naming the City as co-insured. Section 15 of each contract for IDIS projects #1881 and #2072 states the following:

***Evidence of Title** – At the Loan Closing, the Owner as required in Sections 14, 16 and 17, shall provide evidence of Title in the form of Title Insurance to the City from a Title Insurance company acceptable to the City. At anytime during the term of the Funding Agreement, the Owner agrees to provide on request of the City evidence of continued ownership of the Property.*

The City believes that the above section in the contract clearly states the requirement of Title Insurance to the City on both of the properties cited in the finding. The City will enforce the policy of requiring Title Insurance for Rental Rehabilitation Projects.

Comments 26 and 28

IDIS #1881 – Altar/Reading (61,998):

The City is working with the developer to obtain Title Insurance for the property naming the City as co-insured. The City anticipates that the Title Insurance will be in place in the next 30 – 60 days.

Comments 26 and 28

IDIS 2072 – 782 Clinton Springs (42,000):

The City is working with the developer to obtain Title Insurance for the property naming the City as co-insured. The City anticipates that the Title Insurance will be in place in the next 30 – 60 days.

Comment 29

HUD Recommendation 2E:

Implement adequate procedures and controls to ensure that housing rehabilitation assistance is only provided to appropriate projects and sufficiently protected to prevent \$370,995 in Program funds from being used over the next 12 months contrary to HUD's regulation and the City's manual.

City Response to Recommendation 2E:

City staff will conduct a full review of the Rental Rehab Program Manual to insure compliance with 24 CFR Part 92 and will implement new procedures and controls where necessary to meet all HOME regulations. This review will be completed and fully implemented by September 30, 2008.

HUD Recommendation 2F:

Implement adequate procedures and controls to ensure that projects owners execute proper leases with households.

Ref to OIG Evaluation

Auditee Comments

Comment 29

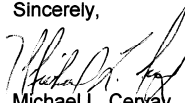
Page 16 of 16

City Response to Recommendation 2F:

The City will change its procedures to require that a sample lease be submitted with a funding application. Staff will review the lease, along with the rest of the application and provide comments to the developer as to the appropriateness of the lease that was submitted. The developer/owner will be required to provide a copy of the executed lease (that does not contain any of the prohibited language) for each HOME assisted unit.

In closing, it is my hope that HUD will determine that the City of Cincinnati made appropriate use of its HUD funds and has recognized our intent to increase our understanding and enhance operations relative to use of future funds. It is also my hope that our plans indicate to HUD that the City is willing to improve upon its current systems and relationships relative to federal programs. The City looks forward to continuing to partner with HUD in order to achieve our common goals of providing appropriate assistance to eligible participants and to increase homeownership in the City of Cincinnati.

Sincerely,



Michael L. Cervay
Director

cc: Mark Mallory, Mayor, City of Cincinnati
Milton R. Dohoney, Jr., City Manager, City of Cincinnati
Patricia King, Acting City Solicitor, City of Cincinnati
Lea Carroll, Director, Office of Budget, City of Cincinnati
Joe Gray, Director, Finance, City of Cincinnati
Dwen Chester, Deputy Director, Community Development, City of Cincinnati
Herman Bowling, Housing Manager, Community Development, City of Cincinnati
Oren Henry, Community Development Officer, City of Cincinnati
Jorgelle Lawson, Director, Office of Community Development and Planning,
HUD Columbus
Richard Hendershot, Program Manager, Office of Community Development and
Planning, HUD Columbus
Robert Milburn, Program Officer, Office of Community Development and
Planning, HUD Columbus

OIG's Evaluation of Auditee Comments

Comment 1 The City did not provide documentation to support the action it has taken for each activity. However, we obtained Program reports from HUD's System as of May 22 and May 27, 2008. The Program reports showed that the City closed out activity numbers 1106, 1885, 1951, 2046, and 2118 from January 14 through May 15, 2008. The Program reports also showed that the City drew down \$730 in Program funds for activity numbers 2046 and 2118 from February 1 through May 15, 2008, and decommitted \$250 in Program funds for activity number 1885 on January 29, 2008.

We revised the report to state that as of May 15, 2008, it closed out five of the 10 activities. The City drew down \$730 in Program funds from February 1 through May 15, 2008, and decommitted \$250 in Program funds on January 29, 2008, for the five activities. Therefore, the City should have closed out the remaining five activities and decommitted the outstanding \$68,453 in Program funds.

We also amended recommendations 1A and 1B to reflect these revisions.

Comment 2 We used the term final environmental determination to paraphrase the process required by the State Agency. The City is required to conduct another environmental assessment of the property for activity number 1279 and submit a letter of no further action to the State Agency. The State Agency reviews the letter of no further action and makes a determination as to whether the property is safe for its intended use. If the property is safe, the State Agency issues a covenant not to sue or liability release for the property.

Comment 3 The City did not provide documentation to support that an environmental assessment was completed for the property and the property is safe for multifamily or senior housing.

Comment 4 Activity number 1279 is not a community housing development organization activity. The City did not enter into a written agreement or contract with South Cumminsville or Working in Neighborhoods for the activity. The City was required to execute a written legally binding agreement with South Cumminsville prior to setting up the activity in HUD's System. Without an executed written legally binding agreement, the City may not be able to require South Cumminsville to provide affordable housing to eligible low- and moderate-income individuals on the property.

Comment 5 As of April 2008, the City had drawn down and disbursed \$441,899 in Program funds for activity number 1279. The City's file for the activity contained vouchers totaling \$430,065 in Program funds. The vouchers included \$296,094 (69 percent) for architectural and urban design fees and construction improvements and \$133,971 (31 percent) for lead contractor and geology fees and testing services.

- Comment 6** The City needs to obtain a final environmental determination from the State Agency. If the State Agency determines that housing can be built on the property, the City should enter into a written agreement or contract with South Cumminsville for activity number 1279 that contains a specified plan for how the property will be used to provide affordable housing to eligible low- and moderate-income individuals. If the State Agency determines that housing cannot be built on the property or if the City is unable to enter into a written agreement or contract with South Cumminsville, the City should reimburse its Program from nonfederal funds for the \$441,899 in Program funds it used for the activity and cancel and decommit the \$374,194 in Program funds remaining for the activity.
- Comment 7** The City did not provide documentation to support that it reviewed the status of the remaining 10 activities.
- Comment 8** The City's updated policies and procedures should improve its procedures and controls over its System reporting if fully implemented.
- Comment 9** We added to the report that HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.252(b)(2) state that if a Program-assisted unit receives federal or state project-based rental subsidy and the very low-income household pays as a contribution toward rent not more than 30 percent of the household's adjusted income, then the maximum rent is the rent allowable under the federal or state project-based rental subsidy program.
- Comment 10** We revised the report to state that the City provided \$397,262 in Program funds to assist 11 (20 percent) units that did not qualify as affordable housing. The 11 units were in three of the projects. We also amended recommendations 2A and 2D to reflect this revision.
- Comment 11** Rents set by the Cincinnati Metropolitan Housing Authority do not take precedence over Program rent limits established in HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.252.
- Comment 12** The City's project files for the units; household numbers 33, 38, 42, 44, and 48; contained documentation supporting that the households had no income and paid initial minimum rents of \$25. The households contributed more than 30 percent of their adjusted income toward rent. Therefore, the rents allowable under federal or state project-based rental subsidy programs are not the maximum rents.
- Comment 13** The City could not provide sufficient documentation for household number 39 to support that the household did not contribute more than 30 percent of its adjusted income toward rent.
- Comment 14** The City's project file for the unit, household 52, contained documentation supporting that the household had a monthly income of \$31 and paid an initial minimum rent of \$25. The household contributed more than 30 percent of its

adjusted income toward rent. Therefore, the rent allowable under a federal or state project-based rental subsidy program is not the maximum rent.

Comment 15 HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.508(a) state that a participating jurisdiction must establish and maintain sufficient records to enable HUD to determine whether the participating jurisdiction has met the requirements of 24 CFR [*Code of Federal Regulations*] Part 92. The participating jurisdiction must maintain records demonstrating that each household is income eligible in accordance with 24 CFR [*Code of Federal Regulations*] 92.203.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.203(a)(1)(i) state that for households that are tenants in Program-assisted housing and not receiving Program tenant-based rental assistance, a participating jurisdiction must initially determine the households' annual income by examining the source documents, such as wage statements, interest statements, and unemployment compensation statements, evidencing the households' annual income.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.504(a) state that a participating jurisdiction is responsible for managing the day-to-day operations of its Program, ensuring that Program funds are used in accordance with all Program requirements and written agreements.

Comment 16 We revised the report to state that the City lacked documentation for 22 (40 percent) of the 54 units selected for review to support that it used \$590,458 in Program funds for appropriate projects. The City could not provide sufficient income documentation for the households in the 22 units to demonstrate that households were income eligible and initial rents for three of the units to show that the units qualified as affordable housing. We also amended recommendation 2B to reflect this revision.

Comment 17 The City's project file for the unit, household number 12, contained a schedule showing that the household's monthly gross income was zero. The City's project file did not contain and the City did not provide documentation to support that the project owner certified the household's income in September 2005, the projected annual income was \$4,008, and the project owner obtained documentation from the local public housing authority confirming the household's income eligibility.

Comment 18 The City's project file for the unit, household number 16, contained a schedule showing that the household's monthly gross income was zero. The City's project file did not contain and the City did not provide documentation to support that the project owner certified the household's income in September 2005, the projected annual income was \$540, and the project owner obtained documentation from the local public housing authority confirming the household's income eligibility.

Comment 19 The City's project file for the unit, household number 17, contained a schedule showing that the household's monthly gross income was zero. The City's project

file did not contain and the City did not provide documentation to support that the project owner certified the household's income in October 2005, the projected annual income was \$13,300, and the project owner obtained documentation from the local public housing authority confirming the household's income eligibility.

- Comment 20** The City's project file for the unit, household number 18, contained a rental rehabilitation program occupancy affidavit, signed March 1, 2006, showing that the household earned \$1,600 every two weeks, which would be an annual income of \$41,600. The file also contained an earnings statement showing that the household earned \$1,608 for the period May 7 through May 20, 2006. The City's project file did not contain and the City did not provide documentation to support that the project owner certified the household's income in October 2005, the projected annual income was \$6,661, and the project owner obtained documentation from the local public housing authority confirming the household's eligibility. The City's project file also did not contain a lease. The housing division manager for the City's Department said the unit was not one of the Program-assisted units. Therefore, this unit was never included in the report.
- Comment 21** The City's project file for the unit, household number 19, contained a schedule showing that the household's monthly gross income was zero. The City's project file did not contain and the City did not provide documentation to support that the project owner certified the household's income in October 2005, the projected annual income was \$480, and the project owner obtained documentation from the local public housing authority confirming the household's income eligibility.
- Comment 22** The City's project file for the units, household numbers 21, 22, 23, 24, 26, 27, 28, 29, 30, 53, 55, and 56, did not contain source documents, such as wage statements, interest statements, and unemployment compensation statements, to support the households' incomes.
- Comment 23** The City's project file for the unit, household number 39, failed to contain and the City did not provide documentation to support that the project owner certified the household's income in December 2005, an employment verification was completed, and the projected annual income was \$9,856.
- Comment 24** The City's project file for the unit, household number 54, contained a rehabilitation tenant profile, signed December 1, 2006, showing that the household moved into the unit on September 1, 2006. The City provided the owner's lease with the household, which stated that the household moved into the unit on May 1, 2005. These dates conflict with each other. Further, the City referred to household income documentation for 2008. Whether the move-in date was May 1, 2005, or September 1, 2006, the income documentation would not support the household's income at the time the household moved into the unit.
- Comment 25** HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.251(a)(1) state that housing rehabilitated with Program funds must meet all applicable ordinances

at the time of project completion. Section 2 of City ordinance number 0106-2002, effective April 3, 2002, states that the City's council authorized the city manager, or the city manager's designee to make loans and grants in accordance with the its 2002 rental rehabilitation program guidelines and to do all things necessary to carry out the its rental rehabilitation program. Section IV of the City's manual, dated October 2003, states that before the closing of a rental rehabilitation assistance loan, the project owner must submit title insurance for the property naming the City as coinsured for the loan amount.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.504(a) state that a participating jurisdiction is responsible for managing the day-to-day operations of its Program, ensuring that Program funds are used in accordance with all Program requirements and written agreements. Section 15 of the City's written agreements with the projects' owners state that the owners shall provide evidence of a title in the form of title insurance to the City from a title insurance company acceptable to the City.

Comment 26 We revised the report to state that the City provided \$561,227 in Program funds to four projects without requiring the projects' owners to obtain title insurance for the properties naming the City as coinsured for the amount of Program funds the City loaned to the projects' owners. We removed project number 1890 from and added project numbers 1881 and 2072 to the table showing the project numbers, number of units assisted, and the amount of Program funds the City loaned to the projects' owners for which the City did not ensure that the projects' owners obtained title insurance naming the City as coinsured. We also amended recommendations 2C and 2D to reflect these revisions.

Comment 27 The City provided Program funds to project numbers 1881 and 2072 without requiring the projects' owners to obtain title insurance for the properties naming the City as coinsured for the amount of Program funds the City loaned to the projects' owners.

Comment 28 We removed from the report that the City provided \$103,998 in Program funds to two projects without documentation to support that it required the projects' owners to obtain title insurance naming the City as coinsured for the amount of Program funds the City loaned to the projects' owners. We also removed the recommendation for the City to provide supporting documentation or reimburse its Program from nonfederal funds used for the two projects which the City lacked sufficient documentation to demonstrate that it required the projects' owners to obtain title insurance naming the City as coinsured for the amount of Program funds the City loaned to the projects' owners to reflect this revision.

Comment 29 The City's updated policies and procedures should improve its procedures and controls over its projects if fully implemented.

Appendix C

HUD'S REQUIREMENTS AND THE CITY'S POLICIES

Finding 1

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.2(1) define a commitment as a participating jurisdiction executing a legally binding agreement with a state recipient, subrecipient, or contractor to use a specific amount of Program funds to produce affordable housing or provide tenant-based rehabilitation assistance; executing a written agreement reserving a specific amount of funds to a community housing development organization; or meeting the requirements of 24 CFR [*Code of Federal Regulations*] 92.2(2) regarding specific local activities. Section 92.2(2) states that if an activity consists of rehabilitation or new construction, a participating jurisdiction and activity owner must execute a written legally binding agreement under which Program funds are to be provided to the owner for an identifiable activity under which construction can reasonably be expected to start within 12 months of the agreement date.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.251(a)(1) state that housing rehabilitated with Program funds must meet all applicable ordinances at the time of project completion.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.252(e) state that Program-assisted rental activities must meet affordability requirements regarding low- and moderate-income households and rental limits for not less than an applicable period of 5, 10, 15, or 20 years, beginning after activity completion.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.254(a)(4) state that Program-assisted homebuyer activities must meet affordability requirements regarding principal residence of a household for not less than an applicable period of 5, 10, or 15 years, beginning after activity completion.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.502(a) state that HUD's System disburses Program funds that are allocated or reallocated in the City's HOME investment trust fund treasury account (treasury account). Section 92.502(b)(1) states that after a participating jurisdiction commits Program funds to a specific local activity, a participating jurisdiction may set up specific investments in HUD's System. A participating jurisdiction is required to set up in HUD's System acquisition, new construction, housing rehabilitation, and tenant-based rental assistance activities. A participating jurisdiction is required to enter complete activity setup information at the time of activity setup. Section 92.502(b)(2) states an activity, which has been committed in HUD's System for 12 months without an initial disbursement of funds, may be cancelled by HUD's System. Section 92.502(c) states that after a participating jurisdiction enters complete activity setup information into HUD's System, a participating jurisdiction may draw down Program funds for an activity from its treasury account. Section 92.502(d)(1) states that complete project completion information must be entered into HUD's System or otherwise

provided within 120 days of the final project drawdown. If satisfactory activity completion information is not provided, HUD may suspend further activity setups or take other corrective actions.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.504(a) state that a participating jurisdiction is responsible for managing the day-to-day operations of its Program, ensuring that Program funds are used in accordance with all Program requirements and written agreements.

Section VI.A of HUD's Community Planning and Development Notice 01-13 states that approved budgets, letters of intent, award letters, and council minutes are not acceptable forms of commitment documentation. Section VI.B states that a written agreement or contract between a participating jurisdiction and a state recipient, subrecipient, or contractor is an acceptable form of commitment documentation.

Chapter 9, section 1.4, of HUD's Community Planning and Development System Manual states that Program funds are committed to an activity in HUD's System when there is a written legally binding agreement and the activity is set up and funded in HUD's System.

HUD's HOMEfires, volume 6, number 1, dated August 2005, states that a participating jurisdiction must report activity completion and beneficiary data for initial occupants in a timely manner by entering the data into HUD's System on a regular basis and periodically reviews the status of all activities to identify those that need to be cancelled. Failure to maintain timely information in HUD's System is a violation of 24 [*Code of Federal Regulations*] 92.504(a). When a participating jurisdiction fails to enter information into HUD's System in a timely manner, Program results are underreported to Congress and the Office of Management and Budget. The underreporting of Program results may negatively impact future Program funding.

Section 4 of City ordinance number 0114-2001, effective April 25, 2001, states that the proper City officers are authorized to use and expend nearly \$2.5 million in accordance with the project descriptions and budgets for the five projects in exhibit A. Exhibit A, section 5, includes \$815,000 in Program funds for activity number 1279 as one of the five projects and lists Working in Neighborhoods as the applicant. Section 5 also states that if the City's contract for funding assistance is not executed within six months of the effective date of the authorizing ordinance, the City's commitment and authorization to provide funds for the activity shall expire unless in extenuating circumstances, an extension is approved in writing and in advance by the director of the Department of Neighborhood Services. Project designs, floor plans, specifications, site plans, and construction drawings will be referenced in the contract and must be approved by the Department of Neighborhood Services before any funds are disbursed.

Finding 2

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.203(a)(1)(i) state that for households that are tenants in Program-assisted housing and not receiving Program tenant-based rental assistance, a participating jurisdiction must initially determine the households' annual income by examining the source documents, such as wage statements, interest statements, and unemployment compensation statements, evidencing the households' annual income.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.251(a)(1) state that housing rehabilitated with Program funds must meet all applicable ordinances at the time of project completion.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.252 state that Program-assisted units in a rental housing project must be occupied only by households that are eligible as low-income households and must meet the requirements of 24 CFR [*Code of Federal Regulations*] 92.252 to qualify as affordable housing. Section 92.252(a) states that the maximum Program rent limits are the lesser of the fair market rent for existing housing for comparable units in the area established by HUD under 24 CFR [*Code of Federal Regulations*] 888.111 or a rent that does not exceed 30 percent of the adjusted income of a household, the annual income of which equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. Section 92.252(b)(2) states that if a Program-assisted unit receives federal or state project-based rental subsidy and the very low-income household pays as a contribution toward rent not more than 30 percent of the household's adjusted income, then the maximum rent is the rent allowable under the federal or state project-based rental subsidy program. Section 92.252(h) states that a participating jurisdiction must initially determine each household's annual income in accordance with 24 CFR [*Code of Federal Regulations*] 92.203(a)(1)(i).

HUD's Regulations at 24 CFR [*Code of Federal Regulations*] 92.253(b)(3) state that a lease for a Program-assisted rental housing unit may not contain provisions excusing the owner from responsibility for any action or failure to act, whether intentional or negligent. Section 92.253(b)(6) states that the lease may not contain provisions for the agreement by the household to waive any right to a trial by jury.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.504(a) state that a participating jurisdiction is responsible for managing the day-to-day operations of its Program, ensuring that Program funds are used in accordance with all Program requirements and written agreements.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.504(c)(3)(vi) state that a participating jurisdiction's written agreements with for-profit or nonprofit housing owners must specify the particular records that must be maintained and the information or reports that must be submitted to assist the participating jurisdiction in meeting its record-keeping and reporting requirements.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.508(a) state that a participating jurisdiction must establish and maintain sufficient records to enable HUD to determine whether the participating jurisdiction has met the requirements of 24 CFR [*Code of Federal Regulations*] Part 92. The participating jurisdiction must maintain records demonstrating the following:

- ❖ Each household is income eligible in accordance with 24 CFR [*Code of Federal Regulations*] 92.203.
- ❖ Each rental housing project meets the affordability and income targeting requirements of 24 CFR [*Code of Federal Regulations*] 92.252 for the required period. Records must be maintained for each household assisted.

- ❖ Each lease for a Program-assisted rental housing unit complies with the household and participant protections of 24 CFR [*Code of Federal Regulations*] 92.253. Records must be maintained for each household.

Section 2 of City ordinance number 0106-2002, effective April 3, 2002, states that the City's council authorizes the city manager, or the city manager's designee to make loans and grants in accordance with the its 2002 rental rehabilitation program guidelines and to do all things necessary to carry out the its rental rehabilitation program.

Section IV of the City's manual, dated October 2003, states that before the closing of a rental rehabilitation assistance loan, the project owner must submit title insurance for the property naming the City as coinsured for the loan amount.

Section 15 of the City's written agreements with the projects' owners states that the owners shall provide evidence of a title in the form of title insurance to the City from a title insurance company acceptable to the City.