



Issue Date September 5, 2008
Audit Report Number 2008-AT-1012

TO: Gary A. Causey, Director, Jacksonville Community Planning and Development, 4HD  
*James D. McKay*

FROM: James D. McKay, Regional Inspector General for Audit, Region IV, 4AGA

SUBJECT: The City of Jacksonville, Florida, Lacked Adequate Controls over Its HOME Program

## **HIGHLIGHTS**

### **What We Audited and Why**

We audited the City of Jacksonville/Duval County's (City) HOME Investment Partnerships Program (HOME) as part of our annual audit plan. We selected the City because it had the largest funded program in northern Florida and other risk factors. Our audit objectives were to determine whether the City administered its HOME program in accordance with the U.S. Department of Housing and Urban Development's (HUD) requirements concerning the (1) eligibility of cost and affordable housing for three foreclosed multifamily rental rehabilitation projects, (2) commitment of program funds, and (3) five-year expenditure.

### **What We Found**

The City did not comply with program requirements for affordability/eligibility of three foreclosed multifamily rental rehabilitation projects and record keeping. The audit identified more than \$2.7 million in questioned costs that were subject to repayment for violation of requirements. The City also had not established and

maintained an adequate system for filing and retrieving program records. The violations occurred because City management and staff did not follow and enforce program requirements. The review did not identify any reportable violations concerning the City's compliance with the HOME program's commitment and five-year expenditure requirements.

### **What We Recommend**

We recommend that the Director of HUD's Jacksonville Office of Community Planning and Development require the City to reimburse more than \$2.7 million in funds approved for three foreclosed multifamily rental rehabilitation projects that did not accomplish the program's affordability requirement or meet other program eligibility requirements. We also recommend that the Director require the City to take appropriate actions to ensure management and staff follow program requirements for approval and oversight of multifamily rental rehabilitation activities and improve its system for filing and maintaining program records.

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 or directives issued because of the audit.

### **Auditee's Response**

We provided our discussion draft audit report to the City on July 10, 2008 and held an exit conference on July 15, 2008. The City provided written comments on July 29, 2008. It generally agreed with the facts presented in the finding but felt extenuating circumstances existed that justified not requiring it to repay certain amounts questioned by the audit.

The complete text of the City's written response, along with our evaluation of that response, can be found in appendix B of this report.

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## **BACKGROUND AND OBJECTIVES**

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The City of Jacksonville/County of Duval (City) is a participating jurisdiction in the HOME Investment Partnerships Program (HOME) administered through the U.S. Department of Housing and Urban Development's (HUD) Office of Community Planning and Development. For program years 1999 to 2007, HUD awarded the City more than \$32 million in HOME funds. The City had the largest funded HOME program in northern Florida. The City is a political entity created by Chapter 67-1230 of the Laws of Florida. The consolidated city government is comprised of 19 elected city council members and the mayor.

The City administers the HOME program through its Housing Services Division (Division). The Division administers various HOME programs targeted at improving the quality of life for low- to moderate-income residents of Jacksonville. The Division also provides funding to external agencies for new home construction, housing rehabilitation, downpayment assistance, housing counseling, emergency rental assistance, emergency shelter, rental housing, special needs housing, and technical and administrative support for nonprofit housing agencies.

HUD's past monitoring of the City's HOME program identified violations in the City's administration of multifamily rental rehabilitation activities. Because of these concerns, we focused our review on multifamily rental rehabilitation activities in which owners were in financial default or the developments ended in foreclosure.

Our audit objectives were to determine whether the City administered its HOME program in accordance with the HUD requirements concerning the (1) eligibility of cost and affordable housing for three foreclosed multifamily rental rehabilitation projects, (2) commitment of program funds, and (3) five-year fund expenditure.

## RESULTS OF AUDIT

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### Finding 1: The City Lacked Adequate Controls over Its HOME Program

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The City did not adequately administer its HOME program and did not always follow program requirements. These violations occurred because the City's management and staff did not follow and enforce program requirements for its multifamily rental rehabilitation program and record keeping. The audit identified more than \$2.7 million in questioned costs that were subject to repayment and an inadequate system for filing and retrieving program records.

#### Affordable Housing Objectives Not Met

The City spent more than \$2.7 million in questioned costs for three multifamily rental rehabilitation developments that were subject to repayment because they ended in foreclosure, did not accomplish their affordable housing period objectives, and involved other violations. The amount consisted of (1) more than \$1.4 million for rehabilitation (activity 6), (2) more than \$824,000 for acquisition of a single development (funded through activity numbers 1169 and 1170), and (3) \$500,000 for acquisition (activity 1252). The banks foreclosed against the project owners because they defaulted on the private financing obtained in conjunction with the HOME funds. Regulations at 24 CFR (*Code of Federal Regulations*) 92.503(b)(1) provide that any HOME funds invested in housing that does not meet the affordability requirements for the period specified in section 92.252 must be repaid by the participating jurisdiction.

Appendix C provides details concerning the above-foreclosed properties and other issues concerning the City's questionable funding and oversight summarized below. Specifically, the City

- Approved rehabilitation funding for activity 6, although several major items in the work write-up did not appear reasonable. This action was followed by housing quality violations and appraiser comments shortly after the renovation that raised concerns as to whether the work was completed to the required HOME standard. Regulations at 24 CFR 92.251(a)(1) provide that housing that is rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances.
- Disbursed a \$900,000 acquisition loan directly to the second owner (activities 1169 and 1170) without support that the owner used the funds to acquire the project. The files showed that the second owner held title to

the property more than two years before the date of the HOME agreement. Further, the loan assisted the second owner with acquiring the property less than five years from the date the first owner (activity 6) renovated the property. Regulations at 24 CFR 92.214(a)(6) provide that HOME funds may not be used to provide assistance to a project previously assisted with HOME funds during the period of affordability established by the participating jurisdiction in the written agreement. Also, the files contained no explanation of why the City allowed the second owner to duplicate major work included in the prior rehabilitation for items such as carpeting, roofing, and exterior painting. The City recovered \$75,791 from the foreclosure sale, leaving the remaining \$824,209 (\$900,000-\$75,791) as ineligible cost.

The City, in an effort to avoid having to repay HOME funds for the previously foreclosed development, required the second owner to assume more than \$1.3 million of the HOME loan obtained by the first owner (activity 6).

- Disbursed the \$500,000 acquisition loan for activity 1252 without support that the owner used the funds to acquire the project. The files did not contain documentation to show when the owner purchased the property and the purchase price.

### **Inadequate System for Filing and Retrieving Records**

The City did not maintain an organized system of records to permit ready identification and retrieval of information and documents needed for the audit. It took excessive time in locating and providing records that should have been readily available. This condition slowed the progress of our work. Regulations at 24 CFR 92.508(a) require each participating jurisdiction to establish and maintain sufficient records to enable HUD to determine compliance with requirements.

### **Conclusion**

The audit identified more than \$2.7 million in HOME funds that were subject to repayment because three foreclosed multifamily rental rehabilitation projects did not meet HOME eligibility/affordability requirements. The audit also identified an inadequate system for filing and retrieving program records. The violations occurred because City management and staff did not ensure compliance with program requirements.

## Recommendations

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

- 1A. Reimburse the HOME program from nonfederal funds \$1,456,224 spent for activity number 6. The activity was foreclosed, did not accomplish its affordable housing objective, and involved other violations discussed in appendix C.
- 1B. Reimburse the HOME program from nonfederal funds \$824,209 spent for activities 1169 and 1170. The activities were foreclosed, did not accomplish their affordable housing objectives, and involved other violations discussed in appendix C. The repayment is the net due following the City's recovery of \$75,791 from the foreclosure sale ( $\$900,000 - \$75,791 = \$824,209$ ).
- 1C. Reimburse the HOME program from nonfederal funds \$500,000 spent for activity 1252 if it cannot support that the owner used the funds for acquisition specified in the HOME agreement. If HUD determines that the \$500,000 was spent for acquisition, we recommend that the City reimburse from nonfederal funds the prorated amount of \$200,000 attributed to four years of the affordability period which was not accomplished due to foreclosure.
- 1D. Take appropriate actions to ensure management and staff follow HOME program requirements for approval and oversight of multifamily rental rehabilitation activities. This should include, if necessary, the establishment and implementation of additional controls and procedures to ensure proper staff performance.
- 1E. Improve its system for filing and maintaining the required HOME program records.

## SCOPE AND METHODOLOGY

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We performed our audit fieldwork from November 2007 to June 2008 at locations in Jacksonville, Florida, including the HUD Office of Community Planning and Development and the City government office.

We did not review and assess general and application controls over computer-processed data for the City's general ledger and HUD's Integrated Disbursement and Information System (IDIS). We conducted other tests and procedures to ensure the integrity of computer-processed data that were relevant to the audit objectives. The tests included but were not limited to checking by electronic means the validity of computer-processed data, reconciling account balances with trial balances, and comparing IDIS commitment dates to those supported by executed legal agreements. The tests did not disclose concerns regarding the City's general ledger data but did indicate that the commitment dates shown in IDIS were inaccurate. We determined that the commitment dates shown in IDIS were system generated based on activity funding setup dates versus the actual commitments created by the executed legal agreements. The incorrect data entries did not impact our report because we obtained correct information for the activities reviewed.

The audit generally covered the period October 1999 through January 2008 and was expanded as determined necessary. To accomplish our objectives, we

- Reviewed HUD's monitoring reports and files for the City's HOME program.
- Researched HUD handbooks, the *Code of Federal Regulations*, the HOME program statute, and other requirements and directives that govern the City's HOME program.
- Reviewed the City's procedures and controls used to administer its HOME program activities.
- Interviewed officials of the Jacksonville HUD Office of Community Planning and Development and the City.
- Reviewed HUD's IDIS reports and training manual.
- Reviewed the City's consolidated annual performance and evaluation reports for its HOME program.
- Reviewed the City's general ledgers for expenditures and revenues.
- Performed site visits to nine selected multifamily rental projects.
- Selected and tested 44 of 153 HOME activities identified in our universe for commitment compliance. The universe included a stratification of activities based on consideration of



factors such as (1) commitments for program years 1999 to 2006, (2) IDIS commitment dates that were more than 24 months after HUD approved the City's HOME program year agreements, (3) commitments equal to or greater than \$150,000, and (4) activities with fund balances equal to or greater than \$60,000. From the universe, we selected 44 activities for review based on leads and other factors we considered relevant to the corresponding audit objective.

- Selected and reviewed the three (100 percent) known multifamily rental rehabilitation developments that were foreclosed without accomplishing their affordable housing period objectives. We did not complete reviews and assessments for any other multifamily rental rehabilitation developments.

We conducted the audit in accordance with generally accepted government auditing standards.

# INTERNAL CONTROLS

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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, and
- Compliance with applicable laws and regulations.

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.

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## Relevant Internal Controls

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

- Policies and procedures that management has implemented to reasonably ensure that resource uses are consistent with laws and regulations.
- Policies and procedures that management has implemented to reasonably ensure that resources are safeguarded against waste, loss, and misuse.

We assessed the above controls.

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 Weaknesses

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

- The City lacked adequate controls over components of its HOME program (see finding 1).

## APPENDIXES

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### Appendix A

#### SCHEDULE OF QUESTIONED COSTS

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<u>Recommendation number</u>	<u>Ineligible 1/</u>	<u>Unsupported 2/</u>
1A	\$1,456,224	
1B	<u>824,209</u>	
1C		<u>\$500,000</u>
Total	<u>\$2,280,433</u>	<u>\$500,000</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 policies or regulations.

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

## Appendix B


# AUDITEE COMMENTS AND OIG'S EVALUATION

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### Ref to OIG Evaluation

### Auditee Comments

Comment 1

<p>HOUSING AND NEIGHBORHOODS DEPARTMENT OFFICE OF THE DIRECTOR</p>  <p>July 29, 2008</p> <p>Mr. James D. McKay Regional Inspector General for Audit U.S. Department of Housing and Urban Development District Office of the Inspector General Office of Audit, Box 42 Richard B. Russell Federal Building 75 Spring Street, SW, Room 330 Atlanta, GA 30303-3388</p> <p>Dear Mr. McKay,</p> <p>In response to your office's draft audit report provided to this agency on July 15, 2008, the City of Jacksonville Housing and Neighborhoods Department offers the following comments:</p> <p><b><u>Finding 1: The City Lacked Adequate Controls over its HOME Program:</u></b></p> <p><b>A. Funds Not Committed by the Statutory Deadline</b></p> <p>There has been previous confusion regarding the 24-month commitment deadline. Previous instructions from the HUD Jacksonville Community Planning and Development office indicated that the commitment deadline hinged upon the date that a project was committed in IDIS, while the OIG maintains that the deadline is determined based on the date of a formal agreement. The City of Jacksonville will enforce the 24-month deadline based on the date that HUD determines is appropriate.</p> <p>The \$2,178,185 in funding expended beyond the 24-month deadline per Appendix C attached to the draft findings was expended on eligible activities that achieved the HOME program goals. It is the City's position that because of the conflicting information received from various federal agencies and because the funds expended were spent on otherwise eligible activities, that the City should not be required to repay these amounts. Likewise, it is the City's contention that the \$308,066 of funding that has not been expended against projects (Appendix C) not be recaptured and instead, be allowed to remain committed so that the projects can be completed, as appropriate.</p>
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Comment 2

**B. Affordable Housing Objective Not Met**

Comment 1

While the City of Jacksonville does not dispute many of the criticisms associated with the Ashley Towers project, the City entered into the agreement in good faith. The first agreement to Ashley Towers (Activity #6) for a \$1,583,587 loan, of which \$1,456,224.18 in expenditures established a mortgage note with the City, leaving an unexpended balance of \$127,363 was entered into during the 1996-1997 fiscal year. The eligible HOME activities implemented included the rehabilitation of 205 units, with a twenty year affordability period. The property was later sold in foreclosure to Compass Bank, who extinguished all junior mortgages on the property including the HOME loan from the City.

Southern Development Partners, LLC, purchased the building in late 1997 from Compass Bank and submitted an application for Low Income Housing Tax Credits, which were approved late in 1997. The \$900,000 in funding to the second owner of the Ashley Towers (Activities #1167 and 1170) project was done in an attempt to retain the units in the City's affordable housing inventory, following the termination of the first affordability period due to foreclosure. As a condition of this funding, the new owner agreed to accept the terms and conditions of the original HOME loan which was extinguished in the 1995 foreclosure action.

Despite hiring a prominent, national management company to be the property manager, and infusions of capital from the project's general partners, the property encountered low occupancies and, as a result, financial difficulties. In November 2001, the construction lender, Bank of America, initiated foreclosure proceedings against the owners of Ashley Towers. The City worked with both the borrower and the lender in the attempt to work out a plan with the bank to renegotiate the terms of the property to no avail. The property was eventually sold in foreclosure and the City received \$75,790.57 in net proceeds from the sale.

Comment 3

In regards to the comments related to Magnolia Point (Activity #1252), the HOME agreement between the City of Jacksonville and Royal Oaks, LLC dated April 6, 2000, as well as the addendum to the agreement dated June 21, 2000, specifically state that the funds will be used for the acquisition of the apartment community. The only task to be performed with the HOME funds was the acquisition of the property, therefore, there was no need for a schedule for completing the tasks since the activity only consisted of one task. The Use of Funds schedule was used as the budget for this project and is an exhibit to the agreement. Magnolia Point was indeed purchased and reached its goal of expanding the supply of decent, safe and affordable housing for individuals of low and very low income until its foreclosure in May of 2008. At the time of the foreclosure, that balance remaining on the amortizing loan was \$150,000.

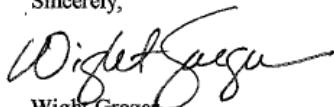
### C. Inadequate System for Filing and Retrieving Records

The City does not dispute that, following multiple moves and reorganizations, the filing systems were less than sufficient to respond in a timely manner to audit requests. Active measures are already in place to resolve this issue as we move forward and files have been retrieved from storage in order to prepare a file inventory so that archived files can be located quickly and the City's response time can be improved.

The Housing and Neighborhoods Department created a new Compliance Unit in October of 2007 that has been charged with reviewing all policies and procedures and revising those documents to incorporate best practices and increased internal scrutiny in the use and monitoring of all grant funding. Monitoring policies and procedures are being strengthened and streamlined so that the City can address previous audit issues in a timely manner and incorporate corrective actions going forward. We look forward to working with our local HUD CPD office in implementing the positive changes that we are incorporating.

If you have any questions, please contact my office at (904) 255-8200.

Sincerely,



Wight Greger  
Director

## **OIG Evaluation of Auditee Comments**

The City generally agreed with our recommendations, except as indicated below.

- Comment 1    Based on the City’s response and our discussions with HUD officials, we revised the report to delete reference to violations associated with the commitment of program funds and the unexpended balance of funds previously committed to activity number 6.
- Comment 2    The City did not dispute the facts presented in the finding but contended that it entered into the agreement in good faith. The City provided no new information that warranted a revision to the report. As stated in the report, the City provided questionable funding and oversight of the foreclosed developments. It did not identify and follow up and resolve questions related to (1) planned and completed work, (2) housing quality standards, (3) duplicate funding of the same development, and (4) the missing or incomplete documentation needed to support that HOME funds were used for the purpose cited in written agreements.
- Comment 3    We considered the City’s comments and revised the report concerning the \$500,000 paid for activity 1252. We showed the total \$500,000 as not properly supported, noting that a prorated \$200,000 of the amount is ineligible due to the project’s foreclosure and failure to meet the full required affordability period. As cited in the report, the files did not support that the owner used the HOME funds for acquisition required by the written agreement. Regulations at 24 CFR 92.504(a) provide that the participating jurisdiction is responsible for managing the day-to-day operations of its HOME program, ensuring that HOME funds are used in accordance with all program requirements and written agreements, and taking appropriate action when performance problems arise.

## Appendix C

### SCHEDULE OF DEFICIENCIES FOR THREE FORECLOSED MULTIFAMILY RENTAL DEVELOPMENTS

Violations	Developments funded by			Notes
	Activity 6	Activities 1169 and 1170*	Activity 1252	
Affordability period not met	x	x	x	a
Questionable work scope and cost estimates	x	x		b
Housing quality violations	x			c
Dual and questionable funding		x		d
Missing support for acquisition cost			x	e

\*The City used two different IDIS activity numbers to track the HOME funds for this one development.

- a. Affordability period not met - The City spent more than \$2.7 million for three developments that were not allowable because they ended in foreclosure and did not accomplish their affordable housing period objectives. Regulations at 24 CFR 92.503(b)(1) provide that any HOME funds invested in housing that does not meet the affordability requirements for the period specified in 24 CFR 92.252 must be repaid by the participating jurisdiction. Specifically, the City

- Spent more than \$1.4 million in HOME funds for the first owner (activity 6) to purchase and renovate a 210-unit multifamily rental rehabilitation project. The expenditure was funded by a HOME loan obtained in March 1993 and an additional loan in February 1994. The owner defaulted on the private financing, and in October 1995, the property ended in foreclosure without accomplishing its five-year affordable housing requirement.

The files contained no evidence that the City considered actions to protect the \$1.4 million in HOME funds at the time of the foreclosure, considering that the defaulted private financing amounted to just over \$895,000. The bank purchased the property for only \$700,000 in a foreclosure sale. Regulations at 24 CFR 92.252(e) state that the participating jurisdiction may use purchase options, rights of first refusal, or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. Considering the more than \$1.4 million HOME expenditure, the City should have documented why it did not pursue purchasing the property to preserve affordability.

- Approved a \$900,000 HOME loan to a second owner (activities 1169 and 1170) of the same multifamily rental rehabilitation project mentioned above for activity 6. The City approved the loan for the second owner in April 1999 and later disbursed the funds to assist the owner in acquiring the development. The owner



defaulted on the private financing, and in July 2005, the property ended in foreclosure without accomplishing its 20-year affordable housing requirement. The City recovered \$75,791 from the foreclosure and is subject to repayment of the remaining \$824,209 (\$900,000-\$75,791 recovered) spent on the project.

- Approved a \$500,000 HOME loan under activity 1252 to acquire a 221-unit multifamily rental rehabilitation project in December 1999. The owner defaulted on the private financing, and in May 2008, the property ended in foreclosure without accomplishing the 10-year affordable housing requirement. Based on our review of the files and discussions with City staff, the property provided affordable housing for only six of the required 10 years. The prorated loan amount, attributed to the four-year “unaccomplished” affordability period, equates to \$200,000 and represents an ineligible cost due to the foreclosure.
- b. Questionable work scope and cost estimates (activity 6) - The dollar amounts and description for several major items in the work write-up performed by the first owner did not appear reasonable. This condition, coupled with housing quality violations and appraiser comments discussed below, raised concerns as to whether the renovation was completed to the required HOME standard. Regulations at 24 CFR 92.251(a) provide that housing that is substantially rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances. For instance, the following work items and estimated costs did not appear reasonable for the 210-unit complex.

<u>Work write-up description</u>	<u>Auditor observation</u>
*Replace all carpet – \$94,403	This equates to only \$450 per unit and did not appear reasonable.
*Replace 105 refrigerators (\$35,700) and repair 105 refrigerators (\$11,919)	The equal distribution resembles a rough estimate versus work based on an actual detailed unit inspection.
*Replace 105 ranges (\$22,785) and repair 105 ranges (\$7,455)	Same as above

\*The renovation work performed by the second owner about five years later also included work for this category.

- c. Housing quality violations (activity 6) - The project had housing quality violations immediately following completion of renovation by the first owner. Regulations at 24 CFR 92.251(a) provide that housing that is substantially rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances.

The City should have detected and taken action to address the effect of the housing quality violations on the eligibility of the HOME funding. We examined 56 unit inspection reports conducted within 2 to 10 months after the last construction draw in April 1994. The inspections showed that 32 of the 56 units (57 percent) failed the initial inspection. Many of the failed units were reinspected in a timely manner and passed.

The 19 failed units included 10 units (7 occupied) for which the files contained no evidence of a reinspection and nine units (six occupied) for which reinspections were performed and the units passed more than five to eight months after the initial inspection. The files did not show that the City detected and took action to assess the impact of the violations on the eligibility of the HOME funds.

The files contained indications that the whole project was not renovated as it should have been. For instance, the inspection report for unit number 502, dated November 29, 1994, noted that the unit had not been renovated. This notation was significant considering that all of the units were supposed to have been renovated before or shortly after the last construction draw in April 1994. Unit 502 was inspected more than six months after the last draw. The files also contained a project appraisal, dated August 1995, about 15 months after the renovation. The report commented that the project suffered from extensive deferred maintenance and the need for renovation was estimated at \$590,000. The housing quality violations, lack of renovation of unit 502, and the appraiser's comment were not indicative of a project that was recently renovated to HOME standards.

- d. Dual and questionable funding (activities 1169 and 1170) - The City provided dual and questionable assistance for this development which, as previously discussed, was renovated using HOME funds about five years earlier by another owner (activity 6). Regulations at 24 CFR 92.214(a)(6) provide that HOME funds may not be used to provide assistance to a project previously assisted with HOME funds during the period of affordability established by the participating jurisdiction in the written agreement under section 92.504. The files also showed that the project was questionable for other reasons. Specifically,

- The files showed that the second owner already owned the property. Thus, the HOME funds were not supported as needed and used to acquire the property as stated in the HOME agreement executed in April 1999. Regulations at 24 CFR 92.504(a) provide that the participating jurisdiction is responsible for managing the day-to-day operations of its HOME program, ensuring that HOME funds are used in accordance with all program requirements and written agreements, and taking appropriate action when performance problems arise.

The City's files contained a \$1.1 million private lender mortgage and promissory note on the property obtained by the second owner on February 3, 1997, more than two years before the HOME agreement. The promissory note stated that the loan would be payable within seven days after satisfaction of all "Tax Credit Conditions." Yet on May 17, 1999, the City wrote a \$900,000 check (number 00203352) paid directly to the second owner with a description of site acquisition. The files did not contain specific documentation to show how the owner used the funds.

- The City, in an effort to avoid having to repay HUD for activity 6, required the second owner to assume \$1,343,082 of the HOME loan obtained by the first

owner (activity 6). The first owner, as previously discussed, defaulted and allowed the project to be foreclosed without accomplishing its affordable housing objective. The foreclosure ended the affordability restriction required by the HOME agreement with the first owner. Regulations at 24 CFR 92.252(e) provide that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure. Thus, the requested assumption did not appear reasonable for the prior HOME loan that involved more than a three-year time lapse between the prior foreclosure and the date the second owner assumed the loan. The file contained a May 13, 2004, memorandum from a City official stating that the City requested that the developer assume the loan so that the City would not have to refund the foreclosure balance to HUD.

- Some of the major work items called for by the second loan duplicated work included in the prior rehabilitation. These items included carpeting, roofing, and exterior painting. The files did not contain a cost estimate for the work and no explanation of why the second owner needed to perform renovation performed about five years earlier. The City did not address or document that it addressed this issue.
- e. Missing support for acquisition cost (activity 1252) - The files did not contain adequate documentation to support that the owner used the \$500,000 in HOME funds to acquire the project as required by the June 2000 HOME agreement. On May 1, 2000, the owner requested the HOME funds as reimbursement for acquisition cost advanced by a private bank. On July 24, 2000, the City disbursed the HOME funds directly to the owner in two separate payments totaling \$500,000 ( $\$366,619 + \$133,381 = \$500,000$ ). The files did not contain a settlement statement to show when the owner purchased the property and the purchase price. The owner apparently already owned the property, considering that the requested reimbursement was to repay a bank advance for the acquisition.