



Issue Date May 14, 2009
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Audit Report Number 2009-BO-1008
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TO: Robert Paquin, Director, Office of Community Planning and Development,  
Boston Regional Office, 1AD

FROM:   
John A. Dvorak, Regional Inspector General for Audit, Boston Region, 1AGA

SUBJECT: The Office of Community Development, City of Holyoke, Massachusetts, Did  
Not Award HOME Set-Aside Funds to a Qualified Community Housing  
Development Organization

## **HIGHLIGHTS**

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

We initiated an audit of the City of Holyoke, Massachusetts, Office of Community Development's (City) award and use of HOME Investment Partnerships (HOME) program set-aside funds as part of our annual audit plan. Our objective was to determine whether the City ensured that Contemporary Apartments, Inc. (Contemporary Apartments), met community development housing organization (CHDO) qualification requirements and whether the related CHDO project activities carried out by Contemporary Apartments and Olde Holyoke Development Corporation<sup>1</sup> met the HUD eligibility requirements for CHDOs.

This is the first of two planned audit reports on the City's HOME program and other housing-related activities.

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<sup>1</sup> Olde Holyoke Development Corporation is related to Contemporary Apartments through a commonality of directors.

## What We Found

The City awarded more than \$1.7 million in HOME program CHDO set-aside funds to Contemporary Apartments, which was not eligible to receive set-aside funds.<sup>2</sup> This occurred because the City did not ensure that Contemporary Apartments was qualified to be designated as a CHDO or that the related CHDO projects met key requirements for this designation and project eligibility. Despite these deficiencies, the City certified Contemporary Apartments as a CHDO, and provided set-aside funds for three homeownership projects.

As a result, the City significantly overstated the HOME set-aside funds recorded in HUD's financial reporting systems for fiscal years 2006, 2007, and 2008. Also, due to the overstatement of reserved and expended set-aside funds, the City (through its partnership in a Regional Consortium) will not meet the statutory 15 percent spending requirement, totaling \$501,000, for set-aside funds<sup>3</sup> unless other qualifying projects can be identified and funded.

## What We Recommend

We recommend that the Director of the Office of Community Planning and Development in Boston require the City to (1) deobligate the \$1,768,071 in HOME set-aside funds awarded to Contemporary Apartments for the three ineligible projects, and reduce the amount of set-aside funds reported in HUD financial systems accordingly, (2) ensure that the Consortium, of which the City of Holyoke is a member, has designated development projects for fiscal years 2006 through 2008 sufficient to meet the statutory requirement of \$500,754 in HOME set-aside funds for CHDOs, and (3) develop and implement controls to ensure that only eligible entities as certified as CHDOs and related HOME set-aside spending amounts are appropriately awarded and reported in the future.

For each recommendations 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.

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<sup>2</sup> CHDO set-aside funds are a subcategory of HOME funds. Although the use of the CHDO set-aside funds was not in accordance with HUD requirements for such use, in these specific instances, the planned activities, by definition may be "eligible activities" under regular HOME funding. As part of our second audit of the City of Holyoke, we are examining these activities and the related expenditures for these activities further.

<sup>3</sup> Based on the total Holyoke HOME Consortium allocations for 2006, 2007, and 2008, annual 15 percent minimum amounts totaled \$169,611, \$168,362, and \$162,781, respectively (total \$500,754).

## **Auditee's Response**

We provided City officials with a draft audit report on April 23, 2009, and requested a response by May 4, 2009. We held an exit conference with City officials on April 28, 2009, to discuss the draft report, and we received their written comments on May 1, 2009. The City took exception to some of the wording used in the report but generally agreed with the facts and conclusions. The City disagreed with amounts in recommendations 1A and 1B and agreed with recommendation 1C and 1D.

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

## TABLE OF CONTENTS

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Background and Objectives	5
Results of Audit	
Finding 1: The City Awarded HOME Set-Aside Funds to an Unqualified Organization	7
Scope and Methodology	11
Internal Controls	12
Appendixes	
A. Schedule of Questioned Costs and Funds to Be Put to Better Use	14
B. Auditee Comments and OIG's Evaluation	15

## BACKGROUND AND OBJECTIVES

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The City of Holyoke, Massachusetts (City) is the lead partner in a regional consortium<sup>4</sup> (participating jurisdiction) that receives funds from the U.S. Department of Housing and Urban Development (HUD) each year under the HOME Investment Partnerships (HOME) program.<sup>5</sup> Under HOME program rules, at least 15 percent of the regional consortium's annual HOME allocation must be reserved for community housing development organization (CHDO) activities in eligible housing. These funds are called set-aside funds. This requirement applies to the entire consortium and not solely the City. During our audit period, the consortium was required to set aside (reserve) a minimum amount of \$500,754 for investment in housing to be developed, sponsored, or owned by CHDOs. As of December 2, 2008, the consortium showed more than \$1.6 million as reserved for set-aside activities in HUD's Integrated Disbursements Information System (IDIS) for program years 2006, 2007, and 2008.

The HOME program establishes requirements for the organizational structure of CHDOs to ensure that the governing body of the organization is controlled by the community it serves. These requirements are designed to ensure that the CHDO is capable of making decisions and performing actions that address the community's needs without undue influence from external agendas and must include:

- Specific requirements related to the organization's board, which must be evidenced in the organization's by-laws, charter, or articles of incorporation, including that at least one-third of the organization's board must be made up of representatives of the low-income community served by the CHDO.
- Requirements that CHDOs also provide a formal process for low-income beneficiaries to provide input, which must be described in writing and must be included in the organization's by-laws or a resolution.
- Requirements that organizations, to be certified as CHDO must demonstrate sufficient capacity and the CHDO must demonstrate that their staff has the relevant experience necessary to perform planned HOME-assisted activities.

Only nonprofit organizations that have been certified as CHDOs by HOME participating jurisdictions can receive funds from the minimum 15 percent set-aside. The City certified Contemporary Apartments, a nonprofit organization, as a CHDO organization in 2004.

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<sup>4</sup> Holyoke/Chicopee/Westfield Consortium.

<sup>5</sup> Under the HOME program, HUD allocates funds by formula among eligible state and local governments to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for very low-and low-income families.

Our objective was to determine whether the City ensured that Contemporary Apartments met the CHDO qualification requirements. We also evaluated whether the related CHDO project activities, totaling \$1.7 million, carried out by Contemporary Apartments and Olde Holyoke Development Corporation met HUD's CHDO project eligibility requirements

## RESULTS OF AUDIT

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### Finding 1: The City Awarded HOME Set-Aside Funds to an Unqualified Organization

The City awarded more than \$1.7 million in HOME program CHDO set-aside funds to Contemporary Apartments who was not qualified to receive set-aside funds. The City had not ensured that Contemporary Apartments was qualified to be designated as a CHDO or that the related CHDO projects met key requirements for this designation and project eligibility. Despite these deficiencies, the City certified Contemporary Apartments as a CHDO, and provided set-aside funds for three homeownership projects. This condition occurred because the City had not (1) properly interpreted the regulations governing CHDO and set-aside eligibility, or (2) developed and implemented procedures that would ensure compliance with eligibility requirements for CHDOs. As a result, the City significantly overstated the HOME set-aside reservations and expenditures recorded in HUD's financial reporting systems for fiscal years 2006, 2007, and 2008. Also, due to the overstatement of reserved and expended set-aside funds, the City and the Consortium (a participating jurisdiction) will not meet the statutory 15 percent spending requirement, totaling \$501,000, for set-aside funds unless other qualifying projects can be identified and funded.

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#### City Certified Contemporary Apartments and Awarded HOME Set-Aside Funds

On October 15, 2004, Contemporary Apartments, Inc. applied to the City for certification and designation as a CHDO. On October 25, 2004, the City informed HUD that it had reviewed Contemporary Apartments' documentation for qualifications and requested that Contemporary Apartments be recognized as a CHDO in HUD's IDIS financial reporting system. From 2006 to 2008, the City awarded more than \$1.7 million in HOME program CHDO set-aside funding to Contemporary Apartments for three homeownership activities as follows:<sup>2</sup>

Project name	Awarded	HOME allocation	Status at December 31, 2008
<b>Hebert Homes</b>	2006	\$397,071	Completed
<b>Dwight Street Homes</b>	2007	\$657,000	Completed
<b>Allyn/Dwight Homes</b>	2008	\$714,000	Not started
<b>Total</b>		\$1,768,071	

As of December 2, 2008, of the \$714,000 awarded for Allyn/Dwight Homes, only \$476,000 had been reported in IDIS. As of February 2009, the City had begun taking action in response to our audit to remove the 2008 reservations and commitments (\$476,000) attributed to the 2008 project.

### **HOME Set-Aside Funds Were Awarded to an Unqualified Organization**

However, Contemporary Apartments did not qualify as a CHDO because it did not have (1) all the legal and organizational characteristics of a CHDO, or (2) the required capacity to perform as a CHDO. Additionally, the City did not ensure that Contemporary Apartments held ownership (title) to all the parcels of land for the associated HOME projects, which affected the projects' eligibility for CHDO set-aside funding.

The City certified Contemporary Apartments, a nonprofit organization, as a CHDO despite the fact that Contemporary Apartments did not meet all of the legal and organizational requirements to be designated as a CHDO. The audit found that the City could not show that Contemporary Apartments met CHDO low-income accountability or staff capacity requirements. Specifically, the by-laws for Contemporary Apartments did not contain the required terms and stipulations with regard to low-income board representation, and Contemporary Apartments did not provide for, nor did the City require or approve, input plans from low-income beneficiaries. These plans are required under 24 CFR 92.2. Lastly, Contemporary Apartments could not demonstrate that it had the required capacity to fulfill its functions as a CHDO because it had no staff.

Despite these deficiencies, the City certified to HUD in October 2004 that Contemporary Apartments met the CHDO qualification requirements. We found that the City had not properly interpreted the regulations at 24 CFR 92.2 regarding CHDO eligibility, and failed to develop and implement adequate procedures that would have ensured compliance with CHDO eligibility requirements.

### **Projects Did Not Meet HOME Set-Aside Fund Requirements**

Contemporary Apartments proceeded with the three CHDO designated projects by creating sponsorship agreements between itself and a related entity, Olde Holyoke Development Corporation. According to these agreements, approved by the City, Contemporary Apartments was the CHDO sponsor, and Olde Holyoke Development Corporation was the developer of each project.

Regulations at 24 CFR 92.300 and Community Planning and Development Notice 97-11<sup>6</sup> require that project sponsors have site control and ownership for the HUD-funded HOME projects. However, the procedures developed and implemented by

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<sup>6</sup> Guidance on Community Housing Development Organizations (CHDOs) under the HOME Program



the City did not ensure compliance with eligibility requirements for CHDO projects. Specifically, the City's procedures provided that the developer, Olde Holyoke Development Corporation, could have ownership of the project, which they did for these projects. For these projects, the "sponsorship" eligibility category did not apply since sponsorship only applies when the CHDO sponsor has ownership of the project before the development phase. Contemporary Apartments did not own all of the parcels of land associated with the three projects.

### **Reservations and Expenditures of HOME Set-Aside Funds Were Overstated**

As of December 2, 2008, the City had \$1.7 million in HOME funds obligated under contract. These funds were classified as CHDO set-aside funds and reported in HUD's financial reporting systems, which significantly overstated the set-aside funded projects for fiscal years 2006, 2007, and 2008. This overstatement occurred because Contemporary Apartments, the designated CHDO for the three development projects, was not eligible to receive set-aside funds, and the projects themselves did not meet CHDO eligibility requirements. In addition, the City (through its partnership in a Regional Consortium) will not meet the statutory 15 percent spending requirement totaling \$501,000 applicable to set-aside funds<sup>7</sup> unless other qualified projects have already been or can be funded.

### **Conclusion**

The City awarded \$1.7 million in HOME set-aside funds to an ineligible entity because the City did not ensure that Contemporary Apartments had all of the legal and organizational characteristics for designation as a CHDO, or the required capacity to carry out its responsibilities as a CHDO. Also, the City had not properly interpreted HUD regulations regarding CHDO and set-aside eligibility and, as a result, it developed and implemented procedures that did not correctly identify the eligibility requirements for CHDOs. Therefore, the contract award of \$1.7 million to Contemporary Apartments did not meet HUD requirements regarding the use of set-aside funds for CHDOs. In addition, the Consortium, of which the City of Holyoke is a partner, will not meet the 15 percent set-aside requirement totaling \$501,000 for 2006, 2007, and 2008, for eligible CHDO activities if other qualified projects cannot be or have not been already funded.

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<sup>7</sup> Based on the total Holyoke HOME Consortium allocations for 2006, 2007, and 2008, annual 15 percent minimum amounts totaled \$169,611, \$168,362, and \$162,781, respectively (total \$500,754).

## Recommendations

We recommend that the Director of the Office of Community Planning and Development in Boston direct the City to:

- 1A. Deobligate the \$1,768,071 in HOME set-aside funds awarded to Contemporary Apartments for the three designated CDHO projects identified.
- 1B. Reduce the amount of set-aside funds reported in HUD financial systems as reserved and expended for fiscal years 2006 through 2008, in conjunction with the deobligation of funds awarded under contract to Contemporary Apartments.
- 1C. Ensure that the Consortium, of which the City of Holyoke is a partner, has designated development projects for fiscal years 2006 through 2008 sufficient to meet the statutory requirement of \$500,754 in HOME set-aside funds for CHDOs.
- 1D. Develop and implement controls to ensure that (1) only eligible entities as certified as CHDO, (2) projects funded with set-aside funds are controlled by an eligible entity, and (3) related HOME set-aside spending amounts are appropriately awarded and reported in the future.

## SCOPE AND METHODOLOGY

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We conducted our audit between December 2008 and March 2009. We completed our fieldwork at the City of Holyoke, Massachusetts' Office of Community Development, located at Korean Veterans Plaza in Holyoke, Massachusetts. Our audit covered the period July 1, 2006 to December 31, 2008, and was extended when necessary to meet our audit objectives.

- We examined public records available at the Office of the Secretary of State and through Lexis/Nexis.
- We reviewed the Dwight Street Homes project files maintained by the City's Office of Community Development.
- We held discussions with City and HUD officials and officials of the nonprofit organizations Contemporary Apartments and Olde Holyoke.
- We reviewed HUD community housing development organization requirements, including those found at 24 CFR (*Code of Federal Regulations*) Part 92 and notices as well as information relating to community housing development organization requirements as described on HUD's Web site.
- We reviewed Contemporary Apartments' initial community housing development organization application and materials submitted in October 2004 to the City and the 2008 recertification.
- We reviewed IDIS reports to identify set-aside spending reservations, obligations, and disbursements as reported to HUD.

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

# INTERNAL CONTROLS

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

- Program operations,
- Relevance and reliability of information,
- Compliance with applicable laws and regulations, and
- Safeguarding of assets and resources.

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

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## Relevant Internal Controls

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

- Designating an entity as a CHDO when it does not meet the eligibility requirements of a CHDO (see finding 1).
- Controls over ensuring eligibility of set-aside projects (see finding 1).

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 Weaknesses

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

- The City designated an entity, Contemporary Apartments, as a CHDO when that entity did not meet the requirements for low-income representation and staff capacity (see finding 1).

- The City approved funding for projects for which the eligibility requirements for CHDOs were not met (see finding 1).

## APPENDIXES

### Appendix A

#### SCHEDULE OF FUNDS TO BE PUT TO BETTER USE

The audit identified ineligible costs and funds to be put to better use totaling \$2,268,825 as follows:

Recommendation number	Ineligible 1/	Funds to be put to better use 2/
1A	\$1,768,071	
1C		\$500,754

- 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. In this case, the City should deobligate the set-aside funds awarded to Contemporary Apartments for the three community housing development projects because Contemporary Apartments was not an eligible CHDO organization and the projects did not meet all of the CHDO eligibility requirements.
- 2/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this case, when the City can ensure that the Consortium, to which it belongs, has designated development projects (2006 through 2008) sufficient to meet the statutory requirement of \$500,754 in HOME set-aside funds for CHDOs, it will ensure the proper use of the available set-aside funds provided through the HOME program.


# Appendix B

## AUDITEE COMMENTS AND OIG'S EVALUATION

### Ref to OIG Evaluation

### Auditee Comments

05/01/2009 10:33 4133225611 COMMUNITY DEVELOPME PAGE 02/05

 Mayor Michael J. Sullivan  
City of Holyoke

William H. Murphy, Administrator  
Office for Community Development

April 29, 2009

John A. Dvorak  
Regional Inspector General for Audit  
US Department of HUD – Office of the Inspector General for Audit  
10 Causeway Street  
Room 370  
Boston, MA 02222-1092

Dear Mr. Dvorak,

Please accept this correspondence as the City of Holyoke's formal written response to your Agency's draft report BO-09-0009 as received on April 23, 2009 and discussed at the exit conference on April 28, 2009.

**General:**  
We object to the words "deobligate", "ineligible" and "project eligibility" as used throughout this audit report without proper clarification. To the general reader who is unfamiliar with the HOME CHDO set-aside requirements, the inference is that these projects are not HOME eligible which is not true. The projects referenced are clearly HOME eligible projects. The recommendation should be simply that these funds be "recategorized" to regular HOME funds, or the statements be clarified as applying to only the CHDO set-aside funds.

**Recommendation 1A:** We generally disagree as follows:

Regarding the word "deobligate:" see above.

Regarding \$1,768,071: Allyn/Dwight Homes had not started, as noted in the chart on page 7. As a result of preliminary questions on CHDO status and a subsequent discussion with HUD, the funding for Allyn/Dwight Homes was recategorized to regular HOME funds well before this report was issued. While we were informed that this action would be noted in the report, it is not. Furthermore, we understand that the positive notation was consciously removed. As a result, the continued use of the over \$1.7M figure overstates the questioned set-asides by \$714,000.

Regarding Contemporary Apartments as a CHDO:

1. The Board of Directors did, in fact, meet and maintain the low-income representation requirements per regulation at 24 CFR 92.2, *Community Housing Development Organization*, 8i. According to the HUD website, CPD Notices

20 KOREAN VETERANS PLAZA • ROOM 400 • HOLYOKE, MASSACHUSETTS 01040-5036  
PHONE: (413) 322-5610 • FAX: (413) 322-5611 • E-MAIL: murphyw@ci.holyoke.ma.us  
*Birthplace of Volleyball*

Comment 1

Comment 2

# Appendix B

## AUDITEE COMMENTS AND OIG'S EVALUATION

### Ref to OIG Evaluation

### Auditee Comments

	<p>05/01/2009 10:33 4133225611 COMMUNITY DEVELOPME PAGE 03/05</p>
Comment 3	<p>provide guidance on how regulations should be interpreted or applied. Within CPD 97-11 is a checklist tool which calls for evidentiary words to be included in bylaws, charter or articles of incorporation concerning low income representation. The Board of Directors of Contemporary Apartments, Inc. has agreed to changes to the bylaws to include the evidentiary words on Board membership. These changes have been sent to HUD and the Board is awaiting HUD concurrence before formal adoption.</p>
Comment 4	<p>2. OCD was informed that the Board of Directors did, in fact, meet with program beneficiaries, specifically the Ward One Homeowners Association, on a periodic basis and thus meeting the regulations at 24 CFR 92.2, <i>Community Housing Development Organization</i>, 8ii. However, as above, the formal process was not written down. The Board of Directors of Contemporary Apartments has agreed to a written resolution for the provision of input from low-income beneficiaries. This resolution has been sent to HUD and the Board is awaiting HUD concurrence before formal adoption.</p>
Comment 5	<p>3. The auditors are confusing Tenant Participation Plans with the process to provide low-income program beneficiary input as in #2 above. According to HUD, Headquarters in Washington has ruled that 24 CFR 92.303 does not apply to homeowner projects.</p>
Comment 6	<p>4. We question auditors' opinion that staff proves capacity. The city has dealt with CHDOs who had staff, but failed to carry out activities. The regulations at 24 CFR 92.2, <i>Community Housing Development Organization</i>, 9 require that the CHDO "has demonstrated capacity for carrying out activities assisted with HOME funds." It goes on to say how an organization <i>may</i> satisfy this requirement. The Board of Directors of Contemporary Apartments has an agreement with Olde Holyoke Development Corp. to carry out its projects and, in fact, purchases personnel services from Olde Holyoke. This is reflected in Contemporary Apartments' audit and is public information. Five Energy Star rated duplexes have been produced on time and within budget (2 Hebert Homes, 3 Dwight Street Homes) and three more are underway (Allyn/Dwight). We maintain capacity has been demonstrated.</p> <p>Regarding Projects Not Meeting Set-Aside Requirements</p> <p>1. As categorized, Contemporary Apartments was the sponsor and Olde Holyoke Development was the developer in the projects. The auditors state that regulations at 24 CFR 92.300 and CPD Notice 97-11 require project sponsors have site control and ownership. 24 CFR 92.300 actually speaks to "effective project control" which we believe Contemporary Apartments had through its approval of the design and configuration of the homes, approval of all costs associated with the project, tracking all the financial information for the project and approval of the initial buyers.</p> <p>CPD Notice 97-11 does state that a "sponsor" must own the property prior to development. However, this same Notice states a "developer" does not have to own the property, but instead must have a contractual obligation to the property owner for development. We maintain this is a simple case of mislabeling the</p>



# Appendix B

## AUDITEE COMMENTS AND OIG'S EVALUATION

### Ref to OIG Evaluation

### Auditee Comments

#### Comment 7

parties and does not affect the actual roles of the parties or the substance or intent of the project.

**Recommendation 1B:** We generally disagree for the reasons stated above .

**Recommendation 1C:** We agree to the insurance.

However, we also note that the auditors cannot equivocally state, as they have within the body of the audit, that the Consortium will not meet the statutory 15 percent spending requirement (for CHDOs). The auditors have no IDIS access and as a result do not know the extent of the CHDO set-asides for the Consortium. Furthermore, CPD Notice 07-06, Part VI, B3a says that "a PJ meets the CHDO reservation requirement if its cumulative CHDO reservations are equal to or greater than its cumulative reservation requirement (15 percent of its cumulative allocations) minus any CHDO deobligations." The minimum 15% HOME CHDO set-aside for the Consortium, since HOME's inception in 1992, is just under \$2.8M. The actual Consortium CHDO set-asides, *even with the questioned CHDO projects excluded*, is over \$4.7M. Also, taken annually and *even with the questioned CHDO projects excluded*, the fiscal year 2006 CHDO set-aside has been met, the fiscal year 2007 CHDO set-aside has been met and the Consortium (as of May 1, 2009) still has 15 months to meet the 2008 CHDO set-aside obligation which we fully expect to do. Although this recommendation is passive, the statements included within the body of the audit on meeting the 15% CHDO requirements, are negative, misleading and false.

**Recommendation 1D:** We agree.

#### Comment 8

**Conclusion:**  
Despite the hyperbole of the audit report, we note that the reasons for these recommendations are technical in nature and are designed to assist the City to improve oversight . They no way affect:

- Increasing availability of housing stock for purchase and occupancy by low and moderate income persons in Holyoke. (Consolidated Plan Priority 1)
- the benefit to low/moderate income first-time homebuyers
- the objective to provide decent, affordable Energy Star rated homeownership housing, or
- the outcome of increasing homeownership in the City of Holyoke, and specifically Hispanic homeownership.

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PAGE 04/05

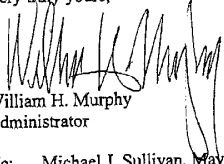
## Appendix B

# AUDITEE COMMENTS AND OIG'S EVALUATION

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### Ref to OIG Evaluation

### Auditee Comments

05/01/2009 10:33 4133225611	COMMUNITY DEVELOPMEN	PAGE 05/05
<p>We appreciate the opportunity to work with HUD to remediate any technical deficiencies with an objective to retain Contemporary Apartments as a CHDO, and to continue this work.</p>		
<p>Very truly yours,</p>		
		
<p>William H. Murphy Administrator</p>		
<p>Xc: Michael J. Sullivan, Mayor Robert Paquin, HUD CPD Director Kevin Smullen, Assistant Regional Inspector for Audit</p>		

## OIG Evaluation of Auditee Comments

**Comment 1** The \$1.7 million stated is correct (see below). However, we clarified the wording as applying to only the CHDO set-aside funds by adding a statement found under footnote 2 to indicate that the funds were not in accordance with HUD requirements for the use of HOME program set-aside funds but may be eligible activities under the regular HOME funding. As explained during the exit conference, because we are examining these activities further in a subsequent audit, we are not expressing an opinion as to overall HOME program "eligibility" at this time.

The audit report's use of the words "deobligate," "ineligible" and "project eligibility" are to describe the \$1.7 million in CHDO set-aside funding of the HOME program that was obligated (i.e. under contract) as of December 2, 2008, for three homeownership projects that were improperly designated as CHDO projects. The use of CHDO set-aside funding, in these instances, was an ineligible use of the CHDO set-aside funds as discussed in the report.

**Comment 2** The \$1,768,071 represents the CHDO set-aside funding of the HOME program that was obligated (i.e. under contract) as of December 2, 2008, for three homeownership projects that were improperly designated as CHDO projects and funded using HOME set-aside funding. The report accurately states the condition we found, not the \$714,000 recorded in HUD's system (IDIS) and subsequently reclassified after we presented the ineligible use of the \$1,768,071 in HOME set-aside funding. Therefore we do not agree that the \$1.7 million figure overstates the questioned set-asides by \$714,000.

We revised the report to include a section on the IDIS reporting. This section read as follows:

“As of December 2, 2008, of the \$714,000 awarded, only \$476,000 had been reported in IDIS. As of February 2009, the City had begun taking action in response to our audit to remove the 2008 reservations and commitments (\$476,000) attributed to the 2008 project.”

**Comment 3** The report does not address nor provide any opinion on whether Contemporary Apartment's Board of Directors, in fact meets the HUD CHDO low-income representation requirements. Whether the current Board of Directors meets these requirements should be evaluated by HUD during their review of the proposed changes to the bylaws.

We acknowledge that Contemporary Apartments is willing to make the required bylaw changes and written resolutions in order to meet CHDO legal and organization requirements.

- Comment 4** The report was revised to identify this requirement is found under number 8 of the CHDO definition at 24 CFR 92.2. Whether or not Contemporary Apartments needs a tenant participation plan in order to be a CHDO should be determined by HUD. HUD CHDO guidance provides that CHDOs must provide for a formal process for low-income beneficiaries to provide input and that this plan must be described in writing and must be in by-laws or resolutions.
- Comment 5** All CHDO capacity examples, including those found at 24 CFR 92.2 make references to the notion that in order to have capacity that the CHDO must also have staff. In this instance, the Contemporary Apartments organization does not employ any staff whatsoever. According to the organizations' official and staff, all staff are employees of Olde Holyoke Development Corporation and/or Riverside Development Corporation (another related organization). It is our understanding that neither Olde Holyoke Development Corporation nor Riverside Development Corporation (the organizations that by definition may meet the capacity requirements) are interested in the CHDO designation.
- Comment 6** The projects, as structured, did not meet CHDO requirements that provide that the CHDO sponsor must have ownership of the site prior to development. Contemporary, the designated CHDO, did not always have ownership of the parcels because in some instances the parcels were acquired by Olde Holyoke, the designated developer. The City's procedures allowed this noncompliance by providing that initial ownership should be with the Olde Holyoke, the developer, and not Contemporary, the sponsor.
- Comment 7** The comment made "that the auditors cannot equivocally state ..." is not accurate. The report notes that unless other qualified projects have already been or can be funded that the Consortium will not meet the statutory 15 percent spending requirement. As of December 2, 2008, the consortium showed \$1,684,852 as reserved for set-aside activities in HUD's Integrated Disbursements Information System (IDIS) for program years 2006, 2007, and 2008. Of the \$1,768,071 in set-asides that were obligated under contract, \$1,530,071 was reported as CHDO set-aside reservations in IDIS as of December 2, 2008.

Since the majority of the reported CHDO reservations were attributed to Contemporary (\$1,530,071 of the \$1,684,852) the recommendation was and is meant to provide that HUD ensures that the Consortium, of which the City of Holyoke is a partner, has designated development projects for fiscal years 2006 through 2008 sufficient to meet the statutory requirement of \$500,754 in HOME set-aside funds for CHDOs.

During the exit conference the City advised that it had found, and reported in IDIS, enough other projects (within the consortium) so that the minimum statutory 15 percent spending requirement will be met. This would represent partial corrective action. Once HUD reviews the related CHDO organizations and

projects and is satisfied that the organizations and projects count as CHDO projects then the recommendation's intent will be met.

Comment 8 The comment made implying the report contained extravagant exaggerations is totally inaccurate and unjustified. The report is factually worded and prepared according to prescribed auditing standards for reporting, and therefore, only contains truthful and accurate statements supported by the evidence found regarding the conditions and discrepancies that were found. This comment is counter to the City's acknowledgement that the recommendations are designed to assist the City to improve oversight.