



Issue Date	August 25, 2010
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Audit Report Number	2010-AT-1011
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TO: José R. Rivera, Director, Community Planning and Development, San Juan Field Office, 4ND

FROM: //signed//
James D. McKay, Regional Inspector General for Audit, Atlanta Region, 4AGA

SUBJECT: The Puerto Rico Department of Housing, San Juan, PR, Did Not Ensure Compliance With HOME Program Objectives

HIGHLIGHTS

What We Audited and Why

We audited the Puerto Rico Department of Housing's (Department) HOME Investment Partnerships Program (HOME). We selected the Department for review as part of our strategic plan based on the results of a previous audit of the Department's HOME program that disclosed instances of HOME-funded activities with slow progress. The objectives of this audit were to determine whether the Department's HOME-funded activities met program objectives and whether the Department had adequate controls and procedures to ensure that HOME-funded activities met program objectives. This is the second of two reports on the Department's HOME program.

What We Found

The Department did not have adequate controls and procedures to ensure that HOME-funded activities met program objectives. It disbursed more than \$4.4 million for ineligible expenditures and activities that failed to meet the HOME program objectives, disbursed more than \$9 million for activities that reflected

slow progress without assurance that the activities would generate the intended benefits, and failed to reprogram and put to better use more than \$7.9 million in unexpended HOME funds for activities that were not carried out or terminated. As a result, HUD had no assurance that funds were used solely for eligible purposes and that HOME objectives were met.

What We Recommend

We recommend the Director of the San Juan Office of Community Planning and Development require the Government of Puerto Rico or its designee to reimburse the HOME program more than \$4.4 million for ineligible expenses and activities that failed to meet program objectives, and reprogram and put to better use more than \$7.9 million in unexpended funds for activities that had not generated the intended benefits. The Director should also require the Government of Puerto Rico or its designee to establish and implement controls and procedures for its HOME program to ensure that HUD requirements and objectives are met.

We also recommend that the Director of the San Juan Office of Community Planning and Development determine the eligibility of more than \$9 million disbursed for projects with signs of slow progress, reevaluate the feasibility of these activities, and recapture any shortfall generated by the closure and deobligation of funds associated with terminated activities that do not meet statutory requirements for the timely commitment and expenditure of funds.

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 discussed the findings with HUD and the Department during the audit and at the exit conference on July 15, 2010. The Department provided its written comments to our draft report on July 21, 2010. In its response, the Department generally disagreed with the findings.

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

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BACKGROUND AND OBJECTIVES

The HOME Investment Partnerships Program (HOME) is authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act as amended. The U.S. Department of Housing and Urban Development (HUD) allocates funds by formula to eligible State and local governments for the purpose of increasing the supply of decent, safe, sanitary, and affordable housing to low- and very low-income families. State and local governments may use HOME funds to carry out multiyear housing strategies through acquisition, rehabilitation, new housing construction, and tenant-based rental assistance. HUD's Integrated Disbursement and Information System is used to monitor HOME commitments and draws for the various activities, including program income, repayments, and recaptured funds, among others.

The Puerto Rico Department of Housing (Department) has administered the State HOME program since 1992. It is the largest participating jurisdiction in Puerto Rico administering nearly \$50 million in HOME funds as of January 2010. HUD's information system reflected expenditures exceeding \$24 million during the fiscal year ending June 30, 2009, for the following activities:

HOME activity	Fiscal year 2009
Units for rental	\$11,866,058
Home buyer	4,589,875
Community housing development organization	2,620,766
Planning and administration	2,487,586
Units for sale	1,902,876
Homeowner	<u>1,031,362</u>
Total	<u>\$24,498,523</u>

During the last 7 years, the Department has received the lowest overall performance ranking when compared with the other 50 State participating jurisdictions.

The Department's HOME office was responsible for administering HOME funds through June 30, 2010. Its books and records were maintained at 606 Barbosa Avenue, San Juan, PR. We audited the Department's HOME program as part of the HUD Office of Inspector General's (OIG) strategic plan. The Department was selected for review based on the results of a previous audit of the Department's HOME program that disclosed instances of HOME-funded activities with slow progress.

The objectives of this audit were to determine whether the Department's HOME-funded activities met program objectives and whether the Department had adequate controls and procedures to ensure that HOME-funded activities met program objectives.

Effective July 1, 2010, the Governor of the Commonwealth of Puerto Rico transferred the administration of the HOME program to the Puerto Rico Housing Finance Authority, a subsidiary of the Government Development Bank for Puerto Rico.

RESULTS OF AUDIT

Finding 1: The Department Did Not Meet HOME Program Objectives

The Department disbursed more than \$4.4 million for activities that failed to meet HOME program objectives and for other ineligible expenditures. In addition, it disbursed more than \$9 million for activities that reflected slow progress without assurance that the activities would generate the intended benefits. The Department also failed to reprogram and put to better use more than \$7.9 million in unexpended HOME funds for activities that were not carried out or terminated. This condition occurred because the Department did not develop and implement controls and procedures to properly monitor HOME-funded activities and ensure that program objectives were met. As a result, HUD had no assurance that funds were used solely for eligible purposes and that HOME program objectives were met.

Defaulted/Terminated Activities

The Department disbursed more than \$3.5 million for activities in which the developer defaulted on its construction loan, the properties were never occupied, or the activities were terminated and did not generate the intended benefits. Regulations at 24 CFR (Code of Federal Regulations) 92.205(e) provide that a HOME-assisted project that is terminated before completion, either voluntarily or otherwise, constitutes an ineligible project and any HOME funds invested must be repaid to the participating jurisdiction's treasury account.

On March 26, 1998, the Department executed an agreement for the construction of 201 housing units in a project named Palmas del Sol. The developer completed 72 housing units in March, 2003. The construction of the remaining units was to be completed by February 27, 2007. However the developer defaulted on its construction loan and the bank foreclosed on the loan. Although more than 12 years had passed since the agreement was signed, the construction of 107 housing units had not been completed.¹ As of April 2010, there were 91 units for which construction had not started and 16 housing units for which construction was stopped. We visited the project site on April 8, 2010, and it appeared to have been abandoned for some time. Because the Palmas del Sol activity was not completed, it did not fully meet the HOME program objectives and provide the intended benefits.

¹ The developer completed 22 of the remaining 129 units after the initial phase.



Partial view of 16 houses under construction



Partial view of site for construction of 91 housing units

Other activities that did not meet program objectives included the project Alturas de San Rafael, for which the grant recipient claimed that it lacked the capacity to develop the project without additional government assistance. More than 8 years had passed since the initial land acquisition, but the land remained vacant. Also, the developer of Pedro Marquez Apartments discontinued his project because the Department withdrew its funding from a State subsidy program that was needed to complete the project. The Department thus failed to ensure that the activities provided the intended benefits and met HOME objectives.

The Department did not take the appropriate measures to reimburse its letter of credit for ineligible expenditures, cancel ineligible activities in HUD's information system, and reprogram unexpended funds associated with these activities to other eligible efforts. The information system reflected eight terminated activities as open activities and one activity that was never occupied as completed. A description of activities that failed to meet HOME program objectives is included appendix C.

Improper Land Acquisition

Contrary to HUD's regulations, the Department disbursed more than \$879,000 for the purchase of land that could not be used to provide housing for low- and very low-income families. Regulations at 24 CFR 92.205(a)(2) state that acquisition of vacant land or demolition must be undertaken only with respect to a particular housing project intended to provide affordable housing.

On July 19, 2007, the Department awarded a contract totaling more than \$2.3 million for the acquisition of approximately 71 acres of land for the development of 288 housing units. The site purchased included approximately 26 acres of protected green areas² that were home to endangered species and could not be developed. The Department was aware of this condition. The use of HOME

² This pertains to a protected wilderness area for endangered species that could not be developed or used to benefit low and very-low income families. The grant recipient was required to transfer the ownership of this area to the Puerto Rico Department of Natural Resources.

funds to acquire vacant land that was not intended to provide affordable housing was an ineligible use of HOME funds.



The Department disbursed more than \$879,000 in HOME funds to purchase approximately 26.23 acres of green areas that could not be used to provide affordable housing.

Slow Progress Activities

The Department disbursed more than \$9 million for activities that reflected slow progress without assurance that the projects were feasible. HUD regulations at 24 CFR 92.504(a) provide that the Department 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.

For example, the Department executed an agreement on February 9, 2007, for the construction of a 162-unit housing project named Plaza del Batey. According to the agreement, the construction of the housing units should have ended on or before August 8, 2009. However, as of March 2010, the construction of 132 housing units had not been completed, and there was no indication that the units would be completed in the near future.



Partial view of 30 houses under construction



Partial view of site for construction of 102 housing units

Only 8 of a completed 30 housing units were occupied, and the developer had not been able to sell the remaining completed units. The developer indicated that the

demand for housing in the area had decreased considerably. Under these circumstances, it was not beneficial to start the construction of the remaining housing units because it would increase the project costs and housing inventory while there was no demand for housing in the area. Based on this condition, HUD had no assurance that the Plaza del Batey activity would fully meet HOME program objectives and provide the intended benefits.

For the activities of Bello Monte, La Puerta de Carolina, Las Piedras Elderly, and O.B.R.A.S., the construction of 541 housing units had not started. Although the La Cima Apartments, Altos del Rio, and Villas del Naranjal projects had been completed or substantially completed, 93 of 143 HOME-assisted units remained unoccupied, and their continued feasibility under the program was not assured.

The Department thus failed to ensure the timely completion of activities. As a result, HUD had no assurance that these activities provided the intended benefits and met HOME objectives. Appendix D provides a description of proposed housing activities that had not been completed as well as unsupported amounts in relation to these activities.

Commitments for Ineligible or Uncompleted Activities

The Department failed to provide evidence that it reprogrammed and put to better use more than \$4.2 million for nine activities that had not been carried out and did not reflect disbursements in HUD's information system. These activities were funded between 4 and 13 years ago. In addition, a project named San Miguel Home for the Elderly was completed in 2006 but still reflected more than \$106,000 as committed in HUD's information system. The Department did not adequately monitor these activities to ensure that they were carried out in a timely manner and that funds were used in accordance with all program requirements as required by 24 CFR 92.504(a). It should not continue with these activities, and the unexpended funds reported in HUD's information system should be reprogrammed to other eligible efforts.

In addition, the Department failed to provide evidence that it reprogrammed and put to better use obligations of more than \$3.6 million for activities that were ineligible, not carried out, or terminated. HUD's information system reflected unexpended obligations of more than \$2.7 million for ineligible activities (see activities in appendix C). The Department also failed to provide evidence that it reprogrammed assistance of \$600,000 for a project named La Puerta de Carolina, for which the developer reduced the number of housing units from 60 to 42. It also did not provide evidence that it reprogrammed more than \$258,000 for the project Quintas de Santa Elena, an activity that was terminated after HUD questioned it. The Department should reprogram these funds to other eligible efforts. A description of activities with funds to be put to better use is included appendix E.

Lack of Monitoring

The Department did not take appropriate measures to ensure the timely completion of activities and that funds were used in accordance with all program requirements as required by 24 CFR 92.504(a). It lacked controls to properly monitor HOME-funded activities. These conditions occurred because the Department did not develop and implement procedures and controls to properly monitor HOME-funded activities and ensure that program objectives were met.

A Department official with monitoring functions indicated that although certain monitoring of activities had been carried out in the past, the Department's HOME program did not have a monitoring function in place as required by HUD. In general, HOME program directors did not assign the required importance to the monitoring function and did not ensure that adequate staff resources were available to perform monitoring activities. Frequent changes of HOME directors also affected program performance. The Department stopped performing monitoring of its HOME activities after 2006.

In addition, the Department's officials in charge of monitoring the HOME program activities were not knowledgeable of the status of activities and did not review the progress of funded activities to ensure that commitments resulted in disbursements and that the projects were completed in a timely manner. As a result, HUD had no assurance that HOME activities provided the intended benefits and met program objectives.

Conclusion

The Department disbursed more than \$4.4 million for activities that did not provide the intended benefits. In addition, it disbursed more than \$9 million for 10 activities that reflected slow progress, and there was no assurance that the activities would generate the intended benefits. The Department also failed to reprogram and put to better use more than \$7.9 million in unexpended HOME obligations. As a result, HUD had no assurance that funds were used solely for eligible purposes and that HOME program objectives were met. This condition occurred because the Department did not develop and implement procedures and controls to properly monitor HOME-funded activities and ensure that program objectives were met.

Recommendations

We recommend that the Director of the San Juan Office of Community Planning and Development

- 1A. Require the Government of Puerto Rico or its designee to reimburse the HOME program from non-Federal funds \$4,428,179 for ineligible expenses and activities that defaulted or were terminated without generating the intended benefits.
- 1B. Determine the eligibility of the \$9,027,082 disbursed for projects with signs of slow progress and reevaluate the feasibility of these activities. The Government of Puerto Rico must reimburse HUD from non-Federal funds for activities that HUD determines to have been terminated and reprogram and put to better use any unexpended funds associated with the terminated activities.
- 1C. Require the Government of Puerto Rico or its designee to close out, reprogram, and put to better use \$4,349,580 in commitments for open activities that are more than 4 years old or activities that were completed and commitments were not reprogrammed.
- 1D. Require the Government of Puerto Rico or its designee to reprogram and put to better use \$3,608,645 associated with unexpended funds of the activities that defaulted, were terminated, or for which assistance was reduced or not necessary.
- 1E. Recapture any shortfalls generated by the closure and deobligation of funds associated with recommendations 1C and 1D that do not meet statutory requirements for the timely commitment and expenditure of funds pursuant to the National Defense Authorization Act of 1991 and/or Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended.
- 1F. Require the Government of Puerto Rico or its designee to establish and implement controls and procedures for its HOME program to ensure that HUD requirements and objectives are met.

SCOPE AND METHODOLOGY

The objectives of the audit were to determine whether the Department's HOME-funded activities met program objectives and whether the Department had adequate controls and procedures to ensure that HOME-funded activities met program objectives.

To accomplish our objectives, we

- Reviewed applicable HUD laws, regulations, and other HUD program requirements;
- Reviewed the Department's controls and procedures as they related to our objectives;
- Interviewed HUD, Department, developer, and community housing development organization officials;
- Reviewed monitoring, internal review, and independent public accountant reports;
- Reviewed the Department's files and records, including activity files and accounting records;
- Traced information reported in HUD's information system to the Department's records, including accounting records and executed agreements; and
- Performed site inspection of the activities.

HUD's information system reflected that the Department had 38 open HOME-funded activities as of December 31, 2009, for which the last draw was more than a year ago and with draws amounting to 95 percent or less of the total amount funded. From these activities, we selected the 10 activities with the highest unexpended balance, which totaled more \$20 million in commitments and more than \$12.7 million in disbursements. We selected 10 additional activities with disbursements totaling more than \$6.1 million based on HUD's and/or the Department's concerns. We reviewed the 20 activities in the sample to determine the status of activities for which HOME funds were disbursed but which reflected slow progress.

HUD's information system also reflected that the Department had 124 open HOME-funded activities with funds committed totaling more than \$11.4 million but no draws from its HOME account as of December 31, 2009. We selected activities funded before January 1, 2006, which reflected commitment balances of more than zero. This process resulted in the selection of 10 activities totaling more than \$4.5 million. We determined the status of these activities.

To achieve our audit objectives, we relied in part on computer-processed data contained in the Department's database and HUD's information system. Although we did not perform a detailed assessment of the reliability of the data, we performed a minimal level of testing and found the data adequate for our purposes. The results of the audit apply only to the items selected and cannot be projected to the universe or population.

The audit generally covered the period July 1, 2008, through December 31, 2009, and we extended the period as needed to accomplish our objectives. We conducted our fieldwork from October 2009 through June 2010 at the Department's offices in San Juan, PR.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

INTERNAL CONTROLS

Internal control is a process adopted by those charged with governance and management designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

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

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

Relevant Internal Controls

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

- Effectiveness and efficiency of operations - Policies and procedures that the audited entity has implemented to provide reasonable assurance that a program meets its objectives, while considering cost effectiveness and efficiency.
- Reliability of financial reporting – Policies, procedures, and practices that officials of the audited entity have implemented to provide themselves with reasonable assurance that operational and financial information they use for decision making and reporting externally is relevant and reliable and fairly disclosed in reports.
- Compliance with applicable laws and regulations and provisions of contracts or grant agreements - Policies and procedures that the audited entity has implemented to provide reasonable assurance that program implementation is in accordance with laws, regulations, and provisions of contracts or grant agreements.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1)

impairments to effectiveness or efficiency or operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiency

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

- The Department did not develop and implement procedures and controls to properly monitor HOME-funded activities and ensure that program objectives were met (see finding 1).

FOLLOW-UP ON PRIOR AUDITS

**Puerto Rico Department of
Housing State HOME
Investment Partnership
Program – Audit Report 2003-
AT-1006**

HUD OIG issued an audit report on July 30, 2003, on the Department's administration of the HOME program. The objectives were to assess the Department's progress in correcting deficiencies identified in HUD's monitoring report, dated August 31, 2001, and review selected projects to determine whether they were carried out in accordance with HOME requirements. Among the deficiencies found, the Department did not accomplish program objectives in two projects. As a result, HOME funds totaling more than \$2.2 million were spent for ineligible and unsupported costs. The Department disbursed HOME funds of \$627,015 to a project for unsupported costs. In addition, it disbursed more than \$1.6 million for a housing project that was constructed in a flood zone.

OIG recommended, among other things, that HUD

- Require the Department to reimburse its HOME Program \$1,629,086 in ineligible costs for the project that was constructed in a flood zone and reprogram the remaining \$610,914.
- Require the Department to determine whether a project should continue and the eligibility of \$627,015 disbursed for the project or reimburse the HOME program and put the remaining \$418,900 unexpended balance to better use.
- Establish and implement policies and procedures for its HOME program to ensure compliance with 24 CFR Part 92 and other HUD requirements. At a minimum, the policies and procedures should ensure that (1) fiscal controls and accounting procedures were sufficient to permit the tracing of funds to a level which ensured that such funds were not used in violation of the restrictions and prohibition of applicable statutes, (2) HOME funds were used in accordance with all program requirements and written agreements, and (3) appropriate action was taken when performance problems arose.

All audit recommendations included in the report were resolved between May 2004 and December 2005. However, similar deficiencies were found during this audit as discussed throughout this report.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS AND FUNDS TO BE PUT TO BETTER USE

<u>Recommendation number</u>	<u>Ineligible 1/</u>	<u>Unsupported 2/</u>	<u>Funds to be put to better use 3/</u>
1A	\$4,428,179	\$9,027,082	
1B			
1C			\$4,349,580
1D			<u>\$3,608,645</u>
Total	<u>\$4,428,179</u>	<u>\$9,027,082</u>	<u>\$7,958,225</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 the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.
- 3/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this instance, if the Department implements recommendations 1C and 1D, funds will be available for other eligible activities consistent with HOME requirements.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments



July 21, 2010

Mr. James D. McKay
Regional Inspector General for Audit
U.S. Department of Housing and Urban Development
Office of Audit, Box 42
Richard B. Russell Federal Building
75 Spring Street, SW
Room 330
Atlanta, GA 30303-3388

Re: **HOME Program, Draft Audit Report**

Dear Mr. McKay:

We appreciate the opportunity to review the draft audit about the Puerto Rico Department of Housing's HOME Investment Partnerships Program and we look forward to participating in the exit conference in this matter.

With respect to the specific findings in the draft audit, we generally do not agree with the specific findings and recommendations in the Draft Audit and will be providing more specific responses to such findings and recommendations. Our initial responses are below.

Finding 1

This finding generally relates to the Department's procedures and controls over the HOME program, and especially in providing the correct information in the HUD system with respect to the obligations of funds through a legally binding commitment. We understand that there have been some problems in the Department's administration of the HOME program and are working diligently to correct any such problems. The Department and Puerto Rico Housing Finance Authority (PRHFA) will be able to implement a reasonable plan for the obligation and expenditure of HOME funds by the necessary deadlines.

The draft audit states that the Department disbursed more than \$3.5 million for activities where the developer defaulted on its construction loan, the properties were never occupied or the activities were terminated. We will review the status of enforcement of contracts in defaulted and terminated transactions. We note that 24 CFR 92.504 requires the participating jurisdiction to execute a written agreement with enforcement rights. We do not believe the Department is responsible for repayment in the event of non-performance where such an agreement exists and enforcement rights are reasonably pursued.

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Comment 1

Ref to OIG Evaluation

Auditee Comments

Comment 2

Mr. James D. McKay
July 21, 2010
Page 2

The draft audit states that \$879,000 was spend for a land purchase, in essence because the site contained 26 acres of "green areas". The inclusion of green space as part of a housing development is not a per se excluded use, and including green space can enhance a quality affordable housing development. However, we appreciate the concern and will review the integration of this green space with the housing development.

Comment 3

The draft audit notes that the Department disbursed more than \$9 million for activities reflecting slow progress. Slow progress is a concern and PRHFA and the Department will review each matter and require current assurances of completion or proceed to enforcement.

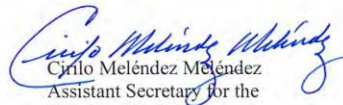
Comment 4

The draft audit discusses that the Department did not provide evidence that it reprogrammed more than \$4.2 million for nine activities that had not been carried out, and that the Department did not reprogram more than \$3.6 million for activities that were ineligible, not carried out or terminated. Such progress is a concern and the Department and PRHFA will review each matter and require current assurances of completion or proceed to enforcement.

We agree that controls and procedures for the HOME program must be review and we will work with PRHFA and the HUD program office on that matter.

We thank you for the opportunity to make this preliminary response to the Draft Audit.

Sincerely,


Cirilo Meléndez Meléndez
Assistant Secretary for the
Housing Subsidy

OIG Evaluation of Auditee Comments

Comment 1 The Department stated that it did not believe it was responsible for repayment in the event of non-performance when an agreement exists that provides enforcement rights and such rights can be reasonably pursued.

Regulations at 24 CFR 92.504(a) provide that the Department 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 taking appropriate action when performance problems arise. The use of contracts with enforcement rights does not relieve the participating jurisdiction of its responsibilities under this Section.

In addition, HOME regulations at 24 CFR 92.551 provides that if the participating jurisdiction fails to demonstrate to HUD's satisfaction that it has met an applicable requirement, HUD will take remedial actions. Remedial actions may include, among others, requiring the participating jurisdiction to reimburse its HOME Investment Trust Fund in any amounts not used in accordance with requirements. We therefore maintained our recommendation that HUD require the Government of Puerto Rico or its designee to reimburse more than \$3.5 million for activities that failed to meet HOME program objectives.

Comment 2 The Department stated that the inclusion of green space as part of a housing development was not an excluded use, and including green space can enhance a quality housing development. Also, the Department indicated that it will review the integration of green space with the housing development.

According to a letter dated June 5, 2007 of the Puerto Rico Department of Natural Resources concerning the project's environmental approval process, the green areas which were habitat to endangered species should be protected by a perimeter area with vegetation in its natural state. In addition, the proposed mitigation plan included the installation of a fence to separate the protected areas from the project. As a result, the protected green areas cannot be developed to provide affordable housing. We therefore did not modify the report finding and recommendations.

Comment 3 The Department stated that the Puerto Rico Housing Finance Authority and the Department will review slow progress activities and require current assurances of completion or proceed to enforcement.

The Department should not only require assurances, but it must re-evaluate the feasibility of activities. It must indicate how it will ensure HOME activities fully meet program objectives and provide the intended benefits. The Department must reimburse HUD for those activities not considered feasible regardless of whether their agreements with contractors are enforceable or not. See Comment 1.

Comment 4 The Department stated that the Puerto Rico Housing Finance Authority and the Department will review terminated activities as well as activities that were not carried out and require current assurances of completion or proceed to enforcement.

The Department did not address the lack of evidence that it reprogrammed and put to better use more than \$7.9 million in unexpended balances for activities that were terminated, or not carried out.

Appendix C

LIST OF INELIGIBLE EXPENDITURES AND ACTIVITIES THAT FAILED TO MEET HOME PROGRAM OBJECTIVES

Activity number	Activity name	Grant agreement date	Funded amount	Ineligible amount	Last draw date	Number of units	Comments
603	Palmas del Sol	March 26, 1998	\$5,620,000	\$890,439 ³	March 17, 2006	201	The developer defaulted on the construction loan. The activity was declared in default in October 2008.
713	Las Piedras Elderly Housing	March 17, 1997	\$796,812	\$880,245 ⁴	March 21, 2000 ⁵	108	The grant recipient defaulted on the construction loan. The activity was declared in default in April 2000.
9743	Bello Monte	July 19, 2007	\$2,383,263	\$879,124 ⁶	July 31, 2007	288	The Department disbursed HOME funds for the purchase of land that was not intended for the development of affordable housing.
3818	Casa Rosa III	July 24, 2000	\$600,000	\$600,000	August 1, 2000	75	The developer defaulted on the construction loan, and the bank took possession of the property. The activity was substantially completed in February 2006 but was never occupied.
4657	Alturas de San Rafael	August 6, 2001	\$307,000	\$307,000	August 15, 2001	58	The grant recipient lacked the capacity to develop the project.
3404	Alturas de San Rafael	January 28, 2000	\$101,340	\$101,340	Sept. 21, 2000	N/A	Predevelopment costs. The grant recipient lacked the capacity to develop the project.
710	Aparts. Miraflores	October 9, 1996	\$564,790	\$610,981 ³	February 1, 2001	30	The grant recipient defaulted on the construction loan and was sued for mortgage default on December 2001.
709	Aparts. Miraflores	February 20, 1996	\$58,485	\$57,825	March 21, 2000	N/A	Predevelopment costs. The grant recipient defaulted and was sued for mortgage default on December 2001.
6537	Pedro Marquez Aparts.	April 15, 2004	\$588,989	\$55,275	April 14, 2005	8	The developer discontinued the project because the Department withdrew funding.
8225	CODEIFA ⁷	January 25, 2007	\$145,494	\$45,950	July 17, 2007	30	The grant recipient in December 2008 notified the Department that it had sold the project site.
Total			\$11,166,173	\$4,428,179			

³ To determine the amount of ineligible HOME expenditures, we reduced the \$3,518,698 that the Department reported in HUD's information system by the estimated HOME assistance applicable to 94 occupied housing units.

⁴ The ineligible amount represents HOME program funds that the Department disbursed for this activity. The Department's general ledger showed that the Department disbursed more funds than the amount reported to HUD's information system.

⁵ The drawdown date (March 21, 2000) corresponded to the date of HUD's information system conversion from a predecessor information system, not to the actual drawdown dates.

⁶ Ineligible amount represents the portion of project site cost applicable to the area that could not be used for development of affordable housing.

⁷ Corporacion de Desarrollo Integral de Fajardo

Appendix D

LIST OF SLOW PROGRESS ACTIVITIES

Activity number	Activity name	Grant agreement date	Scheduled completion date	Funded amount	Unsupported amount	Number of units	Comments
7908	Plaza del Batey	February 9, 2007	August 8, 2009	\$5,187,243	\$1,722,807 ⁸	162	132 of a total of 162 units had not been completed, and there was no indication that the units would be completed in the near future.
7002	Altos del Rio	April 20, 2006	October 26, 2008	\$1,852,549	\$1,691,564	60	Although housing units were substantially completed in July 2009, the project was unoccupied and without use permit.
9743	Bello Monte	July 19, 2007	July 18, 2010	\$2,383,263	\$1,504,139 ⁹	288	Although the project site was acquired in August 2007, construction of housing units had not started, and project viability was not properly supported.
7558	La Puerta de Carolina	April 6, 2005	April 5, 2009	\$2,000,000	\$1,481,000 ¹⁰	60	Although the Department had disbursed HOME funds as of February 2008, construction of housing units had not started.
7001	Villas del Naranjal	January 7, 2005	January 6, 2007	\$1,911,508	\$938,713	47	Although substantially completed in April 2009, 25 of 47 housing units were not occupied.
10814	Las Piedras Elderly	April 30, 2008	October 31, 2009	\$845,000	\$845,000	123	Although the Department disbursed HOME funds in June 2008, construction of housing units had not started.
7341	Bello Monte	November 5, 2004, & November 26, 2008	November 4, 2007 & November 25, 2009	\$387,863	\$300,659	N/A	Predevelopment loans. Construction of housing units had not started, and project viability was not properly supported.
7443	O.B.R.A.S	February 3, 2005	May 2, 2005	\$295,200	\$295,200	70	Although the project site was acquired in April 2005, construction of housing units had not started.
7342	O.B.R.A.S	November 22, 2004	November 21, 2006	\$229,444	\$163,594	N/A	Predevelopment loan. Although the project site was acquired in April 2005, construction of housing units had not started.
5459	La Cima Apartments	August 28, 2003	January 31, 2009	\$720,000	\$84,406	36	Although the project construction was completed in July 2008, eight housing units were unsold.
Total				\$15,812,070	\$9,027,082		

⁸ To determine the amount of questioned (unsupported) costs for the Plaza del Batey activity, we reduced the Department's disbursements totaling \$1,978,967 by the estimated assistance applicable to the occupied housing units. HUD's information system reflected total draws of \$1,978,937 for this activity. We used the Department disbursements for the purpose of our review.

⁹ The amount funded for the Bello Monte activity included \$879,124 which the Department disbursed for the purchase of land that was not intended for the development of affordable housing. To determine unsupported costs, we reduced the Department's disbursements totaling \$2,383,263 by the \$879,124 in ineligible costs included in recommendation 1A.

¹⁰ The Department reported in HUD's information system total draws of \$1,400,000 for the activity La Puerta de Carolina. The amount disbursed for this activity, according to the Department's general ledger, was \$1,481,000. We used the Department disbursements for the purpose of our review.

Appendix E

LIST OF COMMITMENTS TO REPROGRAM AND PUT TO BETTER USE

Activity number	Activity name	IDIS* funding date	IDIS committed amount	Amount unexpended	Number of days in IDIS up to December 31, 2009	Comments
Funded activities with no disbursements						
7909	Villas de Johnny Toledo	July 22, 2005	\$2,300,000	\$2,300,000	1,623	The developer decided not to pursue the project. The Department did not cancel the activity or deobligate the HOME funds.
7910	Balcones de Santiago	July 22, 2005	\$1,693,410	\$1,693,410	1,623	The developer decided not to pursue the project. The Department did not cancel the activity or deobligate the HOME funds.
6254, 6257, 6278, 7412, 4220, 4866	Various	December 13, 2000, to March 9, 2005	\$233,799	\$233,799	1,758 to 3,305	The Department did not maintain documentation evidencing whether six HOME-funded activities met program objectives. The Department did not provide a copy of the executed contract, activity files, or other documentation evidencing the status and progress of the activity and the cause of delays in completing the activities.
504	Luis A. Rivera Martinez	November 12, 1996	\$16,325	\$16,325	4,797	Department records did not evidence that the activity was carried out. The most recent information dated to 2003, but the activity still appeared as committed in HUD's information system.
Completed activity with unexpended balance in HUD's information system						
6298	San Miguel Home for the Elderly	August 28, 2003	\$1,628,500	\$106,046	2,317	On August 22, 2006, the Department issued a certificate of project completion. However, HUD's information system reflected unexpended commitments for this activity.
Terminated activities with unexpended balances in HUD's Information system						
687	Quintas de Santa Elena	November 3, 1999	\$258,425	\$258,425	3,711	HUD questioned the activity in a 2001 monitoring report, and the Department reimbursed \$1.3 million. However, it did not deobligate all funds committed and did not cancel the activity in HUD's information system.
603	Palmas del Sol	March 26, 1998	\$5,620,000	\$2,101,302	4,298	The developer defaulted on the construction loan. A total of 107 of 201 planned assisted housing units were not completed and did not provide intended benefits.
6537	Pedro Marquez Apartments	January 30, 2004	\$588,989	\$533,714	2,162	The developer indicated that the project was discontinued because the Department withdrew its funding from a State program necessary to complete the project. However, the activity appeared as committed in HUD's information system.
8225	CODEIFA	July 17, 2007	\$145,494	\$99,544	898	The grant recipient notified the Department in December 2008 that it had sold the project site.

7558	La Puerta de Carolina	April 26, 2005	\$2,000,000	\$600,000	1,710	The developer reduced the number of housing units from 60 to 42. However, the corresponding commitment of \$600,000 appeared as committed in HUD's information system.
7342	O.B.R.A.S.	April 28, 2005	\$229,444	\$15,000	1,708	The Department exempted the activity from the environmental evaluation requirement. However, the corresponding commitment of \$15,000 appeared committed in HUD's information system.
709	Apartamentos Miraflores	March 28, 1996	\$58,485	\$660	5,026	The Department did not reprogram unexpended amounts for this activity.
Total			\$14,772,871	\$7,958,225		

* IDIS = HUD's Integrated Disbursement and Information System