



Issue Date	July 24, 2009
Audit Report Number	2009-LA-1013

TO: Maria Cremer, Acting Director, Region IX, Office of Community Planning and Development, 9AD

Joan S. Hobbs

FROM: Joan S. Hobbs, Regional Inspector General for Audit, Region IX, 9DGA

SUBJECT: The City of Oakland Did Not Always Administer Its HOME Investment Partnerships Program in Accordance with Federal Requirements and Its Own Policies and Procedures

HIGHLIGHTS

What We Audited and Why

We reviewed the City of Oakland (City) to determine whether it administered its HOME Investment Partnerships Program (HOME) in accordance with federal requirements and its own policies and procedures. We selected the City for review due to its large annual U.S. Department of Housing and Urban Development (HUD) funding and because it had not been the subject of an Office of Inspector General (OIG) audit for several years.

What We Found

The City did not always administer its HOME program in accordance with federal requirements and its own policies and procedures. Specifically, it did not follow HUD and Office of Management and Budget requirements and its own policies for (1) initial cost estimates, (2) rehabilitation standards, (3) income determinations, and (4) Integrated Disbursement and Information System (IDIS) entries. As a result, the City did not fulfill all of its responsibilities as a HOME participating jurisdiction, \$286,103 was not available for eligible projects and activities, and \$118,213 in HOME expenditures was not supported.

What We Recommend

We recommend that HUD require the City to repay HUD \$286,103 from nonfederal funds or use nonfederal funds to bring the homeowners' properties up to all applicable rehabilitation standards. We also recommend that the City provide supporting documentation to show that owners were income eligible at the time the City provided assistance or repay \$118,213 from nonfederal funds to HUD and to ensure that it updates all project information in IDIS. We also recommend that the City provide cost estimates for the two projects without cost estimates or repay \$79,945 if the City does not satisfy all other questioned costs in this report with respect to the two projects, follow its own policies and procedures for initial staff cost estimates and rehabilitation standards, and establish adequate policies and procedures for income determinations and IDIS entries.

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 report to the City on June 15, 2009, and it provided its written response on July 1, 2009. City officials disagreed with our findings and recommendations.

The complete text of the auditee'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

HOME Investment Partnerships Program

The HOME Investment Partnerships Program (HOME) was created by Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, and as regulated by 24 CFR [*Code of Federal Regulations*] Part 92. HOME funds are awarded annually as formula grants to participating jurisdictions. The purpose of HOME is to expand the supply of decent, safe, and affordable housing for very low-income and low-income persons and to strengthen public-private partnerships in the production and operation of such housing. HOME gives participating jurisdictions discretion regarding which activities to pursue. Eligible activities include acquisition, rehabilitation, new construction, and tenant-based rental assistance. HOME is the largest federal block grant to state and local governments designed exclusively to create affordable housing for low-income households.

City of Oakland

The City of Oakland (City), a HOME participating jurisdiction, was incorporated on May 25, 1854, by the State of California and is organized and exists under and pursuant to the provisions of state law. As a participating jurisdiction, the City receives more than \$4 million per year in HOME funds. The City administers its HOME funds through its Community and Economic Development Agency. The City uses its HOME funds for a variety of activities including acquisition, rehabilitation, new construction, and tenant-based rental assistance.

Our overall audit objective was to determine whether the City administered its HOME program in accordance with U.S. Department of Housing and Urban Development (HUD) requirements and its own policies and procedures. Specifically, we reviewed the City's American Dream Downpayment Initiative, rehabilitation, acquisition, and new construction projects to determine if the City complied with HUD requirements and its own policies and procedures.

RESULTS OF AUDIT

Finding 1: The City Did Not Always Comply with HOME Requirements and Its Own Homeowner Rehabilitation Policies and Procedures

The City did not always comply with HOME requirements and its own homeowner rehabilitation policies and procedures for (1) initial cost estimates, (2) rehabilitation standards, (3) income determinations, and (4) Integrated Disbursement and Information System (IDIS) entries. This condition occurred because the City did not have adequate policies and procedures in place to ensure compliance with HUD, Office of Management and Budget (OMB), and its own requirements. As a result, it did not fulfill all of its responsibilities as a HOME participating jurisdiction, \$286,103 was not available for eligible projects and activities, and \$118,213 in HOME expenditures was not supported.

The City Did Not Always Conduct Cost Estimates in Accordance with Its Written Policies

The City did not always conduct cost estimates in accordance with its written policies and procedures. This condition occurred because the City did not have adequate controls in place to ensure that it followed its written policies and procedures for cost estimates. The City's policy requires its rehabilitation advisors to create a scope of work and perform an initial cost estimate before permitting the HOME-assisted owner to seek bids from contractors. The rehabilitation advisor prepares the scope of work to determine the required work to be completed on the property. After the scope of work, the rehabilitation advisor is required to prepare a cost estimate for the rehabilitation. Based on this estimate, the advisor can determine whether the project is financially feasible before approval.

The City did not follow its policies and procedures for cost estimates in 13 of 19 cases. In eleven of the cases, the City did not have sufficient evidence to show that its cost estimates were conducted before receiving the contractors' bids. In the remaining two cases, we did not find evidence that a cost estimate had been conducted. We requested that the City provide cost estimates for active projects with contractor bids pending. It was unable to provide us with a cost estimate for an active project. Further, one of the rehabilitation advisors indicated that he did not perform a cost estimate before contractor bidding.

As part of The City's internal policies and procedures, the cost estimate is a necessary step in managing the day-to-day operations of its HOME program. The City is an

administrator of HOME funds and is required to ensure that program costs are both reasonable and necessary. The cost estimate is an essential part of this process since it helps to ensure the financial feasibility of the project and that the bids the owner receives are reasonable, necessary, and free of contractor collusion or excessive markup. Since the City did not have full assurance that the bids accepted by the owners were reasonable, HOME funds may have been used for ineligible purposes, and \$79,945¹ in HOME funds used for the two projects without cost estimates were not supported (see appendix C).

The City Did Not Always Ensure That Projects Complied with Rehabilitation Standards

The City did not always ensure that homeowner rehabilitation projects met rehabilitation standards at project completion. Federal Regulations at 24 Code of Federal Regulations 92.251(a)(1) requires housing that is rehabilitated with HOME funds to meet all rehabilitation standards at the time of project completion. The participating jurisdiction must also have written standards for rehabilitation that ensure that HOME-assisted housing is decent, safe, and sanitary. The City's Residential Lending and Rehabilitation Services Operations Manual categorizes work items as mandatory (category A) or code deficient, incipient violations (category B), and improvements preferred by the owner (category C). Its standards state that category A items are those that threaten the health and safety of residents (e.g., basic structural, mechanical, electrical, and plumbing systems). Further, the City's standards specify that if insufficient dollars are available for category A improvements, the project should be considered infeasible and not be approved.

One project funded with HOME funds (#2079) was not a full rehabilitation since all mandatory items (category A) were not completed. Contrary to HUD requirements and its own policy, mandatory items were deleted from the scope of work for the project because the amount of the repairs exceeded the City's maximum loan amount of \$40,000. The City approved the owner for the program in anticipation that the loan amount for its program would increase from \$40,000 to \$75,000 so that all required work would be completed on the property. Although the City increased the amount of the loan program, it attached an interest rate to the loan program. The owner did not want to pay interest on the loan and opted to reduce the scope of work. Of the nine items deleted from the scope of work, the City categorized seven of these items as mandatory (category A) items. For example, mandatory items such as electrical work and fungus removal were deleted from the scope of work. Since all required rehabilitation work was not completed, the project was not brought up to applicable standards at project completion and was not eligible for HOME funds.

With the assistance of the Office of Inspector General (OIG) staff inspector/appraiser (inspector), we conducted inspections of seven HOME-assisted single-family rehabilitation projects. Five of the seven single-family rehabilitation projects inspected

¹ Costs not included in appendix A to prevent duplication of questioned costs.

included work that was incomplete or not brought up to applicable standards. This condition occurred because the City did not have adequate policies and procedures in place to ensure that properties were brought up to all applicable standards and that all work paid for with HOME funds was completed. The City also did not follow the requirements of OMB Circular A-87, which requires that all costs of federal awards must be both reasonable and necessary. The five instances are described below.

- The contractor improperly installed ceramic tile flooring in the kitchen, bathroom, and hallway of project #1946. The OIG inspector noted cracks in the tile at various locations throughout the kitchen, bathroom, and hallway. The inspector determined that the installation of the tile was not to an acceptable standard. The inspector noted the following: (1) tile not aligned correctly; (2) poor grouting and missing grout at edge between kitchen and laundry room area; (3) poor installation at edge between kitchen and laundry room area; and (4) various locations missing or not enough tile thin-set cement causing tiles to have severe multiple cracks throughout the kitchen, hallway, and bathroom. According to the owner, the contractor also did not remove the old vinyl flooring before tile installation although the scope of work specified removal of the old flooring and installation of underlayment.

The project's kitchen sink wall was also to be repaired and textured to match the existing wall. The wall was not properly prepared or painted, and portions of the original wallpaper remained on the wall. The owner also indicated that the contractor removed the water softener system to facilitate the entry to the crawl space (for foundation work that was completed on the property) but that the contractor did not reconnect the system. Further, the owner stated that the contractor had removed the rain gutters and down spouts but did not replace them.

The City's rehabilitation manager agreed that the tile work was of poor quality and stated that the contractor was a relatively inexperienced general contractor. However, the owner indicated that she selected the contractor from the City's preapproved contractor list. Although the City permits the owner to choose the contractor, its preapproved contract list is provided to owners to assist them in obtaining bids. This inexperienced contractor would not have been included on the City's preapproved contractor list if the list had been limited to experienced professional contractors. The inexperienced contractor has since been removed from the City's preapproved list.



Project #1946: Tile flooring cracks in kitchen and hallway due to improper installation

- Project #2106 required installation of new windows throughout the home, including caulking of all windows and trim to inhibit air infiltration. The owner indicated that she did not see the contractor caulk the first floor windows. Further, the OIG inspector found no indication of caulking of the first floor windows as required by the contract. The project also included a bedroom that had a severe 2 foot by 6 foot hole in the ceiling and a smaller opening at the entry ceiling with wall damage at other locations throughout the room including cracked plaster. According to the scope of work, the windows were replaced in this room, requiring inspection. However, the bedroom was not rehabilitated.
- The downstairs heating system also did not meet standards. The scope of work required a Carrier brand or equal furnace, yet a Comfortmaker furnace was installed. In the inspector's opinion, the Comfortmaker furnace is not equal to the Carrier furnace specified in the scope of work. The inspector also determined that the heating system was likely not producing heat due to the main duct not being properly secured. The first floor thermostat installed by the contractor was also inoperative. The owner also expressed dissatisfaction with the kitchen cabinet work. The inspector noted that the sink backsplash between the countertop and sheetrock was not sealed, resulting in an exposed seam. The inspector also noted missing trim pieces for the cabinets. A professional contractor should have installed these trim pieces to ensure a quality finish.



Project #2106: Room not rehabilitated despite ceiling and wall damage

- Project #2116 required installation of new carpet. An inspection of the carpet showed ripples in several places. It is standard practice for the contractor to return to the home and restretch the carpeting after it has settled. However, the contractor did not return to restretch the carpeting. Further, the master bedroom door was not cut at the bottom to prevent dragging after installation of the new carpeting. The contractor also failed to install a new motion sensor light in the rear door area of the property. The owner's son also informed OIG that the electrical doorbell was removed during rehabilitation but was not reinstalled after project completion.
- In another project (#2107), the contractor painted but did not prime the interior walls and ceiling of the hallway and bedrooms as required by the scope of work. Due to the contractor's failure to prime the walls and ceiling, the paint was peeling and/or fading in several locations in the hallway and bedrooms of the home. Since the walls and ceiling were not primed, the inspector determined that the contractor's painting work was not completed up to standard.



Project #2107: Paint chipping and fading due to lack of primer

- The scope of work for project #2077 required installations of bathroom accessories including three chrome towel bars, chrome toothbrush holder and tumbler, and shower and toilet grab bars. Physical inspection of the property showed that these items were not installed according to the contract, yet the contractor charged \$675 for these items. The contractor's \$675 charge for accessories was ineligible since the costs were not a reasonable or necessary use of HOME funds.

We attribute the five instances above to the City's lack of adequate monitoring of projects during construction and at project completion. Our file reviews indicated that the rehabilitation advisors conducted inspections for each progress payment and at project completion. All of the project files included payment request forms indicating that the rehabilitation advisor inspected the work for which the contractor claimed payment and that the contractor's work was satisfactorily completed. However, in these five cases, the City's inspections were not sufficient to address instances in which the contractors did not meet rehabilitation standards or complete all items in the contracts.

The City is responsible for effective and efficient administration of the HOME program and is required to ensure that HOME funds are only used for reasonable and necessary costs. If the City had conducted sufficient progress payment and final inspections, it would have ensured that HOME funds were only used for reasonable and necessary costs in accordance with OMB Circular A-87. However, its inspections were inadequate, and HOME funds were used for costs that were unreasonable and unnecessary and for projects that were not brought up to applicable standards at project completion. As a result, \$286,103 was not available for eligible HOME projects and activities.

The City Did Not Always Determine Income as Required by HUD

The City did not always conduct income determinations and redeterminations in accordance with HUD requirements. HUD requires that the participating jurisdiction determine income eligibility for each program participant. In addition, HUD requires the participating jurisdiction to redetermine income if more than six months elapse between the initial income determination and the date on which HOME assistance is provided to the participant. The City did not examine or reexamine income for three of nineteen participants although more than six months had elapsed since the initial income determination. These issues occurred because the City did not have adequate policies and procedures in place to ensure that it always conducted income determinations and redeterminations in accordance with HUD requirements. Since income determination requirements were not followed, HOME program participants who did not qualify for the HOME program may have received assistance. As a result, the City's use of \$118,213 in HOME funds provided to the three participants was not supported.

The City Did Not Always Enter Timely Information into IDIS

The City did not always enter timely information into IDIS. HUD uses IDIS data as one of its primary monitoring and tracking tools for the HOME program. HOME grantees are required to submit project data to HUD through IDIS. HUD requires grantees to update data on a timely basis so that it can properly monitor financial information and track program performance. We determined that the City did not always update project data in IDIS. Specifically, it did not enter project completion information into IDIS within 120 days of project closeout for seven of nineteen single-family rehabilitation projects reviewed. Of these seven projects, six were not closed in IDIS for more than a year after completion, and one project remained open in IDIS for more than three years after project completion. We attribute the City's untimely project completion entries to its lack of adequate policies and procedures for closing out single-family rehabilitation projects in IDIS. As a result, HUD did not have relevant and reliable project information and was unable to properly monitor the City's performance through IDIS. In its response, the City provided an updated IDIS report showing that, as a result of our audit, it has entered all data for the projects questioned. The City also stated that it is instituting procedures to ensure timely drawdown of funds and prompt reporting. However, we have not reviewed these procedures.

Conclusion

The City did not always comply with HUD, OMB, and its own requirements for HOME-funded single-family rehabilitation projects. It needs to establish adequate policies and

procedures so that it can manage the day-to-day operations of its HOME program in accordance with requirements. The City's policies and procedures were inadequate for it to fulfill all of its responsibilities as a HOME participating jurisdiction. As a result, its management of HOME-funded single-family rehabilitation projects was not adequate, \$286,103 was not available for eligible projects and activities, and \$118,213 in HOME expenditures was not supported.

Recommendations

We recommend that the Director of the San Francisco Office of Community Planning and Development require the City to

- 1A. Ensure that it follows its policies and procedures to ensure that it always conducts cost estimates before contractor bidding.
- 1B. Provide cost estimates for the two projects without cost estimates and repay \$79,945 if the City does not satisfy all other questioned costs in this report with respect to the two projects in recommendation 1F to HUD from nonfederal funds (see appendix C).
- 1C. Repay \$285,428 to HUD from nonfederal funds or use nonfederal funds to bring the homeowners' properties up to all applicable rehabilitation standards (see appendix C).
- 1D. Repay the owner \$675 from nonfederal funds or use nonfederal funds to install the missing bathroom accessories for project #2077 (see appendix C).
- 1E. Ensure that the City follows its policies and procedures to ensure that homeowner rehabilitation projects are brought up to applicable rehabilitation standards and codes at the time of completion and that all work items have been completed by the contractor.
- 1F. Provide documentation to support borrowers' income eligibility at the time the City provided the HOME assistance or repay \$118,213 from nonfederal funds (see appendix C).
- 1G. Establish and implement policies and procedures to ensure that it always follows HOME requirements for income determinations when more than six months elapses between the initial income determination and the date on which HOME assistance is provided to the participant.
- 1H. Establish and implement policies and procedures to ensure that it reviews IDIS data for accuracy and that it updates IDIS information for each project in a timely manner in accordance with HUD requirements.

SCOPE AND METHODOLOGY

We performed on-site work at the City's offices in Oakland, California, from November 2008 through April 2009. Our review covered a total of 29 HOME-assisted rehabilitation, acquisition, and new construction projects. The City used more than \$4.7 million in HOME funds for these projects. We initially selected 11 single-family rehabilitation, seven American Dream Downpayment Initiative, and three multifamily new construction projects for survey review. Based on the results of our survey, we reviewed an additional eight single-family rehabilitation projects. In total, we reviewed 19 single-family rehabilitation projects that were assisted with more than \$800,000 in HOME funds. Our review generally included active HOME-assisted projects during the period July 1, 2006, through June 30, 2008. This period was adjusted as necessary. Our objective was to determine whether the City administered its HOME program in accordance with HUD requirements and its own policies and procedures.

To accomplish our objective, we

- Reviewed project files and other records for the City's acquisition, rehabilitation, and new construction projects;
- Conducted site visits of selected projects;
- With the assistance of the OIG inspector, conducted inspections of selected single-family projects;
- Reviewed pertinent records maintained by the City;
- Interviewed the City's management and staff; and
- Reviewed HUD files and interviewed appropriate San Francisco Office of Community Planning and Development officials.

We did not review and assess general and application controls over the City's information system. 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 comparison of computer-processed data to written agreements, contracts, and other supporting documentation. We did not place reliance on the City's information system and used other supporting documentation for the activities reviewed.

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

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

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

Relevant Internal Controls

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

- Administration of the HOME program in compliance with HUD and other federal regulations and the City's internal policies and procedures.
- Maintaining complete and accurate records.
- Safeguarding HOME program resources.

We assessed the relevant controls identified above.

A significant weakness exists if internal 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 item is a significant weakness:

- The City did not have adequate controls in place for (1) initial cost estimates, (2) rehabilitation standards, (3) income determinations, and (4) IDIS entries.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Ineligible <u>1/</u>	Unsupported <u>2/</u>
1C	\$285,428	
1D	675	
1F		\$118,213
Total	<u>\$286,103</u>	<u>\$118,213</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.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

 CITY OF OAKLAND 250 FRANK H. OGAWA PLAZA, SUITE 5-313 • OAKLAND, CA 94612-2034 Community and Economic Development Agency Housing and Community Development Division (510) 238-3015 FAX: (510) 238-3691 TDD: (510) 238-3254
July 14, 2009
Joan S. Hobbs Regional Inspector General for Audit U.S. Department of Housing and Urban Development Office of Inspector General, Region IX 611 West Sixth Street, Suite 1160 Los Angeles, California 90017-3101
Dear Ms. Hobbs:
The City of Oakland respectfully submits this response to OIG's Draft Audit Report on the City's HOME Program, dated June 15, 2009. The City has addressed or provided substantiated rationale for all items listed in the aforementioned report.
The City strongly disagrees with the report's findings and requests the withdrawal of OIG's recommendations that the City repay HUD for \$37,025 for alleged missing cost estimates, \$290,279 for alleged failure to bring homeowners' properties up to all applicable rehabilitation standards, and \$173,338 for alleged lack of documentation to support borrowers' income eligibility at the time the City provided the HOME assistance.
In addition, the City disputes OIG's interpretation of the HOME regulations regarding timing of data input into IDIS, but notes that all required information has been input for the activities in question and all of those activities now have a status of "completed" in IDIS.
The attached comments and supporting documentation address all items within the findings and substantiates the City's request for the retraction of the recommendation for repayment of federal funds. We acknowledge and are committed to compliance with all established policies and procedures as they relate to the administration of HOME funded projects.
Please let me know if any additional information is required.
Sincerely,  Michele Byrd Acting Deputy Director of Housing and Community Development

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The City Did Not Always Conduct Cost Estimates in Accordance with its Written Policies

Comment 1

Project Number: 2011 - \$40,000.00

See memo dated September 21, 2004.

- Two proposals were submitted for a single system repair with the application for assistance.
- The proposals were forwarded to the Rehabilitation Advisor for review.
- 95 l.f. of foundation, underpinning, shear-wall, holdowns and subsequent repairs were proposed for \$44,230.
- Because proposals were submitted with the application and the initial request and the verified need was for a single system repair, a scope of work and the subsequent cost estimate was unnecessary.
- The cost of the repairs was verified as acceptable and the package was forwarded for approval.

Comment 1

Project Number 2076: - \$40,000

See Attached contracts/proposals

- Single system proposals were solicited by the owner as a means of cost savings.
- Proposals were solicited for roof, furnace and plumbing and interior replacement/repairs from separate roofing, mechanical, plumbing and general contractors.
- The proposals were submitted to staff for review and processing.
- The proposals were reviewed for completeness and cost effectiveness.
- The proposed costs were verified by staff prior to submitting for approval.

Comment 2

Project Number 2104: - \$37,025

- See attached cost estimate

Project Number 2107: - \$75,000

- See attached cost estimate

Although it is City policy to prepare a cost estimate for all projects for which scopes of work are prepared, it is not the established policy to prepare cost estimates if applications are forwarded for single system items when proposals are either included or solicited by the owner. Proposals were provided by the owners to repair Projects 2011 and 2076. All submitted proposals were reviewed by staff to insure that no contractor collusion or

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excessive markup took place, and that HOME funds were not used for ineligible purposes.

Cost estimates were prepared for Projects 2104 and 2107.

The City recommends the request to repay funds be withdrawn.

The City Did Not Always Ensure Projects Complied With Rehabilitation Standards

Outline Comments:

The construction on the inspected properties was completed between October, 2005 and August 2006. At the time of the initial inspection the properties were in a severe state of disrepair and/or extensive deferred maintenance existed. The owners of the properties were either unwilling or unable to complete necessary repairs and contacted the city to assist in the correction of major or incipiently major cosmetic repairs, structural and/or systems failure.

The items listed on the scope of work were inspected not only by Rehabilitation Staff, but by City Building Inspectors and the owners prior to the release of payment.

The work as described in the scope of work was confirmed acceptable and completed by staff and the property owner a minimum of 35 days after the Notice of Completion was signed by the owner.

Article 17 of the Owner Contractor Agreement states that the contractor is to guarantee all contract work and materials for a period of one year. If work failed within the contract period the owner was informed to notify the City and the contractor for assistance. No request for service was received from the owners of the inspected properties within the prescribed guarantee time.

The majority of the issues listed in the Results of the Audit are maintenance and/or based on comments made by owners or owner representatives several years after work was completed. It is not prudent to use unsubstantiated owner statements as justification that work completed in 2005-06 was not completed or was done incorrectly. The City was in compliance with HOME regulations at the time of project completion. Owner negligence after completion is not the City's responsibility. The City is not responsible for daily maintenance of funded properties. It is the owner's responsibility to maintain the repairs.

Please see the attached Owner Contractor Agreements, Building Permits and request for payment for verification that City staff were diligent in their efforts to insure that homeowner rehabilitation projects met rehabilitation standards at project completion.

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Comment 3

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Comment 4

Project Number: 2079 - \$39,819

“The City’s standard specifies that if insufficient dollars are not available for “Category A” improvements, the project should be considered infeasible and not approved.

- Mandatory work items were deleted from the scope of work to be completed at a later date. The owner’s original request for assistance was the result of a mandate from her insurance carrier to replace an existing brick foundation. During the initial property inspection and after a review of the pest report, it was determined that additional work was suggested at the interior. The work included plumbing, electrical, countertop replacement and paint. The original loan was approved for \$75,000 anticipating an increase in the loan limits from \$40,000 to \$75,000. The loan limits were increase to \$75,000, but an unexpected increase in the interest rate from 0% to 3% was attached. An interest rate was an encumbrance the owner could not afford, but the foundation was an absolute priority. Because a request was pending in council to eliminate the 3% interest rate, the exterior work was performed and the interior work was deferred until the interest rate was reverted back to 0%. The project was divided into two phases, interior Category “A” items were postponed until the interest rate change was completed. The foundation and exterior repairs were inspected and approved by the owner, Rehabilitation staff and City Inspectors. The work performed mitigated an extreme existing hazard and health and safety violation by replacing a deteriorating brick foundation.
- Policy has been established mandating that funding sources be identified in advance to avoid future guideline conflicts.

The City recommends the requests to repay funds be withdrawn.

Comment 5

Project Number: 1946 - \$52,785

“The contractor improperly installed ceramic tile flooring in the kitchen, bathroom, and hallway”.

- The scope of work included the replacement of 28 square yards of vinyl flooring at a cost of \$1,850.00.
- Ceramic tile was not included in the original contract and no change order was executed for the change of materials.
- The owner composed and provided a correction notice, which included grout replacement on 10/14/2004.
- The owner approved the installation of the tile floor and signed for payment release on 10/18/2004.
- Staff confirmed the installation of the flooring and owner approval for the payment on 10/25/2004.
- All work performed on the property was inspected and approved by building inspectors.

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“The project’s kitchen sink wall was also to be repaired and textured to match the existing wall. The wall was not properly prepared or painted and the portions of the original wallpaper remain on the wall.

- The scope of work required the contractor to score and repair cracks caused by the foundation repairs at a cost of \$1,000.
- The kitchen sink wall was covered with wallpaper and no cracks were visible.
- The kitchen sink wall was not included in the original contract and no change order was executed to include the work.
- The contractor attempted to repair the wall multiple times, but HOME funds were not used to pay for the attempted repairs.

Comment 6

...rehabilitation manager stated that the contractor was not an experienced general contractor”

- The Rehabilitation Manager did not state that the contractor was not an experienced general contractor.
- The Manager stated that the tile installer was not experienced.
- The Manager acknowledged that the tile installation was of a lesser quality, but the contractor re-executed the tile/grout installation.
- Work performed prior to the project in question was satisfactory and the contractor was placed on the contractor list.

The cost of the items in question total \$2,850.00. All work performed on the property was inspected and approved by City Building Inspectors. \$52,785 was expended on the total rehabilitation. Requesting a \$52,785 reimbursement is excessive considering the value of the disputed items is less than 5% of the total contract price.

Comment 7

At the time of completion, the flooring and interior painting of all areas included in the contract were approved by the owner and no defects were noted. Additional work and/or material substitutions not included in the original scope of work or proposal is not the responsibility of the City.

Comment 8

As per the attached payment requests, final payment was released to the contractor because of a court order. The owner and contractor were in dispute regarding the final payment. The contractor sued the owner for release stating that all contractual obligations had been met. After the review of all contract documents, the court concurred that all work was completed and ordered release of the final payment.

Comment 9

The City recommends the request to repay funds be withdrawn.

Comment 10

Project Number: 2106 - \$75,000

“The owner indicated that she did not see the contractor caulk any of the windows on the first floor of the home. The IG inspector found no indication of caulking of the first floor windows as required by the contract”.

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Comment 11

- All windows were installed as per the scope of work, industry standards, manufacturer's specifications and inspected by City Inspectors.
- The owner "did not see the contractor caulk...." is not a verifiable justification of the improper installation of the windows.

Comment 12

"The project also included a bedroom that had a severe 2 foot by 6 foot hole in the ceiling and a smaller opening at the entry ceiling with wall damages at other locations throughout the room including cracked plaster. According to the scope of work, the windows were replaced in this room, requiring inspection. However, the bedroom was not rehabilitated."

- All work was completed and inspected by City inspectors.
- The City is not responsible for maintenance or additional damage after project completion.

Comment 13

"The scope of work required a "Carrier" brand or equal furnace, yet a "Comfortmaker" furnace was installed. In the inspector's opinion, the "Comfortmaker" furnace is not equal to the "Carrier" furnace specified in the scope of work."

- As per local standards, "Comfortmaker" is an acceptable substitute for the recommended furnace.

"The inspector also determined that the heating system was likely not producing heat due to the main duct not being properly secured. The first floor thermostat installed by the contractor was also inoperative."

The owner also expressed dissatisfaction with the kitchen cabinet work. The inspector noted that the sink baseboard between the countertop and sheetrock was not sealed, resulting in an exposed seam. The inspector also noted missing trim pieces for the cabinets. A professional contractor would have installed these trim pieces to ensure a quality finish.

- All systems were inspected by the owner, Rehabilitation Staff and City Inspectors prior to the release of payments.
- The system was operational 35 days after the owner signed the Notice of Completion.
- At completion, all trim and finish pieces were properly installed at the cabinets.
- Maintenance of all completed work is the responsibility of the owner after the contractor's 1 year guarantee expires.

As stated earlier, all systems were functioning properly and all work was properly completed when the final retention payment was released 35 days after the Notice of Completion was signed by the owner.

Comment 15

The City recommends the requests to repay funds be withdrawn.

Project Number: 2116 - \$40,000

"An inspection of the carpet showed ripples in several places. It is standard practice for the contractor to return to the home and restretch the carpeting after it has settled.

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Comment 16

However, the contractor did not return to restretch the carpeting. Further, the master bedroom door was not cut at the bottom to prevent dragging after installation of the new carpeting. The contractor also did not install a new motion sensor light in the rear door area of the property. The owner's son also informed OIG that the electrical doorbell was removed during rehabilitation but not reinstalled after project completion."

- The door at the master bedroom was functioning properly at the time of the final inspection and payment.
- A new doorbell was not included in the scope of work.
- At completion, all work included in the scope of work was completed and inspected by the owner, Rehabilitation Staff and City Inspectors.
- Maintenance of all completed work is the responsibility of the owner after the contractor's 1 year guarantee expires.

The cost of the contract related item in question is \$300 (excluding the motion sensor), less than 1% of the HOME funds used to complete the rehabilitation. As stated, electrical work included in the scope of work was performed and inspected by City of Oakland inspectors. Neither motion sensors nor doorbells are required by code or by the City's written Rehabilitation Standards.

Comment 17

The City recommends the requests to repay funds be withdrawn.

Project Number: 2107 - \$75,000

"The contractor painted but did not prime the interior walls and ceiling of the hallway and bedrooms as required by the scope of work. Due to the contractor's failure to prime the walls and ceiling, the paint is peeling and/or fading in several locations in the hallway and bedrooms of the home. Since the walls and ceiling were not primed, the inspector determined that the contractor's painting work was not completed up to standard."

Comment 18

- Interior and Exterior surfaces were primed and painted.
- Interior walls were primed and painted multiple colors.
- The owner did not adequately ventilate the interior of the property, which resulted in excess moisture which consequently led to premature peeling.
- At completion, all work included in the scope of work was completed and inspected by the owner, Rehabilitation Staff and City Inspectors.
- Maintenance of all completed work is the responsibility of the owner after the contractor's 1 year guarantee expires.

Comment 19

The cost of the item in question is \$4,200, approximately 6% of the HOME funds used to complete the rehabilitation. As stated, the contractor, prepared, primed and painted the walls and ceilings as per the scope of work. Neither the City nor the contractor of record were informed of interior paint failure.

Comment 20

The City recommends the requests to repay funds be withdrawn.

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Comment 21

Project Number: 2077 - \$675.00

“The contractor was required to install bathroom accessories including three chrome towel bars, chrome toothbrush holder and tumbler, and shower and toilet grab bars. Physical inspection of the property showed that these items were not installed per the contract, yet the contractor charged \$675 for the items. The contractor’s \$675 charge for accessories is ineligible since the costs are not a reasonable or necessary use of HOME funds.”

- At completion, all work included in the scope of work was completed and inspected by the owner, Rehabilitation Staff and City Inspectors.

The City recommends the requests to repay funds be withdrawn.

Comment 22

The City is responsible for effective an efficient administration of the HOME program and is required to ensure that HOME funds are only used for reasonable and necessary costs. The city conducted progress payment inspections, project completion walks and final inspections 35 days after completion. In each case contract related work was verified as complete. Systems were operable and all contract related work was in satisfactory condition. The City informs owners that it is their responsibility to maintain all repairs and contact the City and their contractor if performed work fails within one year of completion. None of the aforementioned property owners contacted the City or the contractors of record to register a complaint, request repairs, or report a system failure.

The City Did Not Determine Income As Required By HUD \$173,157

Project Number 2011

- Application intake was performed on 3/23/04
- Income verification was performed on 9/23/04
- Social Security Administration Documents were used as the method of income verification.
- Loan funding was authorized on 9/28/04
- No redetermination of income was required.

Project Number 1832

- Application intake was performed on 10/20/03
- Income verification was performed on 3/29/2004
- Social Security Administration Documents and rent receipts were used as the method of income verification.

Comment 23

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Comment 24

- Loan funding was authorized 4/1/04
- Redetermination of income was performed.

Project Number 2078

- Application intake was performed on 5/4/2005
- Income verification was performed on 5/25/2005
- Social Security Administration Documents were used as the original method of income verification.
- Loan funding was authorized 6/16/2005
- Notice to Proceed was issued 7/14/2005.
- No redetermination of income was required.

Project Number 2076

- Application intake was performed on 5/25/04
- Income verification was performed on 1/11/05
- Loan funding was authorized on 2/4/05
- Redetermination of income was performed.

The City recommends the requests to repay funds be withdrawn.

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The City Did Not Always Enter Timely Information Into the Integrated Disbursement and Information System

Comment 25

The City disputes the Draft Report’s interpretation of the HOME Program Rule regarding entry of IDIS data. The Draft Report states that the City “did not submit project completion information into IDIS within 120 days of project close-out.” OIG is interpreting this to mean that project completion data must be entered within 120 days of completion of physical construction work, even if grant funds are not drawn down until a later date. In fact, the 120 day window does not begin until the final draw down of grant funds is recorded in IDIS (i.e., “Final Disbursement”). Section 92.502d.1. of the HOME Program Rule states: “Complete project information must be entered into the disbursement and information system, or otherwise provided, within 120 days of the final project drawdown.”

The City advances its own funds to make these payments to property owners and later obtains reimbursement from HUD via drawdown of funds through IDIS. The 120-day period does not begin until the Final Disbursement of funds is recorded in IDIS. While there may have been cases where there were delays in the City’s drawdown of funds, the City generally entered all project completion data and changed the status to “completed” well within the 120-day limit.

In any event, the City has entered all data on the projects in question, drawn down all funds, and changed their status to “completed”.

Comment 26

The City is also already instituting procedures to ensure more timely drawdown of funds and prompt reporting.

The relevant data from a current IDIS report is attached, with the activities in question highlighted.

OIG Evaluation of Auditee Comments

- Comment 1** As stated in its response, cost estimates were not prepared for projects #2010 and #2076. This is contrary to the City's own policies and procedures. The City revised the project number in IDIS from #2011 to #2010. Any references to #2011 in the City's comments pertain to IDIS project #2010.
- Comment 2** The City provided cost estimates for projects #2104 and #2107. However, the cost estimates were not dated and we could not determine whether the cost estimates were made before bids were received. Oakland's policy does not include an exception to the performance of cost estimates. Its policy requires that all single-family rehabilitation projects include cost estimates. Since two cost estimates were provided with the response to the report, we revised the report and the questioned costs in Recommendation 1B and appendixes A and C.
- Comment 3** OIG concluded that the work performed on the projects was not up to applicable standard and codes at the time of completion. OIG was aware of the time period between project completion and OIG inspection. When making its final conclusions, OIG took the time period into consideration. The issues in the report are not related to maintenance nor are they based solely on statements made by the owners or owners' representatives. The owners' and owners' representatives' statements in the report were consistent with OIG's inspections.
- Comment 4** The City's internal policy and HOME requirements state that all projects must be brought up to applicable standards and codes at project completion. Project #2079 was not brought up to applicable standards and codes. As a result, the City used HOME funds for an ineligible project.
- Comment 5** The kitchen sink wall was included in the contract for project #1946. Section 6b of the contract requires painting of all rooms affected by the construction. The contract included work in the kitchen.
- Comment 6** The rehabilitation manager's statement about the contractor was revised from not experienced to relatively inexperienced. This is consistent with the auditor-in-charge's notes and the OIG inspector's report. A sufficiently experienced contractor would have performed the tile installation correctly or used a sub-contractor to ensure quality workmanship.
- Comment 7** The project was not brought up to applicable standards at project completion. If the project is not brought up to standards at project completion, the entire project cost is ineligible.
- Comment 8** The OIG inspector determined that the flooring was not installed correctly at project completion. For example, the inspector noted that the contractor did not use enough thin-set cement during installation of the tile.

- Comment 9** The project was not brought up to applicable standards at project completion. This is a violation of HOME requirements. The court order does not exempt Oakland from HOME requirements.
- Comment 10** OIG does not agree with the City's request to withdraw the recommendation to repay funds. Since the project was not brought up to applicable standards at project completion, it was not an eligible use of HOME funds.
- Comment 11** The contract required caulking of all windows. The OIG inspector determined that the windows were not caulked. The owner's statement that she did not see the windows caulked further supports OIG's conclusion.
- Comment 12** The City inspector's notes indicate a hole in the room identified in the report. OIG's visual inspection of the hole in the ceiling also indicated that it had been there for a long period of time. The owner's statement that the hole was there before the rehabilitation work began further supports OIG's conclusion.
- Comment 13** The City did not provide any documentation indicating that "Comfortmaker" and "Carrier" brand furnances are equal. The OIG inspector's opinion is that the "Comfortmaker" is not equal to the "Carrier" furnance.
- Comment 14** OIG concluded that the trim and finish pieces were not installed. The inoperable furnace is not a maintenance issue. It is based on improper installation of the furnace ducting system.
- Comment 15** OIG does not agree with the City's request to withdraw the recommendation for the repayment of funds. Since the project was not brought up to applicable standards at project completion, it was not an eligible use of HOME funds.
- Comment 16** The OIG inspector determined that the door should have been cut at the bottom due to the installation of the new carpeting. The contractor should have returned to restretch the carpeting. Although doorbell installation was not part of the contract, the contractor disconnected the doorbell to complete electrical work on the property. The contractor was responsible for reconnecting the doorbell at project completion. The project was not brought up to applicable standards at project completion. If the project is not brought up to standard at project completion, the entire project cost is ineligible.
- Comment 17** OIG does not agree with the City's request to withdraw the recommendation to repay funds. Since the project was not brought up to applicable standards at project completion, it was not an eligible use of HOME funds.
- Comment 18** OIG determined that the walls were painted but not primed. OIG obtained a piece of the peeling paint and visually confirmed that primer was not used. The OIG inspector determined that the peeling paint was from the contractor's failure to prime the walls, not due to ventilation issues.

- Comment 19** The project was not brought up to applicable standards at project completion. If the project is not brought up to standards at project completion, the entire project cost is ineligible.
- Comment 20** OIG does not agree with the City's request to withdraw the recommendation to repay funds. Since the project was not brought up to applicable standards at project completion, it was not an eligible use of HOME funds.
- Comment 21** The accessories were not installed. As a result, the costs were an ineligible use of HOME funds. OIG does not agree with the City's request to withdraw the recommendation to repay funds. The City cannot use HOME program funds for items that were not provided.
- Comment 22** The issues cited in the report should have been identified at project completion. OIG determined that the work was not completed or not completed up to an acceptable standard at project completion.
- Comment 23** OIG reviewed the income documentation provided for projects #2010, #1832, and #2076. However, the City did not provide evidence that income was determined as required by HUD regulations.
- Comment 24** OIG reviewed the income documentation provided for project #2078. OIG determined that the City determined income as required by HUD regulations. OIG revised the report, recommendation 1F and appendixes A and C.
- Comment 25** OIG disagrees with the City's interpretation of the IDIS requirements. HUD uses IDIS as a real-time tracking system and up-to-date information should be input into the system on a regular basis.
- Comment 26** OIG reviewed the IDIS report provided by the City. Based on the updated IDIS documentation, we revised the report and eliminated recommendation 1I from the report.

Appendix C

SUMMARY OF PROJECT ISSUES

Project information		Issues			
IDIS project #	Amount of HOME funds	Cost estimates	Rehabilitation standards not met	Inadequate income determinations	Late IDIS entries
1832	\$38,268			x	
1946	\$52,785	x	x ²		
2008	\$40,000	x			x
2010	\$40,000	x ¹		x	
2075	\$11,517	x			
2076	\$39,945	x ¹		x	x
2077	\$52,185	x	x ^{2,3}		
2078	\$48,875	x			x
2079	\$39,819	x	x ⁴		
2104	\$32,525	x			
2105	\$73,160	x			x
2106	\$71,275	x	x ²		
2107	\$74,549	x	x ²		x
2110	\$74,894	x			x
2116	\$47,000		x ²		x
Total cases		15	6	3	7
Total questioned costs		\$79,945⁵	\$286,103	\$118,213	n/a

¹ Two cases with no evidence that a cost estimate was conducted (we could not determine whether the cost estimates for the remaining cases were made before bids were received).

² Project inspected by OIG staff and inspector/appraiser.

³ Only \$675 in questioned costs, since bathroom accessories were not installed but the property was determined to have been brought up to applicable standards.

⁴ Code required items deleted from scope of work.

⁵ Questioned costs limited to project #2010 and #2076 (see Recommendation 1B). Costs are already questioned as “Inadequate Income Determinations” and not included in appendix A to prevent duplication of questioned costs.

Appendix D

CRITERIA

Regulations at 24 CFR 92.504 state: “Participating jurisdiction responsibilities; written agreements; on-site inspection. (a) *Responsibilities*. 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.”

Regulations at 24 CFR 92.505 state: “Applicability of uniform administrative requirements. (a) *Governmental entities*. The requirements of OMB Circular No. A-87...apply to the participating jurisdiction, State recipients, and any governmental subrecipient receiving HOME funds...”

Office of Management and Budget Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, Attachment A, General Principles for Determining Costs, states:

A. Purpose and Scope: “2. Policy guides. a. The application of these principles is based on the fundamental premises that: (1) Governmental units are responsible for the efficient and effective administration of Federal awards through the application of sound management practices.”

C. Basic Guidelines: “1. Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria: a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards.”

C. Basic Guidelines: “2. Reasonable costs. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when governmental units or components are predominately federally-funded.”

Regulations at 24 CFR 92.251(a)(1) state: “Housing that is constructed or rehabilitated with HOME funds must meet all applicable codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion, except as provided in paragraph (b) of this section. The participating jurisdiction must have written standards for rehabilitation that ensure that HOME-assisted housing is decent, safe, and sanitary.”

City of Oakland Residential Lending and Rehabilitation Services Operations Manual states:

“Category A: Mandatory work items. Code violations that threaten health and safety of residents (e.g. basic structural, mechanical, electrical, and plumbing systems) and those items

that constitute other program specific requirements. If there are insufficient dollars available for Category A improvements, the project should be considered infeasible and should not be approved.” (p.15)

“The Rehabilitation Advisor must complete an independent cost estimate for work to be completed on the property. This ‘Staff estimate’ must accompany the Work Write Up.” (p.31)

“Rehabilitation Programs Process Timetable: Staff Estimate” (after work write-up and before bids are received). (p.33)

“Inspection and Scope of Work...Within 20 days of the inspection visit, the rehabilitation advisor completes a work write up and cost estimate.” (p.41)

Regulations at 24 CFR 92.203(a) state: “(a) The HOME program has income targeting requirements for the HOME program and for HOME projects. Therefore, the participating jurisdiction must determine each family is income eligible by determining the family’s annual income.”

Regulations at 24 CFR 92.203(d)(2) state: “The participating jurisdiction is not required to re-examine the family’s income at the time the HOME assistance is provided, unless more than six months has elapsed since the participating jurisdiction determined that the family qualified as income eligible.”

Regulations at 24 CFR 92.502 state: “*Project completion.* (1) Complete project completion information must be entered into the disbursement and information system, or otherwise provided, within 120 days of the final project drawdown. If satisfactory project completion information is not provided, HUD may suspend further project set-ups or take other corrective actions.”

HOME Fires, Vol. 2, No. 5, April 2000, states: “...HUD requires reliable IDIS information for many purposes, including reporting to Congress, monitoring financial information, tracking program performance, and identifying grantee and program needs. In essence, IDIS data drives the Department’s programmatic decision-making process; decisions that directly affect each HOME PJ...Ensuring data quality in IDIS, or in any data collection effort for that matter, is necessary for accurate analysis and evaluation...”