Union County, NJ

HOME Investment Partnerships Program

Office of Audit, Region 2
New York-New Jersey

Audit Report Number: 2017-NY-1005
January 13, 2017

To:	Annemarie Uebbing Director, Office of Community Planning and Development, 2FD
	//SIGNED//
From:	Karen A. Campbell-Lawrence Acting Regional Inspector General for Audit, 2AGA
Subject:	Union County, NJ's HOME Investment Partnerships Program Was Not Always Administered in Compliance With Program Requirements

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the County of Union County, NJ's HOME Investment Partnerships Program.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at http://www.hudoig.gov.

If you have any questions or comments about this report, please do not hesitate to call me at 212-264-4174.

Audit Report Number: 2017-NY-1005
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Union County, NJ's HOME Investment Partnerships Program Was Not Always Administered in Compliance With Program Requirements

Highlights

What We Audited and Why

We audited Union County, NJ's HOME Investment Partnerships Program based on a risk analysis of the County's program that considered the amount of funding, the risk score assigned by the U.S. Department of Housing and Urban Development (HUD), and our identification of potential issues. The objective of the audit was to determine whether County officials had established and implemented adequate controls to ensure that the County's program was administered in compliance with HOME program requirements.

What We Found

The County's program was not always administered in compliance with program requirements. Specifically, the County's HOME fund was not reimbursed for assistance spent on partially canceled and noncompliant activities, was used for ineligible and unsupported community housing development organizations (CHDO), and was maintained in a bank account while drawdowns were made from the line of credit. In addition, activities were not administered in compliance with program requirements, income was not always collected and reported in the Integrated Disbursement and Information System, HOME match was not accurately calculated, and units were either leased to tenants or sold to home buyers without documentation to support eligibility. As a result, $242,269 was spent on ineligible CHDOs; more than $4.7 million was unavailable for eligible activities and CHDOs; $923,733 was spent on unsupported costs, a CHDO, and two home buyers; and HUD's and the County's interest of $597,519 in assisted properties was not protected.

What We Recommend

We recommend that HUD instruct County officials to reimburse more than $3.7 million for disbursements made for terminated and noncompliant activities, and an ineligible CHDO; impose deed restrictions on two properties assisted with $597,519; reallocate $573,689 to an eligible CHDO; provide documents to support the eligibility of a CHDO that received $227,903 in CHDO reserve funds, two home buyers who received $260,736 in HOME assistance, and unsupported costs of $435,094; reimburse $536,507 to the local bank account for the uncollected and unreported program income; and disburse $92,557 to pay eligible HOME costs before making additional drawdowns from the Line of Credit Control System.

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Background and Objective

The HOME Investment Partnerships Program, authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, is designed to create affordable housing opportunities for low-income households. HOME program regulations are found at 24 CFR (Code of Federal Regulations) Part 92. HUD has provided additional guidance in its guidebook, Building HOME, dated March 2008.

The HOME program allows participating jurisdictions to use HOME funds for a variety of housing activities according to local housing needs. Eligible uses of funds include tenant-based rental assistance, housing rehabilitation, assistance to home buyers, and new construction of housing. HOME funding may also be used for site acquisition, site improvements, demolition, relocation, and other necessary and reasonable activities related to the development of nonluxury housing. Funds may not be used for public housing development, public housing operating costs, or Section 8 tenant-based assistance, nor may they be used to provide non-Federal matching contributions for other Federal programs. Participating jurisdictions must provide a 25 percent match of their HOME funds. They must also set aside at least 15 percent of their allocations for housing to be owned, developed, or sponsored by community housing development organizations (CHDO).

HUD awarded Union County $802,222 and $877,528 in HOME funds for program years 2015 and 2016, respectively. The County's HOME program is administered by its Department of Economic Development, which is located at 10 Elizabethtown Plaza, Elizabeth, NJ.

The County's HOME program assisted different types of housing activities, including activities for home buyers, homeowners, and rental housing. However, most of the County's HOME drawdowns in program years 2012 through 2014 were provided for the rehabilitation and new construction of rental housing.

The objective of the audit was to determine whether County officials had established and implemented adequate controls to ensure that the County's HOME program was administered in compliance with HOME program requirements.

Results of Audit

Finding: The County's HOME Program Was Not Always Administered in Compliance With Program Requirements

County officials did not always ensure that the County's HOME program was administered in compliance with HOME program requirements. Specifically, (1) HOME funds were not reimbursed to the County's HOME program line of credit for partially canceled and noncompliant HOME activities, (2) HOME activities were not administered in compliance with HOME program requirements, (3) HOME funds were awarded and disbursed to ineligible and unsupported CHDOs, (4) HOME program income was not always collected and reported in HUD's Integrated Disbursement and Information System (IDIS)[1], (5) HOME match carryover balance was not accurately calculated, (6) HOME funds in the local bank account were maintained while drawdowns were made from HUD's Line of Credit Control System (LOCCS),[2] (7) HOME-assisted housing units were leased to unsupported tenants, and (8) HOME-assisted housing units were sold to unsupported home buyers. Discussion with County officials and review of documentation associated with the County's monitoring of subgrantees and recertifying of the County's CHDOs reveal that these deficiencies were attributed to the County staff's unfamiliarity with HOME program requirements and the County's inadequate monitoring of its subgrantee. As a result, more than $242,269 was spent on an ineligible CHDO; more than $4.1 million and $573,689 in HOME funds were not available for eligible HOME activities and eligible CHDOs, respectively; $923,733 in HOME funds was spent on unsupported costs, a CHDO, and two home buyers; and HUD's and the County's interest of $597,519 in two HOME-assisted properties was not protected.

Funds Not Reimbursed for Partially Terminated or Noncompliant HOME Activities

County officials did not reimburse the County's HOME program for HOME funds spent on a partially terminated activity and three noncompliant activities.

- HOME funds of $261,000 were spent on an activity that was partially terminated during the construction. The County disbursed $403,500 to a subgrantee to construct 11 for-sale housing units; however only 2 units were constructed and received HOME assistance of $90,910. County officials reimbursed only $51,590 instead of $312,590 to the County's HOME program line of credit for assistance associated with the remaining unconstructed nine units. Regulations at 24 CFR 92.503(b)(2) provide that any HOME funds invested in a project that is terminated before completion, either voluntarily or otherwise, must be repaid to the participating jurisdiction.

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[1] IDIS is the drawdown and reporting system for HUD's Office of Community Planning and Development formula grant programs.
[2] LOCCS is the system HUD uses to disburse and track the payment of grant funds to grant recipients.

- HOME funds of more than $3.2 million were spent on three activities that did not remain in compliance with program requirements during the affordability period. Properties associated with two of the three activities were either sold or forcelosed on during the affordability period, and a property associated with the remaining activity had not been in compliance since 2012 with HOME program requirements, such as selection and eligibility of tenants and lease requirements. Regulations at 24 CFR 92.503(b)(1) provide that any HOME funds invested in housing that does not meet the affordability requirements for the period specified in 24 CFR 92.252 or 92.254, as applicable, must be repaid by the participating jursidiction.

We attributed these deficincies to the County staff's unfamiliarity with HOME program requirements. As a result, more than $3.5 million was not available for elilgible HOME activities.

HOME Activities Not Administered in Compliance With Program Requirements

County officials did not always administer the County's HOME activities in compliance with HOME program requirements. Our review of 15 HOME activities found the following:

- Environmental review documentation, such as an environmental assessment and a phase I environmental review, were not maintained for an activity. Regulations at 24 CFR 92.508(a)(7(iii) provide that the participating jurisdiction must maintain documentation to enable HUD to determine the jurisdiction's compliance with environmental review requirements at 24 CFR 92.352 and Part 58.

- Procurement documentation, such as proof of advertising, bids received, bid analysis reports, and contracts; were not maintained for three activities. Regulations at 24 CFR 84.46[3] provide that procurement records and files for purchases in excess of small purchases must include the following at minimum: (1) basis for contractor selection, (2) justification for lack of competition when competitive bids or offers are not obtained, and (3) basis for award cost or price.

- Disbursement documentation, such as invoices, contractor's request for payments, and canceled checks, were not maintained to support $435,094 in HOME funds disbursed for two activities. Regulations at 24 CFR 92.508(a)(3)(ii) provide that the participating jurisdiction must maintain sufficient records to support the source and application of funds for each project and to document the eligibility and permissibility of project costs.

[3] Procurement regulations contained in 24 CFR 84 have been incorporated into 2 CFR 200.318-326 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards effective December 26, 2014. Therefore, in additional to regulations at 24 CFR 84; regulations at 2 CFR 200.318-326 was effective during audit period August 1, 2012 through July 31, 2015.

- Deed restrictions were not imposed on two properties assisted with more than $2.1 million in HOME funds. Regulations at 24 CFR 92.252(e)(ii) and 92.254(a)(5)(i)(A) provide that the affordability requirements must be imposed by a deed restriction, a covenant running with the land, an agreement restricting the use of the property, or other mechanisms approved by HUD.

- Contractors associated with an activity that was assisted with $597,519 in HOME funds paid a few of their laborers less than the applicable Davis-Bacon Act wage rates. Regulations at 24 CFR 92.354(a)(3) provide that a participating jurisdiction, contactor, and subcontractors must comply with requirements in the Davis-Bacon Act and regulations pertaining to labor standards.

We attributed these deficiencies to the County's inadequate monitoring of its subgrantees and the County staff's unfamiliarity with HOME program requirements. As a result, there was no assurance that the activity complied with environmental review requirements, contracts associated with the three activities were procured in compliance with procurement requirements, the $435,094 was spent on eligible HOME costs, and the two properties will comply with affordability requirements during the affordability period. In addition, laborers were not paid prevailing wages.

HOME Funds Awarded and Disbursed to Ineligible and Unsupported CHDOs

County officials awarded and disbursed CHDO reserve funds to ineligible and unsupported CHDOs.

- In fiscal years 2014 and 2015, County officials awarded and disbursed $573,689 and $242,269, respectively, from the County's CHDO reserve fund to an ineligible CHDO, Plainfield Community Development Corporation. The Corporation was controlled by the Plainfield Housing Authority since the Corporation's bylaws provided that the Authority had the right to appoint the Corporation's board members and the Authority controlled the disposition of the Corporation's assets upon dissolution of the Corporation. Further the Authority's employees were also employed by the Corporation to administer the Corporation's operations. Regulations at 24 CFR 92.2 provide that a CHDO means a private nonprofit organization that is neither controlled by nor under the direction of individuals or entities seeking to derive profit or gain from the organization, is not controlled by a government entity, has no more than one-third of its board members appointed by a government entity, may not employ staff of the government entity, and maintains at least one-third of its board for representatives of a low-income community. Further, CHDO organizational requirements included in chapter 3 of Building HOME, dated in March 2008, provide that government appointees, who themselves are either low-income community residents or residents of low-income neighborhoods, do not count toward the one-third minimum requirement for representatives of a low-income community.

- In fiscal year 2010, County officials awarded and disbursed $227,903 in CHDO reserve funds to Homefirst, a County CHDO, without maintaining documentation to support that at least one-third of the Homefirst's board members were representatives of a low-income community. Regulations at 24 CFR 92.508(a)(4)(iii) provide that CHDOs' records include the name and qualifications of each CHDO.

We attributed these deficiencies to the County staff's unfamiliarity with HOME program requirements and inadequate County monitoring of its CHDOs. Therefore, $573,689 in CHDO reserve funds was not available for eligible CHDOs, $242,269 was spent on ineligible CHDO costs, and there was no assurance that $227,903 in CHDO reserve funds was awarded to an eligible CHDO.

Uncollected and Unreported HOME Program Income

County officials neither collected nor reported program income of $536,507 generated from disposition of five for-sale houses that were constructed with assistance from the County's HOME program. Regulations at 24 CFR 92.503(a) provide that program income must be deposited into the jurisdiction's HOME local bank account, and 24 CFR 92.502(a) provides that the participating jurisdiction must report all program income in HUD's computerized disbursement and information system. We attributed this deficiency to the County staff's unfamiliarity with HOME program requirements. As a result, the $536,507 was not available for eligible HOME activities.

Inaccurate HOME Match Carryover Balance

County officials did not accurately calculate the County's HOME match contributions. Specifically,

- County officials claimed and reported more than $1 million in ineligible HOME match contributions, such as a principal of a Community Development Block Grant loan, a principal of a loan received at a market interest rate, and a principal of a loan received at a discounted interest rate.

- County officials understated the County's HOME match contributions for two permanent HOME match contributions by more than $1 million.

Regulations at 24 CFR 92.220(a)(1) provide that match contributions may be cash contributions from a non-Federal source and contributed permanently to the HOME program. Regulations at 24 CFR 92.220(a)(1)(iii) provide that HOME match contributions from a below-market-interest-rate loan is calculated by determining the net present value of the difference between payments to be made on the borrowed funds and payments to be received from the loan over the course of the project. Regulations at 24 CFR 92.220(b)(1) provide that contributions made with or derived from Federal resources or funds are an ineligible form of HOME match contributions. We attributed these deficiencies to the County staff's unfamiliarity with HOME program requirements. As a result, the County's carryover balance of HOME match as of September 30, 2015, was not accurate.

Unexpended Cash Balance in the County's HOME Program Local Bank Account

County officials had maintained a carryover cash balance of $92,557 in the County's local HOME bank account from August 2012 through July 2015 and also made entitlement drawdowns from the line of credit during that period. Regulations at 24 CFR 92.(502)(c)(3) provide that HOME funds in the local account of the HOME Investment Trust Fund must be disbursed before requests are made for HOME funds in the United States Treasury account. We attributed this deficiency to the County's lack of accounting staff to trace the use of HOME funds. As a result, $92,557 was not used for eligible HOME activities, and the County made unnecessary drawdowns from the line of credit.

Unsupported Tenant Income and Rents

County officials neither maintained income documents, such as pay stubs and bank statements, for 6 of 10 tenants nor maintained lease agreements for 5 of the 10 tenants who occupied housing units constructed or rehabilitated with assistance from the County's HOME program to ensure compliance with HOME program requirements. Regulations at 24 CFR 92.508(a)(3)(v) provide that the participating jurisdiction must maintain records demonstrating that each family is income eligible in accordance with 24 CFR 92.203. Further, regulations at 24 CFR 92.508(a)(vi) provide that the participating jurisdiction must maintain records demonstrating that each tenant-based rental assistance project meets the rent reasonableness requirements of 24 CFR 92.209(f). We attributed these deficiencies to the County subgrantee staff's unfamiliarity with HOME program requirements. As a result, there was no assurance that the six tenants were income eligible to occupy housing units rehabilitated or constructed with HOME funds and that rent charged complied with the HOME program rent limits.

Unsupported Payments to Home Buyers

County officials provided HOME assistance of $260,736 for two home buyers without complete documentation, such as pay stubs and bank statements, to support the two home buyers' income eligibility. Regulations at 24 CFR 92.508(a)(3)(v) provide that the participating jurisdiction must maintain records showing that each family is income eligible in accordance with 24 CFR 92.203. We attributed these deficiencies to the County's inadequate monitoring of its subgrantees. As a result, there was no assurance that the $260,736 was spent on eligible home buyers.

Conclusion

County officials did not always ensure that the County's HOME program was administered in compliance with program requirements since HOME funds were (1) not reimbursed to the program line of credit for assistance spent on partially terminated and noncompliant activities, (2) awarded and disbursed to ineligible and an unsupported CHDOs, and (3) retained in the local bank account while drawdowns were made from the line of credit. In addition, HOME activities were not administered in compliance with program requirements, HOME program income was not always collected and reported in IDIS, HOME match carryover balance was not accurately calculated, and HOME-assisted housing units were either sold to unsupported home buyers or leased to unsupported tenants. We attributed these deficiencies to the County's unfamiliarity with HOME program requirements and the County's inadequate monitoring of its subgrantee.

As a result, HOME funds were not available for eligible HOME activities and home buyers, and HOME CHDO reserve funds were not available for eligible and supported CHDOs. Further, there was no assurance that HUD's and the County's interest in two assisted properties was protected.

Recommendations

We recommend that the Director of HUD's Newark, NJ, Office of Community Planning and Development instruct County officials to

1A. Reimburse $3,536,974 to the County' HOME program line of credit for assistance spent on the four activities that were partially terminated or noncompliant with program requirements.[4]

1B. Strengthen the County's administrative controls to ensure that its HOME program is reimbursed for assistance spent on terminated or noncompliant activities.

1C. Provide environmental review documentation, such as environmental assessment and a phase I environmental review, for the activity to support compliance with environmental review requirements.

1D. Provide procurement documentation, such as proof of advertising, bids received, bid analysis reports, contracts, and other documents, for contracts associated with the three activities to support compliance with procurement requirements.

1E. Provide disbursement documentation to support the eligibility of the $435,094 made for the two activities or repay the County's HOME program line of credit from non-Federal source.

1F. Impose deed restrictions or other mechanisms approved by HUD on the two properties that received HOME assistance of $597,519[5] to enforce affordability requirements during the affordability period.

1G. Provide documentation to support that laborers associated with the activity are compensated in compliance with Davis-Bacon wage rates. If documentation cannot be provided, $567,767[6] needs to be reimbursed to the County's HOME line of credit from non-Federal sources.

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[4] Descriptions of activities are provided in Appendix C and activities applicable to recommendations with questioned costs or funds to be put to better use are provided in Appendix D.

[5] Only $597,519 (2,117,317-1,519,798) is included in recommendation 1F because the difference of $1,519,798 is already included in recommendation 1A.

[6] Only $354,750 of the $567,767 is listed on the schedule of questionable costs because the difference is already included in recommendation 1E.

1H. Strengthen the County's administrative controls to ensure compliance with environmental, procurement, and other program requirements.

1I. Provide HOME program training to County staff to ensure compliance with HOME program requirements.

1J. Reallocate the $573,689 awarded to the ineligible CHDO, thus ensure that the fund is put to better use.

1K. Reimburse $242,269 to the County's HOME program line of credit for CHDO reserve fund disbursed to the ineligible CHDO.

1L. Provide documentation to support that at least one-third of the Homefirst board were representatives of a low-income community. If documentation cannot be provided, reimburse the $227,903 to the County's HOME program line of credit from non-Federal sources.

1M. Reimburse the $536,507 in program income to the County's HOME program local bank account and record the income in IDIS.

1N. Reconcile the County's carryover balance of HOME match as of September 30, 2015, for the ineligible HOME match contributions and the understated HOME match contributions.

1O. Disburse the $92,557 to pay eligible HOME costs before making additional drawdowns from LOCCS.

1P. Strengthen the County's financial controls over reconciling bank records to ensure that HOME funds in the local bank account are spent before drawdowns are made from LOCCS.

1Q. Provide documentation, such as pay stubs and leases, to support compliance with HOME program rent limit and income eligibility requirements for the six tenants who occupied HOME-assisted units.

1R. Provide documents, such as pay stubs and bank statements, to support the eligibility of the two home buyers. If documentation cannot be provided, reimburse $260,736 from non-Federal sources to the County's HOME program line of credit.

1S. Strengthen the County's administrative controls to ensure that County staff adequately monitors its subgrantee for compliance with HOME program requirements and provide HOME program training to the County subgrantee's staff.

Scope and Methodology

The audit focused on whether County officials had established and implemented adequate controls over the County's HOME program to ensure that the program was administered in compliance with HOME program requirements. We performed the audit fieldwork from April through October 2016 at the County Department of Economic Development located at 10 Elizabethtown Plaza, Elizabeth, NJ.

To accomplish our objective, we

- Reviewed relevant HOME program requirements and applicable Federal regulations to gain an understanding of the HOME administration requirements.
- Interviewed staff from the HUD Newark, NJ, Office of Community Planning and Development and the County.
- Obtained an understanding of the County's management controls and procedures through analysis of the County's responses to management controls questionnaires.
- Reviewed the County's consolidated annual performance and evaluation reports and action plan for HOME program years 2012 through 2014 to gather data on the County's expenditures and planned activities.
- Reviewed reports from IDIS to obtain HOME disbursements and program income data for the audit period and reports from LexisNexis[7] to obtain information related to real properties assisted with HOME funds. Our assessment of the reliability of IDIS and LexisNexis data was limited to the data sampled, and the data were reconciled with data in the County's records. Therefore, we deemed the data sampled to be reliable for the audit conclusion however we did not assess the reliability of the systems that generated the data.
- Reviewed the County's organizational chart for its HOME program and its HOME program policies, including its HOME policies and procedures manual, HOME income verification packet, and citizen participation plan.
- Reviewed the County's audited financial statements for the fiscal years ending December 31, 2013 and 2014, and the County's council resolutions for program years 2012 through 2014.
- Reviewed documentation for the annual recertification of the only two nonprofit entities that were awarded CHDO reserve fund during program years 2012 through 2014.

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[7] LexisNexis Research Solutions offers the most authoritative and comprehensive collection of news, business, and legal sources.

- Selected a nonstatistical sample of 15 of 134 HOME activities reported in IDIS. Those 15 activities were funded with more than $1.59 million, or 50 percent, of the County's total HOME funds drawn down in program years 2012 through 2014, and more than $5.8 million was drawn down before or after program years 2012 through 2014. The sample was selected based on one or more of the following risk factors: a lien or deed restriction was not imposed on assisted properties, projects were progressing slowly, there was a foreclosure of a HOME-assisted property during the affordability period, and unreported program income was generated from the disposition of a HOME-assisted property during the affordability period.
- Reviewed documentation, including subgrantee agreements, environmental reviews, appraisal reports, deeds, mortgage notes, invoices, and contractor's requests for payments, to support the eligibility of the 15 IDIS HOME activities included in our sample and to support the eligibility of costs associated with those 15 IDIS HOME activities.
- Reviewed a copy of bank statements associated with the County's HOME program and traced deposits to IDIS reports. Our assessment of the reliability of data included in bank statements and IDIS reports was limited to the data sampled, which were reconciled among different sources; therefore, we did not assess systems generating the data.
- Reviewed the eligibility of a nonstatistical sample of 7 of 9 buyers of housing units associated with the sample of 15 HOME IDIS activities.
- Reviewed the eligibility of a nonstatistical sample of 10 of 691 tenants of housing units associated with the sample of 15 HOME IDIS activities.

The results of our testing cannot be projected.

The audit generally covered the period August 1, 2012, through July 31, 2015, and was extended as needed to accomplish the objective.

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(s). We believe that the evidence obtained provides a reasonable basis for our finding and conclusion based on our audit objective.

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 objective:

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Compliance with laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resources use is consistent with laws and regulations.
- Safeguarding resources – Policies and procedures that management has implemented to reasonably ensure that resources are safeguarded against waste, loss, and misuse.
- Validity and reliability of data – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.

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

Significant Deficiencies

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

- The County did not always implement adequate internal controls to ensure the achievement of program objectives since housing units constructed and rehabilitatd with assistance from the County's HOME program were either sold to unsupported home buyers or leased to unsupported tenants.

- The County did not always establish or implement adequate internal controls to ensure that resources were used in compliance with laws and regulations because HOME funds were (1) not reimbursed to the County's HOME program line of credit for partially teminated and noncompliant HOME acitivities, (2) awarded and disbursed for activities that were not adminstered in compliance with HOME program requirements, (3) awarded and disbursed to ineligible and unsupported CHDOs, and (4) disbursed to rehabilitate and construct housing units that were either sold to unspported home buyers or leased to unsupported tenants. In addition, program income was not always collected or reported in IDIS, HOME match contributions were not always calculated correctly, and HOME funds in the local bank account were not always spent before funds were drawn down from LOCCS.
- The County did not always implement adequate internal controls to ensure that resources were safeguarded against waste, loss, and misuse as HOME funds were (1) used for the rehabilitation and construction of housing units that were either sold to unsupported home buyers or unsupported tenants and (2) used for unsupported costs.
- The County did not always implement adequate internal controls to ensure the validity and reliability of data since the receipt of progam income was not always reported in IDIS and HOME match contributions listed on the County's annual HOME match reports were not always accurate and supported.

Appendixes

Appendix A

Schedule of Questioned Costs and Funds To Be Put to Better Use

Recommendation number	Ineligible 1/	Unsupported 2/	Funds to be put to better use 3/
1A	$3,536,974		
1E		$435,094	
1F			$597,519
1G		354,750	
1J			573,689
1K	242,269		
1L		227,903	
1M			536,507
1O			92,557
1R		260,736	
Totals	**3,779,243**	**1,278,483**	**1,800,272**

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 case, if HUD implements the recommendations to

- Require that a mortgage be recorded for the two properties assisted with HOME funds, HUD’s and the County’s interest of $597,519 in HOME funds will be protected, and program requirements will be enforced.
- Require the ineligible commitment of CHDO reserve to be reallocated to an eligible CHDO, the $573,689 will be available for eligible CHDO activities.
- Require that program income is collected and reported in IDIS, the $536,507 will be available for eligible HOME activities.
- Require the disbursement of the available HOME cash balance in the County’s HOME program local bank account, the $92,557 will be available for eligible HOME activities.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation | **Auditee Comments**

COUNTY OF UNION

DEPARTMENT OF ECONOMIC DEVELOPMENT
Amy C. Wagner, Director

December 19, 2016

Kimberly Greene
Regional Inspector General for Audit
U.S. Department of Housing and Urban Development
Office of Inspector General-New York/New Jersey Region 2
26 Federal Plaza, Room 3430
New York, NY 10278

Dear Ms. Greene:

I offer the following in response to the DRAFT audit report related to the County of Union's Home Investment Partnership Program. We appreciate the opportunity to have this information include in the final audit report.

Comment 1

We respectfully request that the finding as stated at the top of page 4 be edited to read "The County's HOME program was not *always* administered in compliance with program requirements." While the audit has uncovered some occasions where requirements were not fully met, our staff has always acted in good faith and in accordance with the rules and regulations as they were understood by us when administering the HOME program. The body of the audit report clearly suggests that our program was not *always* out of compliance therefore we recommend this edit.

We anticipate providing documentation at our exit conference that will clear up the following outstanding issues:

- Comment 2 — Procurement package for activity #2799 will be provided.
- Comment 3 — Outstanding deed restriction documentation for activities 2135 and 3397. Comment 4 — Deed restriction documents are in process for activity 2798 and will be provided as soon as they are received by us. (Reference Activity 1F)
- Comment 5 — Income verification package for activity 3271 confirming that income documentation required at the time of funding did not require paystubs and that all relevant documentation was presented. (Reference Activity 1R)

ADMINISTRATION BUILDING
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Ref to OIG Evaluation	Auditee Comments

Comment 6

With regard to all costs classified as "unsupported" (activities 2798, 2446, 2991, 3397, and 2787) in the table in Appendix A of the report, we acknowledge that there were documentation issues with these activities. We remain committed to rectifying these matters with a corrective action plan as needed. These matters relate to lax record keeping however the integrity and intention of the HOME program was maintained when funding these projects. Collectively 37 units of affordable housing were provided through these five activities. (Reference Activities 1E, 1G, 1L and 1S)

Regarding reference activities 1J & K, when the composition of the CHDO Board was questioned in the early stages of our audit, we immediately reached out to the CHDO to instruct them that there was a need for them to re-organize their Board in order to be in compliance with the regulations. We are actively working with the Newark Field Office of HUD to resolve this matter in an acceptable manner. We have sought advice from the Field Office to insure that the Board is properly constituted. We fully anticipate that this will be resolved in short order.

Comment 7

It is our belief that any findings or recommendations related to activity 3397 are premature at this time. We are still awaiting a Cost Certification on this project. We are unable to determine program income until that documentation is received. We are currently in the process of completing the final close out on this project and will provide program income information as soon as the project is complete.

Reference Activity 1A relates to several activities which are categorized as ineligible in the table in Appendix A. Each of these is addressed individually below:

Comment 8

- Activity 2135- Any requirement for repayment at this time is premature as the County continues to work with the sub-grantee in an effort to bring this project back into compliance with assistance from our County Counsel. Evidence of the continued collaboration between the sub-grantee and the County is shown by recent placement of a deed restriction on this project as noted by OIG auditors.

Comment 9

- Activity 1239 - The County acknowledges that this project failed but disputes the conclusion that additional sums should be repaid. This project began in funding year 2000 and was formally closed in 2016. A final settlement of this matter was made in good faith and resulted in a repayment of $51,950.00 at the request of the Newark Field Office.

Comment 10

- Activity 1635 - Unfortunately, the managing member of the sub-grantee, was convicted of fraud involving another federal program and was incarcerated. As a result he turned over management of this project to persons who were unable to sustain it. This project produced eleven units of affordable Housing. Up until the point of the turnover of management, the County experienced little to no difficulties in assuring compliance of this project. The issue appears to have arisen as a result of the granting of a

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Ref to OIG Evaluation	Auditee Comments

Comment 10

subordination which was determined to be appropriate based upon the status of the project at that time and as part of the County's continuing efforts to support existing projects. The County made efforts to salvage the project however the bank was uncooperative with these efforts.

Upon receipt of the foreclosure complaint the matter was turned over to the County Counsel's Office, which entered its appearance in the matter. In the aftermath of the financial crisis beginning in 2008, property values were suppressed. It is our understanding that there were insufficient funds recovered in the foreclosure proceedings to satisfy any part of the subordinate liens the County had on this property.

Comment 11

- Activity 698 - The County does not dispute the factual findings, however clarification is necessary as we believe that the action taken in releasing the property was proper. The project began December 1, 1998. The County was approached in early 2015 about an offer to purchase the property. After seeking advice from several experts in HOME regulations, we were advised that the Certificate of Occupancy date, October 10, 2000, started the affordability period. Therefore the fifteen year affordability requirement for rehabilitation projects had been met. It should be noted that the final sale of the property was delayed from early 2015 until October 2015 when the fifteen year affordability date was reached.

Once again we appreciate the opportunity to respond to the audit findings and to have our comments included in the final report. The audit process has provided us with great insight as to how we can improve our administration of the HOME program in Union County. It has always be our intention to work within the guidelines of the program to provide access to quality affordable housing in Union County to the best of our ability.

Sincerely,

Amy C. Wagner

Amy C. Wagner
Director
Department of Economic Development

Cc: James Heim, Bureau of Housing

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OIG Evaluation of Auditee Comments

Comment 1 The report was revised to add “always” to the finding title at the top of page 4 of the audit report.

Comment 2 Based on documentation provided at the exit conference, the report was revised to reflect that lack of procurement documentation is associated with three instead of four activities.

Comment 3 County officials provided a deed restriction and a mortgage note, which were dated in December 2016, for activity 2135. Our review of those documents reveals that although County officials imposed restriction on the use of the HOME assisted property for 20 years from the project completion date, the restriction was not extended to reflect that the activity had not been in compliance with HOME program requirements for five (2012 through 2016) of the six years (2011 through 2016) spent after the project completion date. Therefore, the deed restriction needs to be reviewed and revised during the audit resolution to determine the eligibility of the costs.

Comment 4 Based on our review of a deed restriction for activity 3397, which was provided at the exit conference, the report was revised to reflect that lack of deed restriction is associated with two instead of three properties.

Comment 5 Based on our review of an income verification package for activity 3271, which was provided at the exit conference, the report was revised to delete the noncompliance matter associated with the ineligible homebuyer.

Comment 6 County officials acknowledged the existence of the deficiencies and planned to take corrective action. Documentation associated with the County’s corrective action should be provided to HUD field office staff during the audit resolution process.

Comment 7 County officials stated that it is premature at this time to make a recommendation associated with program income generated from activity 3397 because the project is not complete. However, OIG determined that making a recommendation to report program income of $536,507 is needed for the following reasons: (1) none of the activity documents, including the subgrantee application, the subgrantee agreement, the modification to subgrantee agreement and the proforma summary dated in February 2014 include any information about the proceeds from selling the five housing units or the use of those proceeds, (2) four of the five constructed housing units were sold between March 23 through May 16, 2016 and no program income was reported in IDIS and (3) OIG’s calculation of program income of $536,507 was based on a statement, dated June 9, 2016, of actual sources and uses of the project funds. Therefore, making a recommendation to record program income associated with the activity is not a premature decision.

Comment 8 County officials stated that it is premature at this time to make recommendation requesting a repayment of HOME funds disbursed for activity 2135. However, OIG determined that making recommendation to reimburse the County's HOME program for disbursements made to activity 2135 is needed since the activity had not been in compliance with HOME program requirements, including selection and eligibility of tenants and lease requirements for five (2012 through 2016) of the six years (2011 through 2016) spent after the project completion date. Further, documentation to support compliance with environmental review, procurement and deed restriction requirements were missing.

Comment 9 County officials acknowledged that the project failed but disputed the conclusion that additional sums should be repaid. OIG's review disclosed that County officials disbursed $403,500 for constructing 11 for-sale housing units. However, only two of the 11 units, assisted with $90,910, were constructed and sold and only $51,590 of the remaining balance of $312,590 ($403,500-90,910) was returned to the County's HOME program in year 2016. Therefore, County officials are required to return $261,000 ($312,590-51,590) to the County's HOME program to comply with regulations at 24 CFR 92.503(b)(2).

Comment 10 County officials stated that the noncompliance issue appeared to have arisen as a result of the granting of a subordination of their mortgage which was determined to be appropriate based upon the status of the project at that time. Although OIG agrees with County officials that granting a subordination for a new loan of $1.25 million was the cause of the foreclosure, County officials did not provide any documentation to support the purpose of the new loan, or an appraisal report to support the fair market value of the property at the time of subordination.

Comment 11 County officials believed that the action taken in releasing the property was proper because the property was sold after the 15 year affordability period, or 15 years from the certificate of occupancy dated (October 10, 2000). However, OIG's review reveals that the project was sold during the 15 years affordability period which began on June 15, 2005, or the activity completion date in IDIS. Regulations at 24 CFR 92.252(e) provide that HOME assisted units must meet the affordability period, beginning after project completion. Further regulations at 24 CFR 92.2 provide that project completion means that all necessary title transfer requirements and construction work have been performed; the project complies with the requirements of this part; the final drawdown of HOME funds has been disbursed for the project; and the project completion information has been entered into the disbursement and information system established by HUD. Further, a subgrantee agreement, dated July 15, 1998, between the County and the subgrantee provides that covenants such as affordability requirements included in the agreement shall cover the period December 1, 1998 through November 30, 2028.

Appendix C

Schedule of Reviewed HOME Activities[8]

HOME IDIS Activity	Activity Description	Commitment	Disbursement
2135	New Construction of Rental Housing	$1,519,798	$1,519,798
2990	New Construction of Rental Housing	844,000	816,500
2798	Rehabilitation of Rental Housing	597,519	567,767
2799	Rehabilitation of Rental Housing	224,999	224,999
2991	Acquisition and Rehabilitation of Rental Housing	227,903	227,903
1239	Construction of Home buyer Housing	403,501	403,500
3547	Acquisition and Rehabilitation of home buyer housing	209,506	54,214
3397	Acquisition and Construction of New home buyer housing	980,000	861,593
3271	Acquisition- Home buyer	27,500	27,500
2787	Acquisition- Home buyer	29,370	29,370
1635	Rehabilitation of Rental Housing	600,000	600,000
698	Acquisition and Rehabilitation of Rental Housing	1,156,176	1,156,176
3549	New Construction of Rental Housing	250,000	240,000
2446	Acquisition and Rehabilitation of Rental Housing	534,779	534,779
3288	Acquisition and Rehabilitation of Rental Housing	150,000	150,000

[8] Amounts listed on the schedule were obtained from an IDIS report, dated March 31, 2016.

Appendix D

Schedule of Deficiencies Associated With the Reviewed HOME Activities

Recommendations-Deficiencies Noted	IDIS HOME Activities			
(1A)-The four activities that were partially terminated or noncompliance with program requirement	2135	1239	1635	698
(1E)-The two activities that are associated with unsupported costs	2798	2446		
(1F)-The three activities that are associated with the three properties that did not have deed restriction.	2135	2798	3397	
(1G)-The activity that is associated with contractors who did not pay their laborers in compliance with Davis Bacon wage rate	2798			
(1J) & (1K)-The two activities that are associated with the ineligible CHDO.	3547	3693		
(1L)-The activity that is associated with the CHDO.	2991			
(1M)-The activity that is associated with the uncollected and unreported program income.	3397			
(1R)-The activity that is associated with the ineligible home buyer.	3271			
(1S)-The activities that are associated with the unsupported home buyers.	3397	2787		