



Issue Date	November 1, 2007
Audit Report Number	2008-LA-1001

TO: William Vasquez, Director, Office of Community Planning and Development,
9DD

Joan S. Hobbs

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

SUBJECT: The City of Huntington Park, Huntington Park, California, Did Not Always
Ensure That HOME Program Requirements Were Met

HIGHLIGHTS

What We Audited and Why

We audited the City of Huntington Park's (City) HOME Investment Partnerships Program (HOME) due to an increased emphasis on U.S. Department of Housing and Urban Development (HUD) Office of Community Planning and Development programs. In addition, a recent HUD Office of Community Planning and Development monitoring report and the City's financial audit report identified problems with the City's overall management and administration of its HOME program. Our objectives were to determine whether the conditions identified in the HUD monitoring and single audit reports still existed and whether the City administered its HOME program in accordance with HUD requirements.

What We Found

While the City had an adequate financial management system and adequate source documentation to support project expenses, and recently implemented new internal policies and procedures to administer its HOME program, it did not ensure that its contracted community housing and development organization, supported homebuyers' income eligibility with appropriate source documentation; that income determinations were performed in accordance with HOME requirements; and that HOME affordability

requirements were imposed with the sale of a property. This condition resulted in the unsupported use of \$296,599 in HOME funds and eligibility determinations that did not meet HOME requirements. In addition, \$204,442 earned from the sale of property, had been retained by the community housing and development organization for four years and had not been applied to another project.

What We Recommend

We recommend that HUD require the City to provide documentation to support the eligibility of homebuyers with unsupported income or repay from nonfederal funds the \$296,599 in HOME funds that were spent on the project. We also recommend HUD require the City to establish procedures with sufficient detail to ensure that income determinations are performed consistent with HOME requirements. If proceeds are retained by the community housing and development organization, the City must ensure that a written agreement is executed describing how and when the proceeds will be used. Since the City has recently established policies and procedures to ensure that affordability requirements are imposed for future projects, we have no recommendation for this area.

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 the City the draft report on September 20, 2007 and held an exit conference with auditee officials on October 1, 2007. The City provided its written response to us on October 10, 2007. The City generally disagreed with our report.

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. The HOME Investment Partnerships Program (HOME) is authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act. Program regulations are contained in 24 CFR [*Code of Federal Regulations*] Part 92 and the HOME Investment Partnerships Program Final Rule. HOME is a federal block grant to state and local governments designed exclusively to create affordable housing for low-income households. HOME provides formula grants to states and localities that communities use, often in partnership with local nonprofit groups, to fund a wide range of activities that build, buy, and/or rehabilitate affordable housing for rent or homeownership or provide direct rental assistance to low-income households. HOME funds are awarded annually as formula grants to participating jurisdictions. The program allows state and local governments to use HOME funds for grants, direct loans, loan guarantees or other forms of credit enhancement, rental assistance, or security deposits. Households must meet certain low-income limit criteria published by the U.S. Department of Housing and Urban Development (HUD) to receive HOME assistance.

The City of Huntington Park. As a participating jurisdiction, the City of Huntington Park (City) is responsible for the overall administration and oversight of the HOME and Community Development Block Grant programs. Using funds from these programs, the City sponsors various activities that are aimed at addressing the priority needs of low- and moderate-income households (tenants and property owners) as well as business owners through community development, economic development, housing, and public services. Although the City does offer some tenant rental assistance, the majority of its HOME funds are spent on rehabilitation of affordable housing projects including residential rehabilitation, minor home repair, and commercial rehabilitation. The City received \$854,634 in HOME funding in fiscal year 2006 and \$848,079 in fiscal year 2007.

The City's overall management of its HOME program was criticized in a June 2006 HUD Office of Community Planning and Development monitoring report. In addition, a single audit report from the same timeframe stated that the City did not maintain adequate policies and procedures to administer key aspects of its HOME program, including monitoring, recertification of its community housing and development organizations, on-site inspections, and income determinations. HUD cleared the City's outstanding findings and recommendations in December 2006.

Within the past year, the City has hired two contractors to administer its HUD programs and to provide property rehabilitation services. However, since the contractors were recently retained by the City, our objectives were to determine whether conditions identified by HUD and the single audit report still existed and whether the City administered its HOME program in accordance with HUD requirements.

RESULTS OF AUDIT

Finding 1: Homebuyers' Income Eligibility Was Not Adequately Determined, Affordability Requirements Were Not Imposed, and the Future Use of Proceeds from the Sale of HOME-Assisted Property Was Not Documented

The City did not ensure that income for homebuyers who purchased homes as part of the City's affordable homebuyer program was supported and determined in accordance with HOME requirements. Also, the City did not impose affordability requirements to ensure that a property would remain occupied by a low-income family and did not document the future eligible HOME activities that would be funded by proceeds retained from the sale of the property. This condition occurred because the City did not adequately consider HOME program regulations pertaining to income determinations, affordability, and the future use of sale proceeds. As a result, applicants with unsupported income may not have been eligible to participate in the program, and inaccurate and incomplete eligibility determinations increased the risk that unqualified persons might receive HOME assistance. In addition, buyers were not held accountable for remaining at the property or ensuring that it was sold to another low-income buyer, and proceeds from the sale of property had not been used for any other affordable housing projects for over four years.

Income Eligibility Was Not Always Supported and Determined in Accordance with HOME Requirements

The City entered into an agreement with a community housing and development organization, Southeast Community Housing Development Corporation (Corporation), to purchase and rehabilitate homes to be sold to very low-income buyers. However, the Corporation did not obtain sufficient documentation to demonstrate income eligibility for one affordable homebuyer project's participants. The Corporation was authorized \$311,700 and spent \$296,599 in HOME funds to rehabilitate a duplex and sold the property to supposedly low-income buyers. However, the project file contained insufficient documentation to support the income of the two buyers (a mother and daughter). Also, although the mother's income was used to qualify for the second unit of the duplex, her name was not on the title to the property. Instead, the daughter's husband was listed on the title document. The Corporation claimed that the husband's income was not considered because he was unemployed; however, there was no documentation or certifications in the file to support this claim. In addition, a review of an online system listed the borrower and her husband on the title of another property, and they remained on

that title. Therefore, it is not clear whether the family qualified or whether the mother and daughter actually occupied both units of the duplex.

The City qualified six households for another affordable homebuyer project using income that was not determined in accordance with HOME requirements.

- One file contained an analysis of income, but the analysis only showed the homebuyer's annual wage income. The file contained handwritten calculations and copies of the applicant's pay stubs, Internal Revenue Service (IRS) Form W-2, and IRS Form 1040, but the calculations did not agree with the wage income that was recorded on the analysis of income.
- Another file had household members with income from several sources, including wage income, net income from a business, and public assistance, but there was no analysis in the file. One family member's public assistance was not included in the household's total income, and no explanation was documented in the file.
- A third file had several analyses of income, and it was unclear which one was used to qualify the homebuyer.
- The frequency of another homebuyer's pay was not correctly determined, causing the homebuyer's income to be incorrectly calculated.

Two homebuyers had unallowable deductions or no support for the deductions that were taken to determine their qualifying income.

- The City inappropriately deducted one applicant's payroll deductions to qualify her for assistance, but no deductions were taken for the applicant's children.
- Another applicant's deductions included a \$400 deduction for elderly or disabled family members, but there was no documentation in the file to support that any family member was elderly or disabled as defined by HOME requirements. A \$960 deduction was taken for the applicant's parents, but the file documentation did not support that either parent qualified as a dependent according to HOME requirements.

We recalculated the incomes of the above applicants using HOME guidance and determined them eligible to receive assistance.

Affordability Requirements Were Not Imposed

The Corporation did not impose affordability requirements with the sale of property to the homebuyers, claiming it was not necessary since the buyers did not directly receive any HOME subsidy to purchase the property. Since affordability requirements were not imposed, the buyers were not held accountable for remaining at the property or ensuring

that it was sold to another low-income participant. The City's agreement with the Corporation states that if the community housing and development corporation does not meet HOME affordability requirements, the City will require repayment of funds. However, the City did not recover the funds that were provided to the Corporation.

The Future Use of Sale Proceeds Was Not Documented in a Written Agreement

The Corporation's project file showed that \$204,442 in proceeds was earned from the sale of the duplex, and the City allowed the Corporation to retain the proceeds to seek other affordable housing projects. However, the City did not execute a new agreement with the Corporation identifying the HOME-eligible projects or other housing activities to benefit low-income families that would be funded with the proceeds, and it did not establish deadlines or reporting requirements for the expenditure of those funds. The Corporation had been allowed to retain the funds since the sale of the project in August 2003 and had not applied the funds to another affordable housing project.

Conclusion

The above condition occurred because the City did not adequately consider the applicable HOME program regulations. However, the City has recently established, through its contractor, new internal procedures, which provide guidance on the administration of its rent-assisted and affordable homebuyer programs, including general procedures for determining applicants' qualifying income and preserving affordability. We recalculated the homebuyers' income that was inaccurately determined and found that the homebuyers were eligible to receive assistance. However, by not complying with HOME requirements, the City cannot ensure that HOME program objectives were met for all of its projects. In addition, income determinations that are inaccurately performed increase the risk that unqualified persons might receive HOME assistance and that qualified persons might be wrongfully denied assistance.

Recommendations

We recommend that the director of the Office of Community Planning and Development

1A. Require the City to provide the necessary documentation to support the eligibility of the homebuyers with unsupported income or repay the \$296,599 drawn for the Corporation's project.

1B. Require the City to establish policies and procedures with sufficient detail to ensure that future income determinations are performed consistent with HOME requirements.

1C. Require the City to establish policies and procedures to ensure that written agreements are executed in accordance with CPD (Community Planning and Development) Notice 97-9, describing the use of proceeds by community housing and development organizations; and ensure that \$204,442 in community housing and development organization sale proceeds are promptly applied to another affordable housing project.

SCOPE AND METHODOLOGY

We performed our review between May 1 and August 17, 2007, at the City of Huntington Park, 6550 Miles Avenue, Huntington Park, CA. Our audit work covered the period July 1, 2003, through June 30, 2007. We reviewed \$748,000 in expenses for two affordable homebuyer projects and one rent-assisted project. The projects had the largest voucher amounts recorded in HUD's Integrated Disbursement and Information System and we reviewed the projects to determine whether the City maintained adequate support documentation for its expenses. Two of the three projects were sold to homebuyers in 2003 and 2005, and we reviewed those projects to determine whether the participants met income eligibility and affordability requirements. We reviewed one additional rent-assisted project to determine whether the City complied with HUD housing quality standards. In addition, we performed the following:

- Reviewed relevant HUD program regulations and procedures.
- Reviewed the City's internal policies and procedures, including monitoring protocols and procedures on community housing and development organization recertifications, accounting for program income, and rehabilitation of City projects.
- Reviewed the City's consolidated and action plans to determine what overall strategies and resources the City is using to address community needs and what specific activities are to be undertaken.
- Reviewed pertinent agreements between the City and its community housing and development organizations.
- Reviewed agreements and contracts between the City and its contractor personnel.
- Reviewed monitoring performed by HUD Office of Community Planning and Development staff, City staff, and the City's contractor.
- Interviewed appropriate City Finance and Community Development Department personnel to obtain an understanding of operations and internal controls.
- Interviewed City contractor personnel from Karen Warner Associates and Comprehensive Housing Services to determine the nature of services they provide to the City.
- Reviewed single audit reports for the City's fiscal years 2003 through 2006.

We performed our review in accordance with generally accepted government auditing standards.

INTERNAL CONTROLS

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

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

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

Relevant Internal Controls

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

- Policies and procedures that the audited entity has implemented to provide reasonable assurance that a program meets its objectives.
- Policies and procedures that the audited entity has implemented to provide reasonable assurance that program implementation is in accordance with laws, regulations, and provisions of contracts or grant agreements.

We assessed the relevant controls identified above.

A significant weakness exists if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

Significant Weaknesses

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

- Policies and procedures were not adequate to ensure that income determinations were supported and performed consistent with HOME program regulations and that HOME affordability objectives were achieved.

APPENDIXES

Appendix A

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

Recommendation number	Unsupported 1/	Funds to be Put to Better Use 2/
1A	\$296,599	
1C		\$204,442

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

2/ “Funds to be put to better use” are quantifiable savings that are anticipated to occur if an Office of Inspector General (OIG) recommendation is implemented, resulting in reduced expenditures at a later time for the activities in question. This includes costs not incurred, deobligation of funds, withdrawal of interest, reductions in outlays, avoidance of unnecessary expenditures, loans and guarantees not made, and other savings. In this instance, if HUD implements our recommendation, \$204,442 in community housing and development organization proceeds, derived from the HOME program, will be promptly utilized for affordable housing to benefit low-income program participants.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments



City of
HUNTINGTON PARK california
COMMUNITY DEVELOPMENT DEPARTMENT
6550 MILES AVENUE
HUNTINGTON PARK, CA 90255

October 10, 2007

Joan S. Hobbs
Regional Inspector General of Audit Region IX, 9DGA
U.S. Department of Housing and Urban Development
Office of Inspector General
611 West 51st Street, Suite 1060
Los Angeles, CA 90017-3101

SUBJECT: Audit Report for the City of Huntington Park

Dear Ms. Hobbs:

Thank you for your audit report detailing the recent audit of the City's HOME Investment Partnerships Act (HOME) program conducted by the Office of Inspector General (OIG). The City is dedicated to administering its U.S. Department of Housing and Urban Development (HUD) funded programs in strict accordance with HUD guidelines. We appreciate your comments and this letter provides the City's response to the recommendations set forth in the audit report.

1. General Comment to Objectives of Audit Report

As set forth in the audit report, based on previous monitoring and audit reports that identified problems with the City's overall management and administration of its HOME program, the objective of this audit report was to determine "whether conditions identified in the HUD monitoring and single audit report still existed and whether the City administered its HOME program in accordance with HOME requirements." The City has taken these reports seriously and has diligently worked to institute procedures to ensure that our administration of the HOME program is in accordance with HUD regulations. The audit report notes that the City has hired two contractors to administer its HUD programs and to provide property rehabilitation services. The audit report continues to state that "since the contractors were recently retained by the City, our objectives were to determine whether conditions identified by HUD and the single audit report still existed and whether the City administered its HOME program in accordance with HUD requirements."

TEL (323) 582-6161 • FAX (323) 684-6244

Comment 1

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Comment 1

The recommendations of the audit pertain to two specific affordable homebuyer projects. The objective of the audit stated in the report was to determine whether conditions identified by the previous audit and HUD *still existed*, and not necessarily focus on projects that have occurred prior to the City's retention of HUD Program Administrative Consultants and the significant enhancement to the City's administrative practices implemented in 2006. We would like to state that since 2006 the City has made great strides adopting and implementing improved policies and procedures to administer our HOME program in accordance with HUD rules. This improvement has been recognized by HUD when it cleared all of the City's outstanding findings in its letter to the City dated December 14, 2006.

2. Recommendation #1A: Require the City to provide the necessary documentation to support the eligibility of the homebuyers with unsupported income or repay the \$296,599 drawn for the Corporation's project.

The City entered into an Affordable Housing Agreement with the Southeast Community Housing Development Corporation (SCHDC) on May 1, 2000. The SCHDC was a Certified Community Housing Development Organization (CHDO) in accordance with HOME regulations. Under the agreement the SCHDC acquired a 2 unit residential property at 6500 Cottage Street on March 19, 2001. The SCHDC rehabilitated the units into compliance with the City's property standards (required under 24 CFR 92.251). The SCHDC in May of 2003 subsequently sold the property to one qualified lower income family that continues to occupy the property to this day.

Under the terms of the agreement, SCHDC was allocated HOME funds set aside for a CHDO to implement a homebuyer program. The SCHDC was to obtain project financing, acquire and rehabilitate dwellings and then transfer title to a HOME qualified homebuyer. The agreement with SCHDC required that it was to "comply with all applicable program requirements described by the City and the HOME regulations 24 CFR Part 92, as applicable."

Comment 2

The OIG has stated that the CHDO did not maintain sufficient documentation to demonstrate income eligibility for the affordable homebuyer project participants and it was not clear whether the family qualified under HOME regulations. The City believes that the homebuyers did qualify and therefore met the objective of the HOME program to expand the supply of decent and affordable housing. The records available from the SCHDC indicated that the participants were a family of three whose household income was within the HOME income limits. There are records that support this conclusion, albeit that the OIG has concluded that the

Comment 2

records available at the time of the audit were not sufficient to be in total compliance with HOME regulations. Furthermore, based on the current census tract information more than 50% of Huntington Park residents are considered to be lower-income households (less than 80% of medium). According to the 2000 United States Census, 23.3% of families are below the poverty level versus 9.2% nationwide. Given that the homebuyers resided in Huntington Park (3212 Live Oak Street) prior to the purchase, it is likely that their household was lower-income. Nevertheless, the City's agreement required the SCHDC, as the CHDO, to qualify homebuyers in conformance with the HOME Final Rule at 92.203. It was established that the CHDO would use the definition of "Annual income" as defined at 24 CFR 5.609 and would retain records evidencing household income and family size. SCHDC did obtain income information from the two income earning members of the household in the form of a payroll check stub and stated income from Social Security.

Notwithstanding that available records exist which support that the family was an eligible lower income participant under HOME regulations, because of the OIG's recommendations, the City is working with the CHDO to ascertain whether there is additional documentation that may be obtained to verify the household's income eligibility. Insofar as the purchase occurred nearly five years ago, and as the OIG has reported, the CHDO has had difficulties in providing the City with sufficient documentation. Should SCHDC be unable to provide adequate supportive documentation, the City will attempt to recreate an eligibility determination by either collecting information from household members and/or third party certifications (e.g., Social Security administration). We are confident that the alternative method of collecting information will demonstrate that the homeowners were an eligible lower income family.

3. Recommendation #18: Require the City to establish policies and procedures to ensure the future income determinations are performed consistent with HOME requirements and that applicable staff receive training to ensure that income is properly assessed and calculated.

Comment 3

The City, through its newly retained HUD Administrative Consultants, has completed new, extensive HOME administrative procedures and protocols in 2006 and transmitted them to the HUD Los Angeles Field Office, which HUD subsequently acknowledged and approved and which were the basis for HUD's clearance of all of the City's outstanding findings. Since that time, the City has diligently implemented all the procedures and protocols. Included among the procedures and protocols were guidelines for determining income eligibility for the City's residential rehabilitation program, as well as standards for monitoring

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rental projects, including income eligibility. In response to the OIG's recommendations regarding the apparent insufficiency in the participant eligibility documentation retained by the CHDO in the Homebuyer project performed by the CHDO, the City will ensure all future Homebuyer participant income determinations are performed by the City and thereby ensure the determinations are made consistent with HOME requirements.

4. Recommendation #1C: Require the City to establish policies and procedures to ensure that it seeks repayment of funds for projects that do not meet affordability requirements for the required period in accordance with 24 CFR 92.254(a)(5).

Comment 4

In 2006, the City substantially revised its housing agreements and has instituted procedures and protocols related to residential rehabilitation and acquisition and rehabilitation of rental projects to better articulate HOME and other applicable Federal requirements. The procedures and protocols ensure that the affordability restrictions are imposed and documented in Covenants, Conditions and Restrictions, deeds of trust and HOME regulatory agreements.

5. Recommendation #1D: Require the City to establish policies and procedures to ensure that written agreements are executed in accordance with CPD Notice 97-9, describing the use of proceeds by community housing and development organizations and ensure that \$204,442 in community housing and development organization sale proceeds are promptly applied to another affordable housing project.

Comment 5

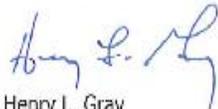
The City has updated its Affordable Housing Agreements to ensure compliance with CPD Notice 97-9. The Affordable Housing Agreements currently in use places covenant restrictions on projects ensuring the affordability restrictions remain in place for at least the minimum periods required by HOME regulations. In fact, the City requires affordability period on rental projects of 55 years. In addition, if HOME funds are provided they are secured by Deeds of Trust with Residual Receipts Notes which will ensure any proceeds are recaptured by the City. With respect to 6500 Cottage Street, the City intends to require the return of the proceeds (which may in fact be defined as program income rather than project proceeds) which will then be used to fund another affordable housing project under a new affordable housing agreement with another CHDO.

In closing, the City appreciates OIG's recommendations for improving its HOME funded programs and takes the audit report seriously. The City appreciates the opportunity to provide these comments to the OIG's report. The City will

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continue its diligent efforts to administer its HOME program in full compliance of HOME program requirements. If additional information or assistance is needed, please contact Manuel G. Acosta, Housing and Community Development Manager, at (323) 584-6213 or macosta@huntingtonpark.org.

Sincerely,



Henry L. Gray
Director of Community Development

cc: Gregory Korduner, City Manager
Don Pruyn, Finance Director

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OIG Evaluation of Auditee Comments

Comment 1 Our report states that “our objectives were to determine whether conditions identified by HUD and the single audit report still existed and to determine whether the City administered its HOME program in accordance with HUD requirements. To clarify, the purpose of the OIG review was not only to determine if the lack of policies and procedures that were identified in the HUD monitoring and single audit report still existed, but also to test the compliance of projects that were funded with HUD money.

We recognize that the City has adopted and is in the process of implementing improved policies and procedures to administer its HOME program in accordance with HUD rules. This has been extensively documented and is specifically stated in the Background and Objectives and Conclusion sections of the report.

Because many of the City’s more recent projects are in progress and have no tenants or homebuyers, we could not test them to determine HOME compliance in key areas such as income eligibility, affordability, and HQS. Consequently, the projects that we selected for review were completed projects with transaction dates that fell within our audit period (from July 2003 thru June 2007). Construction on these projects was completed and tenants and homebuyers resided in the properties. Therefore, the projects could be tested to determine if the aforementioned areas were in compliance with HOME requirements.

Comment 2 The records that the City has stated support the homebuyers’ eligibility (consisting of one paystub and written verification of social security benefits from a loan officer) were insufficient according to HOME regulations (refer to 24 CFR 92.508(a)(3)(v)). However, OIG recognizes that the City will attempt to provide the necessary documents to support the eligibility of the homebuyers by obtaining the information from the household members (who still own the property) and/or through a third-party (i.e., Social Security administration).

Comment 3 OIG acknowledged in the report that the City has established new procedures (including guidelines for determining income eligibility) to assist in administering its HOME program and also acknowledged that the City has hired contractors to assist in this effort. We are aware that the new procedures have been transmitted to and approved by HUD and recognize the City’s efforts to ensure greater control over future income determinations by requiring that all future homebuyer income determinations are performed by the City instead of CHDO personnel. We reviewed the new procedures which include guidelines for determining income eligibility for the City’s residential rehabilitation program and rental projects. We determined the procedures offered general guidance, but lacked technical details that are necessary to perform a complete and thorough eligibility determination. We believe that the effectiveness of the City’s procedures would be greatly enhanced if additional details were included. Accordingly, we revised the

recommendation to state that the City should include sufficient details in its procedures to ensure that income is properly assessed and calculated. However, since the City presently has contractors to perform its reviews, we removed a portion of our recommendation related to our request that the city ensure that its staff receive income eligibility training.

Comment 4 Upon further review, we determined that the City is correct that its new internal policies and procedures articulate affordability requirements for its affordable homebuyer projects. The procedures state that affordability restrictions must be imposed [in Covenants, Conditions and Restrictions, deeds of trust and HOME regulatory agreements] and also state that the City will recover whatever funds were provided if the homebuyer does not remain in the property [or the property does not remain affordable]. Accordingly, we removed the original 1C recommendation from the final report.

Comment 5 CPD Notice 97-9, paragraph VI, B, states that if proceeds from the use of a CHDO set-aside are retained by the CHDO, a written agreement between the participating jurisdiction and the organization must identify HOME-eligible or other housing activities to benefit low-income families that will be funded with the proceeds as well as any expenditure deadlines that must be met. OIG believes that affordability is a separate issue from the retention of proceeds by the CHDO and agrees that the City's updated procedures do address the enforcement of affordability restrictions. However, the procedures do not address the future use of retained proceeds that were earned by a CHDO from the sale of HOME assisted property. Therefore, the City's policies and procedures should include guidance to ensure that the disposition of proceeds that are derived from the aforementioned circumstances be documented in a written agreement.

Appendix C

CRITERIA

Regulations at 24 CFR 5.609(b)(1) state that annual income includes but is not limited to the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.

Regulations at 24 CFR 5.609(b)(4) state that annual income also includes the periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump sum amount or prospective monthly amounts for the delayed start of a periodic amount.

Regulations at 24 CFR 5.611(a) state that adjusted income means annual income of the members of the family residing or intending to reside in the dwelling unit, after making the following mandatory deductions:

- \$480 for each dependent;
- \$400 for any elderly or disabled family member;
- Unreimbursed medical expenses of any elderly or disabled family member;
- Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed; and
- Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

Regulations at 24 CFR 92.203(a)(2) state that a participating jurisdiction must determine that each family is income eligible by reviewing the source documentation evidencing annual income.

Regulations at 24 CFR 92.254(a)(3) state that housing must be acquired by a homebuyer whose family qualifies as a low-income family and the housing must be the principal residence of the family throughout the period of affordability.

Regulations at 24 CFR 92.254(a)(4) state that HOME-assisted housing that receives more than \$40,000 in assistance must meet affordability requirements for not less than 15 years after project completion.

Regulations at 24 CFR 92.254(a)(5)(i) and (ii) state that to ensure affordability, a participating jurisdiction must impose either resale or recapture requirements at its option. Resale requirements must ensure, if the housing does not continue to be the principal residence of the family during the period of affordability, that the housing is made available for purchase only to a buyer whose family qualifies as low income and who will use the property as the family's

principal residence. Recapture provisions must ensure that the participating jurisdiction recoups all or a portion of the HOME assistance to the homebuyers if the housing does not continue to be the principal residence of the family for the duration of the period of affordability.

CPD Notice 97-9, paragraph VI.B, states that if community housing and development organization proceeds are retained, a written agreement between the participating jurisdiction and the organization must identify HOME-eligible or other housing activities to benefit low-income families that will be funded with the proceeds as well as expenditure deadlines.

Regulations at 24 CFR 92.508(a)(3)(v) state that a participating jurisdiction must maintain project records demonstrating that each family is income-eligible.