Issue Date March 7, 2008	
Audit Report Number 2008-AT-1006	

TO: Mary D. Presley, Acting Director, HUD Atlanta Office of Community Planning and Development, 4AD

Henry S. Czauski, Acting Director, Departmental Enforcement Center, CV

Sonya Lucas for

FROM: James D. McKay, Regional Inspector General for Audit, 4AGA

SUBJECT: Fulton County, Georgia, Lacked Adequate Controls Over Its HOME Program

HIGHLIGHTS

What We Audited and Why

We audited Fulton County's (County) HOME Investment Partnerships (HOME) program as part of the U.S. Department of Housing and Urban Development's (HUD) annual audit plan. Our audit objectives were to determine whether the County complied with HOME program requirements for review and approval of project activities, commitments, completion of project activities, eligibility and reasonableness of project costs, and matching funds.

What We Found

The County did not properly manage its HOME program and consistently failed to follow requirements. Our review identified more than $6.4 million in HOME funds that involve questioned costs, funds that are subject to recapture, and a missing match contribution. Specifically, the County did not (a) properly commit more than $2.57 million and is in danger of losing another $828,008 that is approaching the commitment deadline, (b) prepare or maintain proper documentation to support project approvals, (c) ensure the eligibility of more than $1.26 million, (d) ensure proper support of more than $1.55 million, (e)

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effectively address project delays, (f) maintain records to support affordable housing compliance, (g) contribute more than $226,000 in HOME match funds, (h) maintain proper performance records, (i) conduct or document project monitoring, and (j) properly maintain and manage program staff. The violations occurred because County management and staff did not follow and enforce program requirements.

What We Recommend

We recommend that the Acting Director of the Departmental Enforcement Center, in coordination with the Acting Director of HUD's Atlanta Office of Community Planning and Development, take appropriate administrative action against the County official responsible for the most significant reported violations. We also recommend that the Acting Director of HUD's Atlanta Office of Community Planning and Development require the County to properly support or repay more that $4.28 million in questioned costs, recapture more than $2.16 million because of program violations, and determine whether the County has the capacity to continue administering the HOME program. If the County does not have the capacity to continue administering the program, the Acting Director should terminate the program and reallocate the County's HOME funding to other properly performing participating jurisdictions. If the County is allowed to continue administering the program, we recommend that the Acting Director require it to establish and implement proper controls and procedures to ensure compliance with program requirements. The Acting Director should require the County to obtain periodic reviews of the program by its internal audit division to confirm compliance and provide copies of the reports to your office with actions taken to correct reported violations.

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 audit report to the County on January 9, 2008. We held an exit conference on January 17, 2008. The County provided written comments on January 25, 2008. The County generally agreed with the finding but felt the finding focused on past problems and believed that they have taken steps to bring the program into compliance with requirements.

The complete text of the County's written response, along with our evaluation of that response, can be found in appendix B of this report. We did not include all attachments to the Auditee's response due to the voluminous nature of the attachments, but the attachments are available upon request.

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BACKGROUND AND OBJECTIVES

Fulton County, Georgia (County), is governed by an elected seven-member board of commissioners who serve concurrent four-year terms. A board-appointed county manager administers the County's operations. The county manager appoints department heads and supervises County employees. The County's Department of Housing and Community Development administers its HOME Investment Partnerships (HOME) program. From 1992 through 1999, the County received HOME funding as a member of the Georgia Urban County Consortium.

Effective January 1, 2000, the U.S. Department of Housing and Urban Development (HUD) approved the County as a participating jurisdiction, after which it began operation as the Fulton County Consortium, which also provides HOME funding to the city of Roswell, Georgia. Since becoming a participating jurisdiction, the County has received more than $10.5 million in HOME and American Dream Downpayment Initiative funds. HOME funding is allocated to eligible state and local governments to strengthen public-private partnerships and to supply decent, safe, and sanitary affordable housing to very low-income families. Participating jurisdictions may use HOME funds to carry out multiyear housing strategies through acquisition, rehabilitation, new construction, and tenant-based rental assistance.

Past HUD reviews of the County's HOME program expressed concerns about its capacity to administer major program components. The reviews expressed specific concerns about the commitment of program funds, accounting for program income, low production of affordable housing units, and slow completion of projects.

Our audit objectives were to determine whether the County complied with HOME program requirements for review and approval of project activities, commitments, completion of project activities, eligibility and reasonableness of project costs, and matching funds.

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RESULTS OF AUDIT

Finding 1: The County Lacked Adequate Controls Over Its HOME Program

The County did not properly manage its HOME program and consistently failed to follow program requirements. Our review identified more than $6.4 million in HOME funds that involve questioned costs, funds that are subject to recapture, and a missing match contribution. The violations occurred because County management and staff did not follow and enforce program requirements.

Specifically, the County did not

- Follow commitment requirements involving more than $2.57 million and is in danger of losing another $828,008 that is approaching the commitment deadline,
- Prepare or maintain proper documentation and analysis to support project approvals,
- Ensure the eligibility of more than $1.26 million,
- Ensure proper support of more than $1.55 million,
- Effectively address project delays,
- Maintain adequate support for affordable housing compliance,
- Contribute more than $226,000 in HOME match funds,
- Maintain performance documentation,
- Conduct or document its monitoring of project activities, and
- Maintain adequate staff and ensure proper staff control over program records.

The conditions bring into question the County's capacity to properly administer program activities, particularly those carried out by community housing development organizations and developers of single-family/multifamily housing. The review confirmed and expanded issues previously identified by HUD concerning activity eligibility and excessive delays in completing affordable housing activities. The violations hampered the County's ability to develop and sell affordable housing units to HOME-eligible persons in a timely manner.

Commitment Requirements Not Followed

The County did not properly commit or is in danger of not committing in a timely manner more than $3.4 million in HOME funds that are or may be subject to recapture by HUD because it did not or may not meet the commitment deadline (detailed in appendix C). Also, it did not accurately report commitment information to HUD. Regulations at 24 CFR [*Code of Federal Regulations*] 92.500(d) states that HUD will recapture or reduce HOME funds not committed within 24 months after the last day of the month in which HUD provides notice of its execution of the HOME agreement. The $3.4 million consists of

- $2.57 million, detailed in appendix C, for 10 of 17 activities examined for which the County did not commit the funds by the 24-month commitment deadline. The amount includes more than $1.24 million that was committed after expiration of the 24-month commitment deadline and more than $1.33 million that the County had not committed at the time of our review.

- $828,008 in 2006 funding that is in danger of recapture because the commitment deadline will expire on March 31, 2008, and the County had not committed the funds. In July 2007 the County advertised notices of fund availability for more than $2.2 million that included this amount. The County only received two responses to the notices and an application from each respondent. One respondent applied for more than $1.58 million to assist with a development estimated to cost more than $44.5 million. The County had not funded a project this large during the period covered by the review. The other respondent applied for $240,000. As of October 5, 2007, the County was reviewing but had not approved the applications. We question the funds because the County has a history of not committing funds within the required time frame and of not properly reviewing and approving applications for assistance, as discussed below.

The County entered incorrect commitment dates into HUD's Integrated Disbursement and Information System for 16 of 17 sampled activities. We could not verify the actual commitment date for the remaining activity. The incorrect data included more than $2.7 million for eight activities, for which the County entered commitment dates that were earlier than the actual commitment dates, and $1.15 million for another eight activities, for which the County entered commitment dates that were later than the actual commitment dates. HUD officials told us that they did not verify commitments that the County entered into the system. The incorrect dates reduced the effectiveness of the report as a tool for HUD's monitoring compliance with the program's commitment requirements.

Projects Approved without Required Documentation and Supporting Analysis

The County, as detailed in appendix D, did not maintain the required documentation and analysis to support its approval of nine activities examined. Regulations at 24 CFR 92.504 provide that recipients are responsible for managing the day-to-day operations of their HOME program, ensuring that HOME funds are used in accordance with all program requirements and written agreements. The regulations also state that before disbursing any HOME funds to any entity, recipients must enter into a written agreement with that entity. Notice CPD (Community Planning and Development) 98-1 states that as part of the application process, recipients should have the applicant submit a statement of sources/uses of funds for the project and conduct a subsidy layering review. Regulations at 24 CFR 92.508 require recipients to establish and maintain sufficient records to enable HUD to determine compliance with requirements.

Specifically, the County

- Approved a $1 million deferred loan for foster care housing without proper documentation of the review and approval process. We determined that the loan was not eligible for HOME funding.

- Approved five of nine projects without obtaining or documenting the required source and application of fund statements. The remaining four statements were not dated, and we could not determine whether they were the original submissions. The statements were needed to conduct the required subsidy layering reviews.

- Approved all nine projects without performing or documenting a subsidy layering review. The reviews were needed to ensure that HOME funds used for the projects were the least amount needed to complete them. The review is required for all projects assisted with other government funds and is suggested for those that are not.

- Approved eight of nine projects without obtaining or documenting that the developers had the total funds needed to complete them, including three projects for which the missing documentation contributed to excessive project delays as discussed in the delayed activity implementation section of the report.

- Approved three of nine projects without evidence of executed written agreements.

- Allowed changes in two projects that affected their eligibility for HOME funding. Project 1346 is not eligible because the County allowed the developer to terminate the initial multifamily development and replace it with a single-family development. Project 2162 is not properly supported because the County allowed the developer to change from construction of detached single-family homes to condominiums without reassessing the overall activity and the amount of HOME funds needed for the activity.

- Allowed a project that involved a conflict of interest. The project's developer concurrently served on the board of a nonprofit organization that the County formed to approve and make decisions concerning its HOME activities. The individual, while on the board, represented himself before the board as the project's developer.

The above conditions resulted in missed opportunities by County officials to detect and prevent improper project approvals and conditions that resulted in more than $1.26 million in improper charges and more than $1.55 million in costs that were not properly supported.

Inappropriate Program Charges

The County spent more than $1.26 million for costs that did not meet or were not supported as meeting program requirements. Thus, the County violated the certification made in its consolidated plan that it would not use HOME funds for prohibited activities. The costs consisted of

- $1 million in a deferred loan for project 660 to a community housing development organization to develop foster care housing for children. The project did not meet the program's requirements for affordable rental housing. Notice CPD 01-5 provides that rental housing for foster children must meet the requirements for affordable rental housing and the HOME program's lease requirements. Residents of HOME-funded rental housing must have a tenant-to-owner status that is, at least to some degree, independent of state placement decisions. The community housing development organization representative acknowledged that the project was a foster care facility and that it would not require the occupants to sign lease agreements. The representative's description of the housing was consistent with what we observed when we reviewed the project plans and inspected the construction work. As previously discussed (details in appendix D, note A) the County approved this project without conducting or documenting a proper review and assessment of its eligibility.

- $263,679 to purchase land for project 1346, a multifamily project, which was terminated and replaced by a single-family development (details in appendix D, note D) for which the County had not assigned a project number. Regulations at 24 CFR 92.205(e) state that HOME-assisted projects that are terminated before completion, either voluntarily or otherwise, constitute an ineligible project. The County did not execute a written agreement that required the new developer to comply with HOME requirements. Regulations at 24 CFR 92.504(a) and (b) provide that recipients are responsible for ensuring that HOME funds are used in accordance with written agreements. Before disbursing any HOME funds to any entity, the recipient must enter into a written agreement with that entity to ensure compliance with program requirements. The $400,000 spent on the project included $136,321 ($400,000 – $263,679 = $136,321) not allowed in the previous section because the funds were not committed by the required deadline date.

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Costs Not Properly Supported

The County disbursed $1.55 million for projects that were not properly supported as allowable HOME costs. The amount included costs for several projects that were not adequately progressing toward construction completion and the sale of affordable housing units to program-eligible individuals. Regulations at 24 CFR 92.508 require recipients to establish and maintain sufficient records to enable HUD to determine compliance with program requirements. The $1.55 million consists of

- $525,000 disbursed for project 462. At the time of our review, the developer was more than 12 months past the required construction start date and had not started to develop the vacant site. The County could not support that the developer had the financial commitments needed to complete the project. This condition, coupled with the delays discussed below, brings into question whether the developer had the ability to complete construction and provide affordable housing in a timely manner.

- $464,850 paid for project 2162 that was not supported as allowed because the County permitted changes that may represent a prohibited terminated activity. Regulations at 24 CFR 92.205(e) state that HOME-assisted projects that are terminated before completion, either voluntarily or otherwise, constitute an ineligible project. Although home construction had not started, the developer changed the original plan to construct 14 detached single-family homes with plans to construct 29 condominiums type units (details in appendix D, note C). County officials acknowledged that they were aware of the change although the files contained no documentation concerning the change. The cost incurred included $220,000 in inadequately supported payments for predevelopment cost ($30,000) and overruns ($190,000). The County could not locate and provide executed written agreements for the payments. In addition, it approved the project without certain required documentation and assessments (details in appendix D, note C)

- $250,000 that the County disbursed for projects 788 ($130,000) and 661 ($120,000) but could not locate and provide executed agreements that required the developers to comply with program requirements. Without the agreements, we could not determine whether the developers were required to abide by program requirements.

- $210,000 that the County disbursed in October 2005 for project 1313 for inadequately supported cost overruns. The County did not maintain or provide proper documentation to support calculation of the overrun and adequately explain why it used HOME funds for the payment. The total project cost, $509,680, includes $299,680 ($509,680 – 299,680 = $210,000) questioned in the previous section as not having been committed by the required deadline date.

- $104,171 disbursed in December 2005 to purchase two modular homes that were not supported as reasonable and necessary HOME disbursements. The County could not produce records needed to support how the purchases were related to its HOME program, where the homes were located, and how they were being used. The sales contract attached to the payment vouchers was signed by the seller but not by a County representative. The payment vouchers contained no evidence of bids from other prospective vendors and did not show where the homes were delivered. Prior County staff made the purchases. The County's current staff could not find any further information about the modular homes.

Delayed Activity Implementation

The County did not take or adequately document actions to address excessive delays that may jeopardize the eventual completion and sale of affordable housing for three of nine projects examined. Regulations at 24 CFR 92.2 and the development agreements required the developers to start construction within 12 months of their written agreements with the County. Regulations at 24 CFR 92.504 provide that recipients are responsible for managing the day-to-day operations of their 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. The developers either did not start construction within the required timeframe or did not continue with construction once started.

The three single-family subdivisions were 12 to 67 months past the required construction start dates with no clearing activity at one site and no homes constructed at the other two sites. County files contained no evidence that the County performed the required annual monitoring reviews of the projects, and the files did not contain adequate explanations for the delays and actions to correct them. HUD's 2005 and 2007 monitoring reviews also expressed concerns about the projects' slow performance.

Project number	Home investment	Required start date	Months past required start date	Number of homes required/ number constructed	Status
462	$525,000	June 23, 2006	12	38/0	Site not cleared. No infrastructure and no homes built.
1313	$509,680	Dec. 04, 2003	42	32/0	Infrastructure underway but no homes constructed
2162	$464,850	Dec. 11, 2001	67	14/0	Site cleared, infrastructure in process, but no homes constructed
	$1,499,530			84/0	

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- The County files for project 462 did not contain evidence that the developer had or later obtained the financial commitments needed to complete the project. In March 2007, the County initiated collection action due to the delay but later terminated that action without documenting why. We visited the site on June 13, 2007, and observed that the site was still vacant with no construction in progress.

- The developer for project 1313 stated that the project was delayed by the County's slow permit process, turnover among County inspectors, and new inspectors who rejected previously approved work but required work the prior inspector did not require. The County did not enforce its agreement that required full repayment of the HOME loan between January 1, 2004, and December 31, 2007. The files showed that on July 18, 2006, the County initiated collection efforts but discontinued the efforts without documenting the file to show why. County officials did not provide a reason why they ceased collection efforts. We visited the site on June 12, 2007, and noted that the infrastructure was in place but no homes had been constructed.

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The delays continued. For instance, the developer provided revised financing documents showing that home construction was supposed to have started in August 2007. However, the developer stated that he planned to start construction in January 2008, another delay. In addition, the developer stated that his infrastructure loan would come due in January 2008 and that during that month he would apply for a loan to construct homes on the site.

- The County did not enforce the repayment terms specified in the now-expired agreement, executed on December 11, 2000, with the developer of project 2162. The agreement required the developer to repay the HOME loan when 11 homes were sold or within five years, whichever came first. The agreement expired in December 2005. On July 18, 2006, the County declared the developer to be in default due to slow progress. The County later dropped action on the default without explanation. The County had not obtained payment of the defaulted loan and had not executed a new agreement with the developer. We visited the site on June 12, 2007, and noted that the infrastructure was in place but no homes had been constructed.

The completion of these projects may be in jeopardy due to the above-cited reasons and the recent downturn in the housing market. For instance, on August 6, 2007, an Atlanta business journal reported that the Atlanta area housing market might be in a slump for another 18 months and that the sales of new and existing homes were down metrowide almost 26 percent from the same time a year earlier, coupled with a 9.8 month housing inventory supply. Another business source showed that foreclosures in Fulton County amounted to 1 out of 76 homes, compared to 1 out of 167 for the state of Georgia and 1 out of 225 for the United States.

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Inadequate Support for Affordable Housing Compliance

We examined home sales in project 1876, the County's only completed subdivision development, and determined that the County did not

- Document whether the 22 affordable housing units required by the written agreement equaled the minimum number required by the program. The County did not obtain and maintain budget and cost data needed to support how it determined the number of affordable housing units. Regulations at 24 CFR 92.508 require recipients to establish and maintain sufficient records to enable HUD to determine compliance with program requirements.

- Ensure that the 21 units identified as affordable housing were only sold to individuals who met the required income limits. Regulations at 24 CFR 92.508 require recipients to maintain records demonstrating that each family is income eligible. We reviewed the files for 21 of the 22 affordable home sales and identified deficiencies in 11 or 52 percent of the sales. The County did not verify the income and family composition for the 11 homebuyers. County officials stated that their closing attorneys maintained the supporting information. We contacted the closing attorneys, who stated that they did not perform the verifications and that the County did not request them to do so. We determined that two of the eleven homebuyers had incomes that exceeded the program's limit.

Because of these conditions, the County could not support that project 1876 met the program's affordable housing objective. Thus, the $384,300 spent on the activity is not supported as an eligible program cost. This condition is in addition to the cost's not being allowable because the County did not commit funds to the activity by the required deadline. This amount is included in the $2.57 million discussed on page 6.

Missing HOME Match Contribution

The County's general ledger and consolidated annual performance and evaluation report did not show receipt of an estimated $226,950 due as its HOME program match for program year 2001. Regulations at 24 CFR 92.218(a) provide HUD's requirement for the match calculation and payment. A County official stated that HUD may have waived the match due to a weather disaster in the area. However, the County could not provide documentation of a waiver request approved by HUD. A HUD official stated that the County was eligible but did not apply for the waiver. Without documentation of a HUD waiver, the County is obligated to contribute the past-due match contribution.

Missing Performance Documentation

The County could not locate and support the number of affordable housing units created through the use of its HOME funds. Regulations at 24 CFR 92.508 require participating jurisdictions to establish and maintain sufficient records to enable HUD to determine compliance with program requirements. Without the performance information, we could not readily determine whether the County substantially met its affordable housing objective. The missing records may have impacted the County's ability to report accurate information to HUD in its consolidated annual performance and evaluation report.

For instance, on April 11, 2007, HUD wrote to the County concerning problems with information contained in its 2006 consolidated annual performance and evaluation report. Among other items, HUD noted that the report contained the same (a) major accomplishments included in its 2005 report, (b) match balances included in its 2005 and 2004 reports, and (c) on-site inspection data included in its 2005 and 2004 reports. HUD requested a corrected report. The County submitted a revised report, but HUD also determined it to be unacceptable. Regulations at 24 CFR 91.520(f) provide that if a satisfactory report is not submitted in a timely manner, HUD may suspend funding until a satisfactory report is submitted or may withdraw and reallocate funding if HUD determines that the jurisdiction will not submit a satisfactory report.

Required Monitoring Not Documented or Performed

The County did not perform or document the required annual monitoring for any of the nine projects selected for review. Regulations at 24 CFR 92.504(a) require recipients to conduct annual reviews of the performance of each contractor and subrecipient. Regulations at 24 CFR 92.508 require recipients to establish and maintain sufficient records to enable HUD to determine compliance with program requirements. At a minimum, recipients must maintain records documenting required inspections and monitoring and resolution of any findings or concerns. The County's written procedures did not contain requirements for program monitoring.

County officials stated that they had not established complete monitoring procedures but that they were working to do so. With proper monitoring, the County should have identified and taken action to correct many of the violations detected by the audit.

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Impact of Staff Departures and Missing Performance Documentation

The County did not properly manage, supervise, and maintain the staff needed to properly administer the program. Regulations at 24 CFR 92.504 provide that the County is ultimately responsible for managing the day-to-day operations of its HOME program and taking appropriate action when performance problems arise. The review showed that the County did not

- Maintain sufficient staff to administer the program. According to County officials, in June 2006, the County reorganized and restructured the office that administered its HOME program and then initiated a reduction in force for its HOME program office. According to County officials, before the reduction, the County employed 16 individuals, including management, to run the program. The reduction in force caused the departure of key HOME staff and ultimately resulted in a staff shortage. When we completed our site work in October 2007, County officials stated that they needed more staff and had only seven individuals, including management, to run the program. The HOME program director was seeking permission to hire four additional staff but had not received a response to the request.

- Properly manage and supervise staff concerning record keeping. Regulations at 24 CFR 92.508 require recipients to establish and maintain sufficient records to enable HUD to determine compliance with program requirements. In response to our inquiries, the County's remaining and new staff often responded that they did not know where to find requested records or they were not involved in the transactions and, therefore, could not answer our questions. The County had a responsibility to maintain records in such a way that staff departures would not result in lost information and files that did not contain complete information.

- Properly manage and supervise its current staff on issues concerning excessive activity delays, program monitoring, documentation of program accomplishments, and documentation of compliance with affordable housing requirements.

These conditions hampered our ability to obtain information and records needed to explain many of the previously discussed violations.

Conclusion

The County did not properly manage its staff and demonstrate the capacity needed to administer its HOME program. The violations, although involving several program components, were specifically prevalent for activities that involved single-family and multifamily housing by contract developers and community housing development organizations. The County consistently failed to follow requirements related to commitments, project approvals, activity eligibility and support, timely activity implementation, affordable housing requirements, program match, performance documentation, project monitoring, and staff management. As a result, the review identified more than $6.4 million in HOME funds that involve questioned costs, funds that are subject to recapture, and a missing match contribution. The violations occurred because County management and staff did not adequately follow and enforce program requirements.

Recommendations

We recommend that the Acting Director of the Departmental Enforcement Center, in coordination with the Acting Director of HUD's Atlanta Office of Community Planning and Development

1A. Take appropriate administrative action against the official responsible for the County's most significant noncompliance with HOME program regulations and related HUD requirements.

We also recommend that the Acting Director of HUD's Atlanta Office of Community Planning and Development

1B. Determine whether the violations justify declaring the County to have inadequate capacity to continue administering its HOME program, and if so, HUD should terminate the program and distribute funds in the County's United States Treasury trust fund account to other performing participating jurisdictions.

1C. Require the County to reimburse its United States Treasury trust fund account from nonfederal funds the $1,241,196 that it committed and spent after expiration of the commitment deadline. The amount includes $136,321 for project 1346, which is also not allowed because the project was terminated, and $384,300 for project 1876, which is also not allowed because the project did not fully meet the program's affordable housing requirement (appendix C, notes C and D).

1D. Recapture $1,331,641 on deposit in the County's United States Treasury trust fund account, which it had not committed and spent although the commitment deadline had expired.

1E. Recapture any portion of the $828,008 on deposit in the County's United States Treasury trust fund account that it does not commit by the March 31, 2008, commitment deadline.

1F. Require the County to reimburse its United States Treasury trust fund account from nonfederal funds the $1,000,000 spent for the foster care facility.

1G. Require the County to reimburse its United States Treasury trust fund account from nonfederal funds the $263,679 spent for terminated project 1346. The County disbursed $400,000 in HOME funds for this activity. The remaining $136,321 is included in recommendation 1C, which addresses funds not committed by the deadline date.

1H. Require the County to reimburse from nonfederal funds any portion of the $1,554,021 in questioned costs that it cannot support as having been incurred for costs that meet program requirements.

1I. Determine whether the County is required to provide the missing match contribution for fiscal year 2001 and if so, require it to make the payment to its local HOME program account. We estimated the contribution to be $226,950. Your office should require the County to repay the 2001 HOME grant if its determined that the match was required but the County does not make the contribution.

We also recommend that if the program is allowed to continue, the Acting Director, HUD Atlanta Office of Community Planning and Development

1J. Identify and take appropriate action to recover all HOME funds invested in activities the County cannot complete in a timely manner to provide affordable housing.

1K. Require the County to develop and implement procedures and controls to ensure proper documentation of its review and approval of activities before disbursing future HOME funds for ownership and rental housing carried out by community housing development organizations and other developers.

1L. Require the County to develop and implement procedures and controls to ensure that future program funds are committed by the required deadline dates.

1M. Require the County to develop and implement procedures and controls to ensure accurate entries into HUD's Integrated Disbursement and Information System.

1N. Require the County to develop and implement controls and procedures to ensure proper monitoring of its HOME program.

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1O. Require the County to develop and implement procedures and controls to ensure compliance with requirements for determining the number of affordable housing units developers would be required to produce.

1P. Require the County to develop and implement procedures and controls to ensure that affordable housing units are only sold or rented to individuals who meet the program's income limits.

1Q. Require the County to develop and implement procedures and controls to ensure proper maintenance of performance information and to accurately report performance data in its consolidated annual performance and evaluation reports to HUD.

1R. Require the County to hire a sufficient number of staff to effectively administer its HOME program.

1S. Require the County to obtain periodic reviews by its internal audit department to assess the effectiveness of the procedures and controls implemented and actions required by recommendations 1J, 1K, 1L, 1M, 1N, 1O, 1P, 1Q, and 1R and to provide HUD with copies of the reports and actions taken to correct any violations identified by the reviews.

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SCOPE AND METHODOLOGY

We performed the review from August 2006 to October 2007 at locations in Fulton County, Georgia including the HUD office of Community Planning and Development, the Fulton county government office, and the offices of HOME program recipients.

We did not review and assess general and application controls over computer-processed data for the County's general ledger and HUD's Integrated Disbursement and Information System. We conducted other tests and procedures to assure the integrity of computer processed data that was relevant to the audit objectives. The tests included, but were not limited to, comparison of computer processed data to supporting commitment letters, written agreements, contracts, loan agreements, invoices and other supporting documentation. We also inspected selected development sites and interviewed developers, lenders and program participants. The tests disclosed no data concerns about the County's general ledger, but they showed the County entered incorrect commitment information into HUD's Integrated Information and Disbursement System. The incorrect data entries did not impact our report because we obtained correct information for the activities reviewed.

The review generally covered the period January 1, 1999 through December 31, 2006. We adjusted the period when necessary. To accomplish our objectives, we

- Reviewed HUD's monitoring reports and files for the County's HOME program;
- Researched HUD handbooks, the *Code of Federal Regulations*, and other requirements and directives that govern the County's HOME program;
- Reviewed the County's procedures and controls used to administer its HOME program activities;
- Interviewed officials of the Atlanta HUD Office of Community Planning and Development, the County, and activity developers;
- Obtained and reviewed HUD's Integrated Disbursement and Information System reports from the County and HUD;
- Reviewed the County's consolidated annual performance and evaluation reports for its HOME program;
- Obtained and reviewed the County's general ledger and financial statements for its HOME program budget, expenditures, and revenues;
- Reviewed the County's independent public accountant audit report for evidence of issues that may adversely affect the County's ability to implement its HOME program activities; and

- Conducted tests to determine the County's compliance with HOME program requirements. During the audit period, the County disbursed $11,672,063 (excluding administrative cost and disbursement of match funds, which we did not review) for community housing development organizations, single/multifamily development, housing rehabilitation, rental assistance, down payment assistance, program income expense, and professional services of which we examined $6,033,668 or 51 percent. We selected the tested items, considering factors such as past HUD monitoring concerns, activities that were complete, activities that were substantially behind schedule for completion, transaction amount, and transaction type. The results of the audit only apply to the tested activities and cannot be projected to the universe or total population.

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

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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 management has implemented to reasonably ensure that resource uses are consistent with laws and regulations.

- Policies and procedures that management has implemented to reasonably ensure that resources are safeguarded against waste, loss, and misuse.

We assessed the above controls.

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:

- The County lacked adequate controls and procedures to ensure compliance with HUD requirements (see finding 1).

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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/
1C	$1,241,196		
1D			$1,331,641
1E			828,008
1F	1,000,000		
1G	263,679		
1H		$1,554,021	
1I		226,950	
Total	$2,504,875	$1,780,971	$2,159,649

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 polices 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 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. This includes reductions in outlays, deobligation of funds, withdrawal of interest subsidy costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings which are specifically identified. In this instance, if our recommendations are implemented, HUD will (a) recapture the $1,331,641 not committed by the required deadline, and (b) require the County to properly commit the $828,008 by the commitment deadline or recapture the funds.

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Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation	Auditee Comments

FULTON COUNTY

ZACHARY L. WILLIAMS
County Manager

141 Pryor Street, SW
Suite 10061
Atlanta, Georgia 30303
Tel: 404-730-8335
Fax: 404-730-8341

January 25, 2008

Narcell Stamps, Assistant Regional Inspector General
U. S. Department of Housing and Urban Development
Office of the Inspector General for Audit, Region 4
Richard B. Russell Federal Building
75 Spring Street, SW, Room 330
Atlanta, GA 30303-3388

Dear Mr. Stamps:

Fulton County would like to take this opportunity to respond to your audit letter and draft audit report (the report) dated January 9, 2008. The County would first like to respond globally to address management and oversight issues raised in the report and then respond to particular project concerns.

Global Concerns:

A number of the problems raised in the report stem from the failure to properly retain records, the lack of project oversight and monitoring, and the failure of personnel to properly document and ensure HOME compliance. As the report correctly notes, Fulton County became a participating jurisdiction on January 1, 2000.

Comment 1

On June 1, 2006, the County Manager at the time, created the Department of Housing and Community Development (H&CD).This Department was created by a merger of the Office of Housing with the Community Development Division of the Department of Environment and Community Development. This was done to address a number of management and administrative issues in the former Office of Housing- the office charged with overseeing the HOME program. Prior to the creation of H&CD, the Office of Housing was managed by Director of the Office of Housing. Today, is no longer with the Department. H&CD is run by the former Director of the Department of Economic Development, the former Community Development Division

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Comment 1

manager, is the Deputy Director. These changes in structure and management were implemented to address many of the same concerns raised in the report as past deficiencies with the former Office of Housing. Fulton County believes that these changes in organizational structure, management, and oversight will directly address the more global problems raised in the report. Indeed, Fulton County is committed to remaining a participating jurisdiction and providing the necessary expertise and staff to operate the HOME program.

In addition to the administrative and management concerns addressed above, the Office of the Inspector General (OIG) has identified a number of questioned costs which occurred prior to the creation of the new Department. Since that time, H&CD has worked diligently to correct the questioned costs, most of which had been previously identified by the Office of Community Planning and Development (CPD).

- Commitments were not made within specified timelines; however the H&CD staff has worked to bring the HOME program into compliance, despite the implementation in June, 2007 of a workforce reduction initiative that reduced HOME staff to 7 from 16.

While at the time of the audit, there were a number of projects initially funded without following the HOME required procedures and not, in compliance with HOME guidelines, most of these projects have been brought into compliance, or are "within range" of HOME compliance. For those projects which are not currently in compliance, efforts are being made to bring them into compliance or to recapture funding.

Comment 2

OIG points out in its highlights portion of the Audit Report that the County did not properly commit more than $3.4 million in HOME Funds. We believe that the County was, in part, following the guidance received from HUD CPD in this regard. Attachment A is an excerpt from HUD CPD, dated June 8, 2005, which indicates that the County, in its action to commit HOME FUNDS to the Community Housing Development Corporation (CHDC) was an acceptable form of commitment.

Comment 1

Finally, the County wishes to note that the report is merely a "snapshot" of the program as it existed at the inception of the Audit. As outlined in this response, the report does not take into account the substantial steps that have since been taken to bring particular projects into compliance, as well as the restructuring which has occurred to ensure that the HOME program remains in compliance into the future.

Project Concerns:

Page 6 Findings:

Comment 3

$828,008 in 2006 funding that is in danger of recapture because the commitment deadline will expire on March 31, 2008 and the County had not committed the funds. As a result of the issuance of the 2007 NOFA, two projects have been selected to receive funding that will commit these funds by the deadline date. One is Walton Lakes

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Community which is being awarded $1,500,000.00 for the development of Senior Single Family Homes. The second project is the award of $240,000.00 to renovate Washington Arms Apartments. **Attached** are award letters for these two projects. Commitments for these two senior projects are on schedule to occur prior to the March 31, 2008 deadline for commitments.

Page 9 Findings (Attachment B) :

$464,850 paid for project 2162 that was not allowed because the County permitted changes that in effect terminated the original project and replaced it with a different project sponsored by the same developer.

Project 2162 (Nelson McGhee)

Comment 4

While the County acknowledges that the scope of this project changed, after discussions with the Atlanta Office of Community Planning and Development, the County feels that this is still a viable project and the County is diligently working to bring this project into compliance. In a letter dated December 7, 2007, the Atlanta Office of Housing and Urban Development advised that the County amend the written agreements to include the provisions required by the HOME program regulations. Based on this corrective action, the County has asked for and received a **signed written agreement** by the Nelson McGhee developer. That agreement is attached. Additionally, a preconstruction conference has been scheduled for Tuesday, January 29, 2008. **(Attachment C)**

Project 1346 (Christian City)

Comment 5

This is a project where County legal staff is working to produce a fully executed amended agreement to bring the project into HOME compliance.

$263,679 to purchase land for project 1346, a multifamily project, which was terminated and replaced by a single-family development for which the County had not assigned a project number.
The County did not execute a written agreement that required the new developer to comply with HOME requirements. This development has been constructed, units have been sold, and the development is substantially occupied with the requisite number of HOME eligible residents, as recognized by HUD CPD in their April 5, 2007 Home monitoring letter (**Attachment D).**

$104,171 disbursed in December 2005 to purchase two modular homes that were not supported as reasonable and necessary HOME disbursements.

Comment 6

The purchase of two modular homes in December 2005, was the result of a decision made by the Community Housing Development Corporation Board (CHDC). The housing rehabilitation staff made the recommendation to demolish the existing structures and to construct new homes located at 217 Taylor Circle, Palmetto, GA and

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106 Roberts Street, Fairburn, GA prior to the Board's decision. There were numerous code violations that existed and the dwellings were not structurally sound.

There were attempts made to solicit three bids for the purchase of the modular homes with only one company responding (Nationwide Homes). The modular homes were delivered and erected on the proposed sites as planned. Contract was executed between Fulton County and Nationwide Homes. **Attached** are the fully executed sales agreements. **(Attachment E).**

Page 10 Findings:

The County files for project 462 did not contain evidence that the developer had or later obtained the financial commitments needed to complete the project. In March 2007, the County initiated collection action due to the delay but terminated that action without documenting why.

Comment 7

Sweetwater Creek. As discussed in the exit conference on January 17, 2008, the County has received conflicting direction from the Offices at HUD. The County initiated foreclosure proceedings on this development but was told by the EEO Office at HUD to delay foreclosure proceedings (Attachment F). The County has since communicated with EEO, and has suggested that we are moving forward with the prospect or will initiate foreclosure proceedings if HOME requirements are not met. This letter was formally provided to HUD CPD in our HOME monitoring response letter of January 7, 2008 (Attachment G).

Page 12 Findings:

County officials stated that their closing attorneys verified the information. We contacted the closing attorneys, who stated that they did not perform the verifications and that the County did not request them to do so.

Comment 8

Enclosed for your review are income verifications that were completed by the closing attorney. **(Attachment H)**

Ruby Creek.

Comment 9

The County has received an amended agreement for this project. The document is being reviewed by County Legal and should be fully executed by January 31, 2008. **(Attachment I)**

Kensington

Comment 10

Attached please find documentation on purchasers indicating that this development has the minimum number of affordable housing units required by HOME regulations. **(Attachment J)**

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Comment 11

Missing HOME Match Contribution Please find attached the HOME match schedule which was provided as a hard copy in the Audit Exit Conference of January 17, 2008. This was also formally provided to HUD CPD in our HOME monitoring response letter of January 7, 2008. **(Attachment K).**

Missing Performance Documentation

Comment 12

Required Monitoring:

Attached please find documentation which indicates that the County had established written monitoring procedures for all HOME programs. In some instances, such as CHDO's and Homeownership, the procedures have been established and implemented. **(Attachment L)**. This also was formally provided to HUD CPD in our HOME monitoring response letter of January 7, 2008. Our monitoring program was also recognized in HUD CPD's monitoring letter of May 25, 2007 **(Attachment M).**

Impact of Staff Departures:

The Governing Authority has approved four (4) positions for the HOME program, and staff is now preparing requisite paperwork to initiate the recruitment process to have these positions filled. It is believed that these positions, coupled with the changes in management, will address compliance and oversight concerns going forward.

Conclusion:

Comment 1

Although the report indicates that Fulton County has suffered from a number of global problems in implementing its HOME program, Fulton County does not believe that these problems are systemic in nature. Rather, Fulton County believes it has made the necessary changes in management structure and personnel to bring the HOME program into compliance with HUD regulations. Indeed, many of the global problems outlined in the report can be directly linked to problems associated with deficient projects. Despite these past deficiencies, the current Department has brought many of these older projects into compliance with current HUD guidelines. Additionally, current staff has had an excellent working relationship with HUD's Atlanta Office of Community Planning and Development and continues to work with the local HUD Office to bring old projects into compliance and to ensure that future projects meet HUD requirements from inception. In short, Fulton County is committing the expertise and personnel necessary ensure the future viability of its HOME program. That commitment is already bearing fruit.

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We look forward to continuing to work with the Office of the Inspector General and local HUD in an effort to provide the citizens of Fulton County with safe, clean, and affordable housing that meets the mandates of Federal Law. Please feel free to contact me if you have any questions.

Respectfully,

Zachary L. Williams
County Manager

ZLW:vv

Attachments

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OIG Evaluation of Auditee Comments

The County generally agreed with our recommendations, except as indicated below.

Comment 1 The County commented that many of the reported violations occurred prior to its June 1, 2006 reorganization and that since that time most of the projects have been brought into compliance or are within range of HOME compliance. We acknowledge that since the reorganization and in its response the County has demonstrated efforts to address problems with its HOME program. However, the actions initiated or planned will require time to implement or complete before HUD can determine if they resolved the reported conditions.

Comment 2 The County believed it was, in part, following the guidance from HUD CPD regarding proper commitment of HOME funds and included Attachment A in its response to support that claim.

The attachment is an excerpt from HUD's April 25-29, 2005, compliance review of the County's HOME program. HUD communicated the review results to the County on June 8, 2005. The compliance review contained a comment that commitments made through the Corporation met the technical requirements for commitments, but pointed out that the Corporation did not carry out activities itself and does not select sites and development plans for affordable housing on the sites. HUD continued to review the matter, and on October 11, 2005, HUD advised the county manager that commitments made through the Corporation did not meet the criteria for a commitment of HOME funds. The HUD letter referred the County to the definition of commitments set forth in the regulations at 24 CFR 92.2 and emphasized that all HOME program funds must be committed within a two-year period.

Comment 3 The County anticipates that it will commit the $828,008 by the March 31, 2008, deadline. We did not revise the report because the County's response shows compliance is dependent on future action that will require verification by HUD to meet the commitment deadline.

Comment 4 The County agreed that the scope of project 2162 changed and stated that it was working to bring the project into compliance. Based on the exit conference and the County's response, we revised the report to show the cost as not properly supported versus ineligible. The County will have an opportunity to provide future information to HUD for assessment and final determination of whether the costs are supported and represent an allowed use of program funds. For instance, the developer signed the written agreement provided with the County's response but County representatives did not sign it.

Comment 5 The County stated that its legal staff is working to produce a fully amended written agreement to bring project 1346 into HOME compliance. The

County's response and supporting documents provided no new information. As cited in the report, the project represents a terminated activity that is not eligible for HOME assistance coupled with a conflict of interest between the eventual developer and a Corporation used by the County to make decisions concerning its HOME program.

Comment 6 The County commented that it purchased the two modular homes based on a decision by its Community Housing Development Corporation board. The County stated that it attempted to solicit three bids for the purchase but only one company responded. The County's response and attachments contained no record of the board action and its attempt to obtain bids for the purchases. The response included a sales agreement for one of the two purchases. A County official did not sign the agreement and it did not show the delivery date and location. We did not revise the report because the County's response did not resolve the lack of proper support for the transactions.

Comment 7 The County commented that it received conflicting information from the offices at HUD concerning project 462. We recognize the County's position and the need to coordinate actions with the HUD offices. The EEO issues are unrelated to the performance issues that caused us to question the project's progress. The County should continue to coordinate these issues with HUD officials. However, we noted that the Office of Fair Housing Equal Opportunity told the County to delay its foreclosure proceedings in September 2007, over five months after the foreclosure sale was to be conducted. Thus, the later conflict occurred because the County did not pursue and complete the foreclosure in a timely manner.

Comment 8 The County stated that attachment H of its response contained income verifications completed by the closing attorney for project 1876. We examined the attachment and determined that the documents contained income information but there was no evidence to show and support that the closing attorney or anyone else verified the income amounts. Therefore, as cited in the report, the County did not document and support that it only sold affordable housing to individuals who met the required income limit.

Comment 9 The County commented that attachment I of its response contained an amended agreement for project 1313 that its legal staff was reviewing for execution by January 31, 2008. The agreement, yet to be executed, was only one of several conditions that caused us to question the project's cost and progress. The County provided no new information that warranted revision to the report.

Comment 10 The County stated that attachment J of its response supports that project 1876 had the minimum number of affordable housing units required by HOME regulations. The attachment is an email from HUD Atlanta Office of Community Planning and Development with its calculated estimate of the minimum number of affordable housing units. However, as cited in the report, the County did not obtain and maintain the documentation needed to calculate the minimum number of affordable housing units and it did not calculate or document its calculation. Therefore, we did not revise the report.

Comment 11 The County provided its HOME Match Schedule for calendar years 2000 through 2007 as attachment K to its response. The document dated December 20, 2007, was completed after we completed our site work and drafted the report. Thus, we did not audit the accuracy of the reported information for items such as drawdown and bookmatch. The County will have an opportunity to provide additional support to HUD to resolve the match issue.

Comment 12 The County incorrectly claimed that it attached to its response documentation to show that it had established written monitoring procedures for all HOME programs. The referenced attachment was copies of several monitoring reviews conducted in December 2007, after we completed our site work, instead of written monitoring procedures. The County provided no evidence of monitoring procedures for and monitoring of the nine single-family and multifamily project developers discussed in the finding. Therefore, we did not revise the report.

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Appendix C

SCHEDULE OF FUNDS NOT COMMITTED BY THE REQUIRED DEADLINE

Project number	Program year	Required commitment date	Actual commitment date	Days past 24-month deadline	Amount	Notes
Funds committed after 24-month deadline						
1313	1999	Mar. 31, 2001	Oct. 09, 2002	557	$ 299,680	A
1346	1996	July 31, 1998	Feb. 15, 1999	199	$ 136,321	A, C
1876	1997	Jan. 31, 1999	Sept. 12, 2001	955	$ 384,300	A, D
2146	1999	Mar. 31, 2001	Aug. 07, 2003	852	$ 237,639	A
458	2000	Mar. 31, 2002	Aug. 07, 2003	494	$ 74,975	A
703	2001	Mar. 31, 2003	Nov. 24, 2004	603	$ 98,281	A
801	2002	Mar. 31, 2004	May 07, 2005	402	$ 10,000	A
Subtotal					$ 1,241,196	
Funds still not committed as of September 27, 2007 – the 24-month commitment period has expired						
522	2002	Mar. 31, 2004		1275	$ 374,172	A, B
569	2003	Feb. 28, 2005		941	$ 478,734	A, B
656	2004	Apr. 30, 2006		484	$ 478,735	A, B
Subtotal					$ 1,331,641	
Total					$ 2,572,837	

Notes	
A	The costs associated with these projects are not allowed because the County did not commit the funds by the 24-month commitment deadline. Regulations at 24 CFR 92.500(d) state that HUD will recapture or reduce HOME funds in the HOME trust fund by the amount of any funds in the U.S. Treasury account that are not committed within 24 months after the last day of the month in which HUD notifies the participating jurisdiction of HUD's execution of the HOME agreement. Regulations at 24 CFR 92.2 define commitment as an executed legally binding agreement to use a specific amount of HOME funds to produce affordable housing or provide tenant-based rental assistance, an executed written agreement reserving a specific amount of funds to a community housing development organization, or having met the requirements to commit to a specific local activity.
B	The County had not drawn down these funds at the time of our review. The amounts were for 2002, 2003, and 2004 activities the County inappropriately reported as committed through a nonprofit organization it established to identify would-be developers. The commitments were not valid because the organization did not carry out the activities but instead looked for other organizations that would. On October 11, 2005, HUD's Atlanta Office of Community Planning and Development notified the County that commitments made through that organization were not valid. The 24-month commitment period for the above funds expired between April 2004 and May 2006. The County still had not committed the funds when we completed our site work in October 2007.
C	The costs incurred for this project are also not allowed because the project had been terminated. Regulations at 24 CFR 92.205(e) state that HOME-assisted activities that are terminated before completion, either voluntarily or otherwise, constitute an ineligible activity.
D	The costs for this completed project are also not allowed because the County did not (a) document that it required the developer to provide the correct number of affordable housing units and (b) maintain documentation to support that it only sold affordable housing units to individuals who met the program's affordable housing income limits.

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Appendix D

SCHEDULE OF PROJECT REVIEW AND APPROVAL DEFICIENCIES

Project number *	Missing application	Missing source and application of fund statement	Missing or incomplete funding commitments	Missing subsidy layering review	No evidence of executed written agreement	Notes
660		X	X	X		A
462		**	X	X		B
1313		X	X	X		B
2162		**	X	X		B, C
1346		X	X	X		D
Not numbered	X	X	X	X	X	D, E
757		**	X	X		
788		**	X	X	X	F
661		X***		X	X	F

* Project identifications reported in HUD's Integrated Disbursement Information System.
** We could not determine whether these undated documents were original submissions
*** The developer stated that it had no funding aside from HOME funds.

Notes	The following comments identify adverse consequences of the County's inadequate review and approval of the above activities.
A	Project 660 - In addition to the missing documentation, the County's review should have but did not determine that this foster care facility was not eligible for HOME assistance. The activity file contained an e-mail from a former County official that raised questions about the activity's being the largest ever funded, coupled with missing documentation and no record of who authorized and approved it. The only evidence of County approval was the loan agreement, dated December 22, 2005, and the commitment letter, dated December 28, 2005. The County's prior HOME program director signed both documents. The files did not contain evidence that the County • Obtained a request from the developer for a specific fund amount, nor did the file document an adequate explanation of how the County decided to provide the community housing development organization a $1 million forgivable loan. • Followed its internal procedures that required it to advertise the funds for competitive application by other qualified community housing development organizations. • Approved the developer as a community housing development organization before disbursing the funds. We met with current and prior County staff, and they could not explain the questionable approval and deficient documentation.
B	The County's failure to require adequate funding commitments before it approved these projects contributed to their delayed completion. At the time of our review, no homes had been constructed at any of the three sites.

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C	Project 2162 - In addition to the missing documentation, the project is not supported as allowed because the County permitted undocumented changes that may constitute a terminated activity. Regulations at 24 CFR 92.205(e) state that HOME-assisted activities that are terminated before completion, either voluntarily or otherwise, constitute an ineligible activity. A representative of the sponsoring organization stated that in 2002, the County-recommended lender required the organization to change the activity from constructing 14 detached single-family homes to the development of 29 condominium units. At the time of our review, the developer had not constructed any homes on the developed site. The representative said that the County was aware of the change. The County's current staff acknowledged the change, but its files contained no documentation concerning the change. As a result, the $464,850 spent for the activity was not supported as an allowed HOME cost. The activity cost ($464,850) includes $220,000 paid after the date of the original written agreement that was not properly supported and was not covered by amendments to the original agreement or new agreements with the developer. The amount consists of $30,000 paid in September 2003 for predevelopment costs and a total of $190,000 paid in August and December 2005 for cost overruns. The files did not show why the County paid the predevelopment costs, and the overruns were not supported by records needed to support the calculation and otherwise justify the payments. The file contained revised activity budgets, but it was not clear whether they were prepared by an engineer and represented reasonable cost estimates. The revised budget included $40,000 for contingencies that are not an allowed cost (Office of Management and Budget Circular A-87, attachment B, paragraph 9).
D	The County allowed this unnumbered project to replace terminated project 1346, but it did not properly review and approve the unnumbered project and did not execute an agreement requiring the developer to abide by HOME requirements. Regulations at 24 CFR 92.205(e) state that HOME-assisted activities that are terminated before completion, either voluntarily or otherwise, constitute an ineligible activity. Regulations at 24 CFR 92.504(a) and (b) provide that recipients are responsible for ensuring that HOME funds are used in accordance with written agreements. Before disbursing any HOME funds to any entity, the recipient must enter into a written agreement with that entity to ensure compliance with program requirements. The County did not recognize and determine that the costs incurred for project 1346 were not allowed under the HOME program. The County's prior HOME program director signed an assumption agreement, dated January 26, 2006, which transferred part of the ownership interest in project 1346 to a new developer of the unnumbered project. The agreement converted the activity from 120 multifamily rental units to 60 single-family homeownership units. The wording in the assumption agreement specifically deleted reference to provisions of the original agreement that required the prior developer to comply with HOME requirements. The County's current staff stated that they requested but the new developer refused to execute a new agreement or modify the assumption agreement to comply with program requirements. Thus, the developer is not required to set aside homes for persons who meet the program's affordable income requirement and the program's affordability period. The development is nearly complete, and most of the homes have been sold. Thus, none of the $400,000 incurred for project 1346, used for land acquisition, is allowable under the HOME program. The amount includes $136,321 that is also not allowed because the funds were not committed to project 1346 by the required commitment deadline.

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E	The County allowed this unnumbered activity although it was aware that the developer had a conflict of interest with a County organization used in the administration of its HOME program. Regulations at 24 CFR 92.356(b) provide that no elected official or appointed official of the participating jurisdiction, who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME-assisted activity or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. The developer was a former member of a nonprofit board the County formed to review and approve activities and to make decisions concerning the operations of its HOME program. We could not determine when the individual became a board member because the County did not maintain all of the board minutes needed to make that determination. However, as early as October 2004, while serving as a board member, the individual represented himself before the board as the project's developer. The individual was not voted off the board until January 24, 2006. The agreement that outlined his affiliation as the developer was executed two days later, January 26, 2006. Thus, for more than 14 months County officials knew that the developer/board member had a conflict of interest in the new activity and would derive financial gain from it. The County continued to allow the new activity although County officials stated that the prior board member/developer refused to execute an agreement that would obligate him to follow HOME program requirements.
F	The County could not locate and provide the executed written agreements for these projects. Without the agreements, we could not determine whether the County required the developers to comply with HOME requirements, including but not limited to requirements to produce and sell or rent affordable housing to qualified individuals and to maintain the housing availability for that purpose for the required timeframe. Regulations at 24 CFR 92.504(a) and (b) provide that recipients are responsible for managing the day-to-day operations of their HOME program and ensuring that HOME funds are used in accordance with written agreements. Before disbursing any HOME funds to any entity, the recipient must enter into a written agreement with that entity to ensure compliance with program requirements.

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