Issue Date
April 7, 2008
Audit Report Number
2008-CH-1004

TO: Robert F. Poffenberger, Director of Community Planning and Development, 5HD

FROM: Heath Wolfe, Regional Inspector General for Audit, 5AGA

SUBJECT: The City of Muncie, Indiana Lacked Adequate Controls over Its HOME Investment Partnerships Program

HIGHLIGHTS

What We Audited and Why

We audited the City of Muncie's (City) HOME Investment Partnerships Program (Program). The audit was part of the activities in our fiscal year 2007 annual audit plan. We selected the City based upon our analysis of risk factors relating to Program grantees in Region V's jurisdiction. Our objectives were to determine whether the City effectively administered its Program and followed the U.S. Department of Housing and Urban Development's (HUD) requirements.

What We Found

The City did not maintain an adequate system of controls to ensure that it commits Program funds within HUD's 24-month commitment deadline and avoids losing the Program funds. As a result, the City must commit more than $1.2 million in Program funds for eligible activities by July 31, 2008, to avoid losing the funds.

The City lacked documentation to support that it followed HUD's regulations and/or its requirements when it used Program funds and/or Program income to provide rehabilitation assistance; downpayments, closing costs, and/or gap financing; and tenant-based rental assistance for Program activities. In addition, it improperly used Program funds after an operating agency agreement with a subrecipient expired. Therefore, it was unable to support its use of more than $215,000 in Program funds and Program income and improperly disbursed more than $6,000 in Program funds.

We informed the director of the City's Community Development Department (Department) and the Director of HUD's Indianapolis Office of Community Planning and Development of minor deficiencies through a memorandum, dated April 1, 2008.

What We Recommend

We recommend that the Director of HUD's Indianapolis Office of Community Planning and Development require the City to reimburse its Program from nonfederal funds for the improper use of funds, provide support or reimburse its Program from nonfederal funds for the unsupported payments, and implement adequate procedures and controls to address the findings cited in this audit report. These procedures and controls should help ensure that Program funds and Program income are used in accordance with HUD's regulations and the City's requirements and the City does not lose more than $1.1 million in Program funds over the next five months.

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 issued because of the audit.

Auditee's Response

We provided our discussion draft audit report to the director of the City's Department, the City's mayor, and HUD's staff during the audit. We held an exit conference with the City's director on March 14, 2008.

We asked the City's director to provide comments on our discussion draft audit report by March 31, 2008. The director provided written comments, dated March 31, 2008. The director generally agreed with finding 1, but only partially agreed with finding 2. The complete text of the written comments, except for 19 pages of documentation that was not necessary to understand the director's comments, along with our evaluation of that response, can be found in appendix B of this report. We provided the Director of HUD's Indianapolis Office of Community Planning and Development with a complete copy of the City's written comments plus the 19 pages of documentation.

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BACKGROUND AND OBJECTIVES

The Program. Authorized under Title II of the Cranston-Gonzales National Affordable Housing Act, as amended, the HOME Investment Partnerships Program (Program) is funded for the purpose of increasing the supply of affordable standard rental housing; improving substandard housing for existing homeowners; assisting new homebuyers through acquisition, construction, and rehabilitation of housing; and providing tenant-based rental assistance.

The City. Organized under the laws of the State of Indiana, the City of Muncie (City) is governed by a mayor and nine-member city council (council), including a council president, elected to four-year terms. The City's Community Development Department (Department) is responsible for the oversight and monitoring of the City's Program. The City's board of public works and safety and its citizen's advisory committee work collaboratively with the Department to administer the Program. The overall mission of the Department is to work with housing developers, community development corporations, social service providers, and the Delaware County Public Housing Agency to build and maintain affordable housing and provide social services. The City's Program records are located at 300 North High Street, Muncie, Indiana.

The following table shows the amount of Program funds the U.S. Department of Housing and Urban Development (HUD) awarded the City for Program years 2003 through 2007.

Program year	Program funds
2003	$700,348
2004	696,933
2005	668,190
2006	628,787
2007	625,499
Total	**$3,319,757**

The City awarded Program funds to three subrecipients to provide downpayments, closing costs, and/or gap financing; tenant-based rental assistance, including the first month's rent and/or security deposits; and housing rehabilitation assistance during our audit period. Our audit included activities completed by the three subrecipients, as well as the City's Department, from January 2006 through September 2007. The three subrecipients, which are nonprofit organizations, consisted of the Muncie Homeownership and Development Center (Center), Christian Ministries of Delaware County (Christian Ministries), and Bridges Community Services, Incorporated (Bridges).

Our objectives were to determine whether the City effectively administered its Program and followed HUD's requirements.

RESULTS OF AUDIT

Finding 1: Controls over the City's Commitment of Program Funds Were Inadequate

The City did not maintain an adequate system of controls to ensure that it commits Program funds within HUD's 24-month commitment deadline and avoids losing the Program funds. In addition, it failed to ensure that Program funds were always committed for eligible activities. The weaknesses occurred because the City lacked adequate procedures and controls to ensure that it commits Program funds within HUD's 24-month commitment deadline, avoids losing the Program funds, and commits Program funds to eligible activities. As a result, the City must commit more than $1.2 million in Program funds for eligible activities by July 31, 2008, to avoid losing the funds.

The City Must Commit More Than $1.2 Million in Program Funds by July 31, 2008

As of January 31, 2008, HUD's Program deadline compliance status report (report) showed that the City had $1,166,662 in Program funds which it must commit by July 31, 2008, to comply with HUD's 24-month commitment deadline and avoid losing the funds.

However, the City committed $19,999 in Program funds on February 11, 2008, for activity number 2133. Further, as of February 27, 2008, HUD was updating its Program report to include $418,094 in Program funds from activity number 1955, which HUD determined was not an eligible activity. The more than $418,000 includes $262,003, which the City reimbursed to its HOME trust fund treasury account (treasury account) in May 2007, and $156,091 in Program funds the City did not draw down from its treasury account for the activity.

In addition, the City entered into a contract with the Center totaling $439,978 in Program funds on May 23, 2007, to provide downpayment assistance and gap financing. As of March 28, 2008, $308,799 of the nearly $440,000 contract remained to be committed for eligible activities in HUD's Integrated Disbursement Information System (System).
Therefore, the City must commit $1,255,958 in Program funds ($1,166,662, which it must commit, less the $19,999 it committed, plus the $418,094 HUD was updating to its Program report, less the $308,799 under contract with the Center) for eligible activities by July 31, 2008, to avoid losing the Program funds.

The City Committed More Than $1.5 Million in Program Funds for Inappropriate Activities

The City has committed $3,197,262 in Program funds since January 1, 2003. However, it committed $1,515,413 of the nearly $3.2 million in Program funds for improper activities. The following table shows the seven improper activities for which the City has committed Program funds since January 2003.

Activity number	Type of assistance	Initial commit date	Improper amount
1955	New construction	Dec. 18, 2003	$1,372,437
2006	Tenant-based rental assistance	Nov. 10, 2004	6,077
2007	New construction	Jan. 18, 2006	44,800
2091	Rehabilitation	Feb. 12, 2007	12,099
2093	Acquisition/new construction	Apr. 5, 2007	10,000
2094	Acquisition/new construction	Apr. 5, 2007	10,000
2095	Acquisition/new construction	Apr. 5, 2007	60,000
	Total		**$1,515,413**

Therefore, the City has only committed $1,681,849 in Program funds for eligible activities and contracts since January 1, 2003, for an average of $325,519 ($1,681,849 divided by 62 months times 12 months) per year or $135,633 ($325,519 divided by 12 months times five months remaining to commit Program funds) over a five-month period.

As of March 31, 2008, the City has held preliminary discussions and/or received draft proposals regarding the funding of four potential activities, which may involve more than $1.8 million in Program funds. The City plans to commit Program funds for the potential activities by July 31, 2008. However, as of March 31, 2008, the City has yet to commit Program funds for any future activities.

The City Lacked Adequate Procedures and Controls

The City lacked adequate procedures and controls to ensure that it commits funds within HUD's 24-month commitment deadline and avoids losing the Program funds. A former director of the City's Department said that the Department lacked policies or procedures to ensure that Program funds were committed to eligible activities within HUD's 24-month commitment deadline. The current director of the City's Department stated that aside from public notices for its consolidated plan, which solicits the public's input regarding the City's use of Program funds, the City did not have a formal request for proposal process for Program activities. The current director also said that the Department's staff did not consider committing Program funds for potential activities from July 31, 2007, through January 25, 2008, since HUD froze the City's Program funds due to monitoring concerns.

Conclusion

The City must commit $1,120,325 ($1,255,958 that it must commit less the $135,633 average over a five-month period) in Program funds between February and July 2008 above the five-month average of Program funds the City has committed for eligible activities since January 1, 2003, to avoid losing the funds.

Recommendation

We recommend that the Director of HUD's Indianapolis Office of Community Planning and Development require the City to

1A. Implement adequate procedures and controls to commit Program funds for eligible activities by July 31, 2008, to help ensure that the City does not lose $1,120,325 in Program funds in July 2008.

Finding 2: Controls over the City's Activities Were Inadequate

The City lacked documentation to support that it followed HUD's regulations and/or its requirements when it used Program funds and/or program income to provide rehabilitation assistance; downpayments, closing costs, and/or gap financing; and tenant-based rental assistance for Program activities. In addition, the City improperly used Program funds after an operating agency agreement with a subrecipient expired. The weaknesses occurred because the City lacked adequate procedures and controls to ensure that it maintained adequate documentation and properly disbursed Program funds. As a result, it was unable to support its use of more than $215,000 in Program funds and Program income and improperly disbursed more than $6,000 in Program funds after the operating agency agreement with the subrecipient expired.

The City Lacked Documentation to Support Its Use of More Than $215,000 in Program Funds and Program Income

We reviewed all eight of the Program activities the City completed from January 1, 2006, through September 30, 2007. The City lacked documentation for six of the eight activities to support that it used $215,575 in Program funds and Program income for eligible activities.

The City lacked documentation to support that it followed HUD's regulations when it used $117,375 in Program funds to provide rehabilitation assistance for activity number 2015. The City did not conduct an inspection to determine whether the house met HUD's property standards requirements. In addition, it could not provide a written agreement with the homeowner, a prerehabilitation appraisal for the after-rehabilitation value of the house to show that the activity qualified as affordable housing, and sufficient income documentation to demonstrate that the household was income eligible.

The City also could not provide documentation for activity numbers 2086, 2088, 2089, and 2096 to support that it followed HUD's regulations and its requirements when it used $76,530 in Program funds to provide downpayments, closing costs, and/or gap financing. The City did not conduct its own inspections to determine whether the houses met all applicable state and local housing quality standards and code requirements and HUD's housing quality standards. The Center's activity files contained homebuyers' consumer housing inspection reports (reports) for the four activities. However, the reports did not focus on whether the houses met all applicable state and local housing quality standards and code requirements and HUD's housing quality standards.

The City lacked documentation to support that it followed HUD's regulations and its requirements when it used $20,000 in Program funds and $1,670 in Program income for activity number 2006. Christian Ministries provided tenant-based rental assistance, including the first month's rent and/or security deposits, for 96 households. Christian Ministries' activity files for 37 households contained incomplete HUD housing quality standards inspection reports conducted by the City. The activity files for the remaining 59 households did not contain inspection reports supporting that the units met HUD's housing quality standards.

We provided a schedule for activity number 2006, in which housing quality standards inspection reports were incomplete or not conducted, to the Director of HUD's Indianapolis Office of Community Planning and Development and the director of the City's Department on January 29, 2008.

The City Improperly Disbursed More Than $6,000 in Program Funds for One Activity

The City disbursed $6,077 in Program funds to Christian Ministries after its 2004 operating agency agreement (agreement) with Christian Ministries had expired. According to the City's agreement with Christian Ministries, if all funds were not disbursed by May 31, 2005, the agreement would terminate and all remaining funds would be recaptured by the Department. The following table shows the four draw requests approved by the City for activity number 2006 after its agreement with Christian Ministries had expired, including the purchase order number, the type and amount of Program assistance, the Program income deducted, and the date each request was approved by the Department.

Purchase order number	*Date approved*	*Deposits*		*Program income*	*Draw request*
		Security	*Rental*		
51709	July 15, 2005		$2,573		$2,573
51710	July 15, 2005	$2,361		$772	1,589
55969	Dec. 21, 2005	725			725
55970	Dec. 21, 2005		1,190		1,190
Totals		**$3,086**	**$3,763**	**$772**	**$6,077**

The City Lacked Adequate Procedures and Controls

The weaknesses regarding the City's improperly disbursing Program funds and lacking documentation to support that activities were appropriate occurred because the City lacked adequate procedures and controls to ensure that it appropriately followed HUD's regulations and/or its own requirements. The City did not ensure that it fully implemented HUD's regulations and/or its own requirements.

The planner for the City's Department said that a former director of the Department was more concerned with completing activities in a timely manner than ensuring that the City followed HUD's regulations and/or its own requirements when using Program funds. The planner said that although she knew the City was not in compliance with HUD's regulations and/or its own requirements, she did what the former director told her to do.

The City did not adequately monitor its subrecipients to ensure compliance with HUD's regulations and its own requirements. The planner said that the Department's lack of monitoring of its subrecipients was due in part to a lack of direction by a former director and overall staff experience regarding the Program.

Conclusion

HUD and the City lack assurance that the City used $215,575 in Program funds and/or Program income to provide rehabilitation assistance; downpayments, closing costs, and/or gap financing; and tenant-based rental assistance for eligible Program activities. In addition, the City improperly disbursed $6,077 in Program funds after its agreement with Christian Ministries had expired.

Recommendations

We recommend that the Director of HUD's Indianapolis Office of Community Planning and Development require the City to

2A. Reimburse its Program $6,077 from nonfederal funds for the Program funds the City disbursed to Christian Ministries after its agreement with Christian Ministries had expired.

2B. Provide supporting documentation or reimburse its Program from nonfederal funds, as appropriate, for the $215,575 in Program funds and/or Program income used for the six activities cited in this finding for which the City lacked documentation to support compliance with HUD's regulations and/or the City's requirements.

2C. Implement adequate procedures and controls to ensure that Program funds and Program income are used in accordance with HUD's regulations and the City's requirements.

SCOPE AND METHODOLOGY

To accomplish our objectives, we reviewed

- Applicable laws; HUD's regulations at 24 CFR [*Code of Federal Regulations*] Parts 85, 92, and 982; HUD's Office of Community Planning and Development Notice 07-06; HUD's HOMEfires volume 6, number 2; and HUD's "Building HOME: A Program Primer."

- The City's accounting records, annual audited financial report for 2005 and 2006, annual audited financial statements for 2005 and 2006, data from HUD's System, Program activity files, policies and procedures, organizational chart, and consolidated strategy and annual action plan.

- Christian Ministries', the Center's, and Bridges' Program activity files, policies, and procedures.

- HUD's files for the City.

We also interviewed the City's employees, subrecipients' employees, and HUD's staff.

<u>Finding 2</u>

We selected all eight of the City's Program activities completed from January 1, 2006, through September 30, 2007. The eight activities were selected to determine whether the City effectively administered its Program and provided assistance for eligible activities.

We performed our on-site audit work from October 2007 through February 2008 at the City's Department office located at 300 North High Street, Muncie, Indiana. The audit covered the period January 2006 through September 2007 and was expanded as determined necessary.

We performed our audit 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,
- Compliance with applicable laws and regulations, and
- Safeguarding resources.

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:

- Program operations - Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.

- Validity and reliability of data - Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.

- Compliance with laws and regulations - Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.

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

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 Weakness

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

- The City lacked adequate procedures and controls to ensure that it complied with HUD’s regulations and/or its requirements regarding HUD’s 24-month commitment deadline and maintaining adequate documentation to support the use of Program funds (see findings 1 and 2).

APPENDIXES

Appendix A

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

Recommendation number	Ineligible 1/	Unsupported 2/	Funds to be put to better use 3/
1A			$1,120,325
2A	$6,077		
2B		$215,575	
Totals	$6,077	$215,575	$1,120,325

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 the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.

3/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. This includes reduction 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 that are specifically identified. In this instance, if the City implements our recommendation it will not lose the Program funds required to be committed by July 2008. Once the City successfully improves its procedures and controls, this will be a recurring benefit. Our estimate reflects only the initial five months of this benefit.

Appendix B

AUDITEE COMMENTS AND OIG's EVALUATION

Ref to OIG Evaluation | **Auditee Comments**

MAR-31-2008(MON) 13:40 COMMUNITY DEVELOPMENT (FAX)765 747 4898 P. 002/003

COMMUNITY DEVELOPMENT
CITY OF MUNCIE

March 31, 2008

Brent G. Bowen, Assistant Regional Inspector General for Audit
U.S. Department of Housing and Urban Development
Office of Inspector General
77 West Jackson Boulevard, Suite 2646
Chicago, Illinois 60604-3507

Dear Mr. Bowen:

Subject: Response to discussion draft audit report

Finding 1: Controls over the City's commitment of program funds were inadequate.

The City agrees with this finding, that the previous administration expended funds on ineligible projects, and the current staff is making every effort to solicit proposals and commit funds in a timely manner to eligible projects.

Following is a summary list of existing and pending HOME-funded activities and commitment status:

- The City executed a contract with Muncie Home Ownership and Development Center (MHODC) on May 23, 2007, to provide downpayment assistance and gap financing as part of HOPE VI project (Attachment A). The total contract amount was $439,978; unexpended balance of $353,433.30 to be spent by 12/31/08 per terms of the contract.

Comment 1

HUD Notice CPD 07-06 – *Commitment, CHDO Reservation, and Expenditure Deadline Requirements for the HOME Program*, clarifies the requirement at 24 CFR 92.500(d) that HOME funds "be placed under binding commitment to affordable housing within 24 months", by defining (at 24 CFR 92.2) "commitment" to mean:

"(1) The participating jurisdiction has executed a legally binding agreement with a State recipient, a subrecipient or a contractor to use a specific amount of HOME funds to produce affordable housing or provide tenant-based rental assistance; or has executed a written agreement reserving a specific amount of funds to a community housing development organization; or has met the requirements to commit to a specific local project, as defined in paragraph (2), of this definition.

It should be noted that commitment of these funds will not be evident in IDIS, since downpayment assistance cannot be committed in IDIS until acquisition closing.

- Rehabilitation of existing property to include 24 rental units; contract agreement being reviewed by City's and developer's legal counsels; HOME estimate $600,000.

300 NORTH HIGH STREET / MUNCIE, INDIANA 47305 / TELEPHONE:765-747-4825 / FAX: 765-747-4898

Ref to OIG Evaluation | **Auditee Comments**

MAR-31-2008(MON) 13:44 COMMUNITY DEVELOPMENT (FAX)765 747 4898 P.003/003

Comment 2

- A contract will be executed within 30 days with MHODC to provide downpayment assistance and gap financing for 15 units in East Central neighborhood, estimated total of $224,985 in HOME funds.

Finding 2: Controls over the City's activities were inadequate.

•The City agrees with the finding regarding activity 2015.

Comment 3

•The City does not agree with findings relative to activities 2086, 2088, and 2089, more specifically, the statement that "the City did not conduct its own inspection to determine whether the houses met all applicable state and local housing quality standards and code requirements and HUD's housing quality standards".

Attached are copies of Certificates of Occupancy issued by the City of Muncie's Building Commissioner's office for new construction units identified as activities 2086, 2088, and 2089, certifying that each unit "conforms to all applicable laws of the state of Indiana and ordinance of the city of Muncie, Indiana" (Attachment B). Said certificates are in compliance with 24 CFR 92.251(a)(2), which states "All other HOME-assisted housing (e.g., acquisition) must meet all applicable state and local housing quality standards and code requirements..."

Comment 3

For the unit that was not new construction (activity 2096), the City did not conduct an inspection at the time of occupancy. Following receipt of the draft audit finding outline, the unit was inspected by HUD Housing Quality Standards (HQS)-certified Community Development staff on February 29, 2008, and the summary decision was "pass" (Attachment C).

Comment 3

Because three of the units were certified compliant with all state and local codes, and the fourth is compliant with HUD HQS, the City does not believe $76,530 in HOME funds used to provide downpayments, closing costs, and/or gap financing for activities 2086, 2088, 2089, and 2096 should be reimbursed to HUD.

• The City agrees with findings regarding activity 2006, tenant-based rental assistance (TBRA) via subrecipient Christian Ministries, in the amount of $21,670, which includes $6,077 disbursed after the contract ending date of May 31, 2005. The City has conducted HQS inspections for all units as part of the current TBRA contract with Christian Ministries (activity 2125). The TBRA activity will be discontinued with the completion of activity 2125.

Sincerely,

Connie Gregory

Connie Gregory
Director
Community Development Department

OIG's Evaluation of Auditee Comments

Comment 1 We revised the audit report by adding in addition, the City entered into a contract with the Center totaling $439,978 in Program funds on May 23, 2007, to provide downpayment assistance and gap financing. As of March 28, 2008, $308,799 of the nearly $440,000 contract remained to be committed for eligible activities in HUD's System.

We revised the audit report to state the City must commit $1,255,958 in Program funds ($1,166,662, which it must commit, less the $19,999 it committed, plus the $418,094 HUD was updating to its Program report, less the $308,799 under contract with the Center) for eligible activities by July 31, 2008, to avoid losing the Program funds.

We revised the audit report to state the City has committed $3,197,262 in Program funds since January 1, 2003. However, it committed $1,515,413 of the nearly $3.2 million in Program funds for improper activities.

We revised the audit report to state the City has only committed $1,681,849 in Program funds for eligible activities and contracts since January 1, 2003, for an average of $325,519 ($1,681,849 divided by 62 months times 12 months) per year or $135,633 ($325,519 divided by 12 months times five months remaining to commit Program funds) over a five-month period.

We revised the audit report to state the City must commit $1,120,325 ($1,255,958 that it must commit less the $135,633 average over a five-month period) in Program funds between February and July 2008 above the five-month average of Program funds the City has committed for eligible activities since January 1, 2003, to avoid losing the funds.

Recommendation 1A in the audit report was revised to reflect these revisions.

Comment 2 We revised the audit report to state that as of March 31, 2008, the City has held preliminary discussions and/or received draft proposals regarding the funding of four potential activities, which may involve more than $1.8 million in Program funds. However, as of March 31, 2008, the City has yet to commit Program funds for any future activities.

Comment 3 HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.251(a)(2) state that housing acquired with Program funds must meet all applicable state and local housing quality standards and code requirements. Page 3 of the City's contract with the Center, dated May 23, 2007, states that the Center will ensure that all housing is in compliance with HUD's housing quality standards at the time of occupancy. The City did not conduct its own inspections to determine whether the houses met all applicable state and local housing quality standards and code requirements **and** HUD's housing quality standards.

Appendix C

FEDERAL REGULATIONS AND THE CITY'S REQUIREMENTS

Finding 1

Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, Section 218(g), states that if any funds becoming available to a participating jurisdiction under this title are not placed under binding commitment to affordable housing within 24 months after the last day of the month in which such funds are deposited in a participating jurisdiction's treasury account, the participating jurisdiction's right to draw such funds from its treasury account shall expire. HUD's Secretary shall reduce the line of credit in the participating jurisdiction's treasury account by the expiring amount and shall reallocate the funds by formula.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.500(d)(1) state that HUD will reduce or recapture Program funds in a participating jurisdiction's treasury account by the amount of Program funds in the 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 a Program agreement.

Chapter II, paragraph B.1, of HUD's Office of Community Planning and Development Notice 07-06, states that the 24-month commitment requirement for Program funds is statutory and cannot be waived. Paragraph A.2 of chapter VI states that to determine compliance with the commitment requirement, HUD must compare a participating jurisdiction's cumulative allocations from Program inception through the deadline year, minus any deobligations, to its cumulative commitments to Program activities from Program inception through its commitment deadline. Paragraph A.3.a states that a participating jurisdiction meets the commitment requirement if its cumulative commitments through its commitment deadline are equal to or greater than its cumulative allocations, minus any deobligations, through the deadline year. Paragraph A.3.c states that the amount of any ineligible activities will be subtracted from the participating jurisdiction's cumulative commitments since ineligible activities do not count as Program commitments.

Finding 2

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.203(a)(2) state that a participating jurisdiction must determine households' annual income by examining source documentation evidencing households' annual income.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.209(i) state housing occupied by a household receiving tenant-based rental assistance must meet HUD's housing quality standards. The participating jurisdiction must inspect the housing initially and reinspect it annually.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.251(a)(1) state that housing constructed or rehabilitated with Program funds must meet all applicable local codes, rehabilitation standards, and ordinances at the time of project completion. Section 92.251(a)(2) states that housing acquired with Program funds must meet all applicable state and local housing quality standards and code requirements. If there are no such standards or code requirements, the housing must meet HUD's housing quality standards.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.254(a)(2)(iii) state that if a participating jurisdiction intends to use Program funds for projects, the participating jurisdiction may use the single-family mortgage limits under Section 203(b) of the National Housing Act or it may determine 95 percent of the median area purchase price for single-family housing in the jurisdiction. Section 92.254(b) states that housing that is currently owned by a household qualifies as affordable housing only if the estimated value of the property, after rehabilitation, does not exceed 95 percent of the median purchase price for the area and the housing is the principal residence of an owner whose household qualifies as a low-income household at the time Program funds are committed to the housing.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.504(a) state that a participating jurisdiction is responsible for managing the day-to-day operations of its Program, ensuring that Program funds are used in accordance with all Program requirements and written agreements, and taking appropriate action when performance problems arise. The use of subrecipients or contractors does not relieve the participating jurisdiction of this responsibility. Section 92.504(b) states that a participating jurisdiction must enter into a written agreement with an entity before disbursing any Program funds to that entity. Section 92.504(c)(5)(ii) states that a participating jurisdiction's written agreement with a homeowner must, at a minimum, conform to the requirements in 24 CFR [*Code of Federal Regulations*] 92.254(b) and specify the amount and form of Program assistance, rehabilitation work to be undertaken, date for completion, and property standards to be met.

HUD's regulations at 24 CFR [*Code of Federal Regulations*] 92.508(a) state that a participating jurisdiction must establish and maintain sufficient records to enable HUD to determine whether the participating jurisdiction has met the requirements of 24 CFR [*Code of Federal Regulations*] Part 92. The participating jurisdiction must maintain records demonstrating the following:

- ❖ Each household is income eligible in accordance with 24 CFR [*Code of Federal Regulations*] 92.203.
- ❖ Each tenant-based rental assistance project meets the housing quality standards requirements of 24 CFR [*Code of Federal Regulations*] 92.209.
- ❖ Each project meets the property standards of 24 CFR [*Code of Federal Regulations*] 92.251.
- ❖ Each project's estimated value after rehabilitation does not exceed 95 percent of the median purchase price for the area in accordance with 24 CFR [*Code of Federal Regulations*] 92.254(a)(2).
- ❖ Each homeownership project meets the affordability requirements of 24 CFR [*Code of Federal Regulations*] 92.254.

HUD's HOMEfires, volume 6, number 2, states that participating jurisdictions must perform inspections of units purchased with Program funds. Participating jurisdictions may not rely on independent inspections performed by any party not under contract to the participating jurisdiction.

Page 3 of the City's contract with the Center, dated May 23, 2007, states that the Center will ensure that all housing is in compliance with HUD's housing quality standards at the time of occupancy. As verification, the Center agrees to maintain a completed Section 8 Housing Choice Voucher program existing housing program inspection checklist signed by a qualified housing inspector.

Page 2 of the City's operating agency agreement with Christian Ministries, effective June 1, 2004, states that Christian Ministries shall maintain verification that each unit is in compliance with HUD's housing quality standards at the time of occupancy, with the exception of units in local housing authority apartments or units receiving Section 8 Housing Choice Voucher program rental assistance. Page 7 states that the agreement shall be effective until final disbursement of funds or until May 31, 2005, whichever occurs first. Further, the agreement states that if all Program funds are not disbursed by May 31, 2005, the agreement shall be terminated and the remaining Program funds shall be recaptured by the City.