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SUBJECT: HUD's Community Development Block Grant Set-Aside for Colonias Was Not Used for Its Intended Purposes

HIGHLIGHTS

What We Audited and Why

We audited the U. S. Department of Housing and Urban Development's (HUD) administration of the Community Development Block Grant (CDBG) set-aside for colonias (colonia set-aside). We performed the review because of concerns that surfaced during an audit survey of the state of Texas's colonia set-aside funds. That review showed that HUD had not issued regulations or handbooks that required compliance with Section 916 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (Act). In addition, HUD could not determine whether Texas used its colonia set-aside funds in the most efficient and effective manner or whether it accomplished the intended purposes of providing water and sewage systems to the most needy colonia residents. Our audit objective was to determine whether HUD ensured that the states of New Mexico, Arizona, Texas, and California (states) expended colonia set-aside funds in compliance with the Act.

What We Found

HUD did not issue regulations or handbooks specific to the administration of the set-aside funds or develop performance measures to track accomplishments.

Thus, it did not ensure that the states expended the funds in compliance with the Act and could not track accomplishments. Rather, HUD allowed the states to define colonias and determine how to distribute the funds. The states had different definitions of colonias and did not always prioritize funding to the colonias with the greatest needs as required. As a result, between 2004 and 2007, New Mexico and Arizona allocated or expended more than \$8.4 million in colonia set-aside funds for projects that did not meet the requirements of the Act and did not meet the intended beneficiaries' basic health and safety needs. In addition, HUD could not report on the progress or effect of the set-aside funds in meeting the colonia residents' needs regarding water, sewage, and housing.

What We Recommend

We recommend that HUD require the states of New Mexico and Arizona to support or repay more than \$8.4 million. Further, HUD should implement effective internal controls to ensure that the states comply with the Act and implement performance measures specific to the colonia set-aside to help ensure that funds are used effectively to meet water, sewage, and housing needs of the colonia residents. By implementing effective controls, HUD can put more than \$2.8 million to better use over the next 12 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 or directives issued because of this audit.

Auditee's Response

We provided our discussion draft report to the HUD Office of Block Grant Assistance (OBGA) on June, 5, 2008, and held the exit conference on June 17, 2008. OBGA provided its written response on June 30, 2008. HUD generally disagreed with our findings. OBGA did not believe that the states' colonia definitions and methods of funding colonias violated Section 916 of the Act or that it should establish specific goals and performance measures for the colonia set-aside. However, it agreed to take some actions to address the conditions identified in the report. HUD's OBGA response along with our evaluation of the response can be found in Appendix B of this report.

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BACKGROUND AND OBJECTIVES

The Cranston-Gonzalez National Affordable Housing Act of 1990 (Act) established a set-aside for colonias and mandated that Texas, New Mexico, California, and Arizona (states) spend up to 10 percent of their fiscal year 1991 Community Development Block Grant (CDBG) on projects that benefited colonias. The 1997 U.S. Department of Housing and Urban Development (HUD) Appropriations Act made the set-aside for colonias permanent. HUD provides the set-aside funds through the states' CDBG entitlements.

The Act requires the states to make the colonia funds available for activities designed to meet colonia residents' needs related to water, sewage, and housing. If colonia activities are administered in accordance with the Act, they should meet one of the CDBG requirements as defined by 42 U.S.C. (*United States Code*) 5305; however, the states must first fund the colonias with the greatest need of assistance. The Act defines a colonia as any identifiable community within 150 miles of United States-Mexico border in the states of Texas, New Mexico, Arizona, and California. A colonia must have been in existence before November 28, 1990, and be designated as a colonia on the basis of objective criteria, including lack of a potable water supply; lack of adequate sewage systems; and lack of decent, safe, and sanitary housing.

The states have identified more than 2,000 colonias with more than 460,000 residents. As shown in the chart below, from 1991 to 2007, the states allocated a total of almost \$209 million in set-aside funds.

State	Number of colonias	Number of colonia residents	CDBG entitlement	Set-aside for colonias
Texas	2,019	359,825	\$1,365,416,000	\$136,543,000
New Mexico	145	91,024	248,939,000	24,850,000
Arizona	72	unknown	183,092,000	15,893,000
California	15	10,608	696,893,000	31,693,000
Totals	2,251	461,457	\$2,494,340,000	\$208,979,000

HUD requires the states to submit annual performance and evaluation reports and consolidated annual performance and evaluation reports at the end of their fiscal years. The reports list all of the states' CDBG accomplishments and projects undertaken including colonia activities. The states input project data into HUD's Integrated Disbursement and Information System (IDIS).

Our audit objective was to determine whether HUD ensured that the states expended colonia funds in compliance with the Act.

RESULTS OF AUDIT

Finding 1: HUD Did Not Ensure That the States Expended Funds in Accordance with the Act

Because HUD did not issue regulations or handbooks specific to the administration of the set-aside funds, it did not ensure that the states expended funds in compliance with Section 916 of the Act. Rather, HUD allowed the states to define colonias and determine how to distribute the funds. The states had different definitions of colonias and did not always prioritize funding to the colonias with the greatest needs as required. As a result, between 2004 and 2007, New Mexico and Arizona allocated or expended more than \$8.4 million in colonia set-aside funds for projects that did not meet the requirements of the Act and did not meet the intended beneficiaries' basic health and safety needs.

Requirements of Section 916 of the Act

The Act defines a colonia as any identifiable community within 150 miles of United States-Mexico border in the states of Texas, New Mexico, Arizona, and California,¹ which has been determined to be a colonia on the basis of objective criteria, including lack of a potable water supply; lack of adequate sewage systems; and lack of decent, safe, and sanitary housing, and was in existence as a colonia before the date of the enactment of the Act (November 28, 1990).

The Act requires the States to

- Fund activities designed to meet the needs of the residents of colonias related to water, sewage, and housing and
- Fund colonias with the greatest need of assistance first.

HUD Did Not Issue Criteria for Colonia Funds

HUD did not issue formal regulations or handbooks specific to the administration of the set-aside funds. In addition, the agreements between HUD and the states did not include specific language that required the states to comply with Section

¹ The colonia set-aside funds cannot be used in any standard metropolitan statistical area that has a population exceeding one million residents.

916 of the Act.² Instead, HUD allowed the states to define colonias, define needs and priorities, and determine how to distribute the funds. HUD gave maximum feasible deference to the states to interpret the statutory requirements.³ However, the states' interpretations had to be consistent with the Act, and it was the HUD Secretary's obligation to enforce compliance with the intent of the Congress as declared in the Act.

HUD's Office of Community Planning and Development (CPD) was responsible for ensuring that the states complied with CDBG requirements. However, CPD did not review the states' use of the colonia set-aside funds for compliance with Section 916. As a result, the states developed different and inconsistent definitions of colonias, criteria, and methods of funding the colonias.

States' Definitions and Funding Methods Varied

Because HUD allowed the states to define their colonias, the definitions varied. While three of the states used the definition of a colonia that is in the Act, Texas had a more narrow definition. The definition used by Texas differed in that rather than using the phrase "any identifiable community," it used the phrase "any identifiable 'unincorporated' community." This more narrow definition is also used by the Environmental and Protection Agency and the U.S. Department of Agriculture, both of which also provided funds for colonia activities. New Mexico, Arizona, and California had colonias in incorporated communities and unincorporated areas. Although California had several colonias located within the city limits of incorporated communities, these colonias had distinct identifiable boundaries. On the other hand, New Mexico and Arizona designated some entire incorporated communities, including cities, towns, and villages, as colonias.

Representatives from all four states said that they designated colonias using objective criteria that included lack of potable water; lack of adequate sewage systems; and lack of decent, safe, and sanitary housing. All of the states agreed that most colonias had substandard housing. In addition to having substandard housing, Texas, New Mexico, and California also agreed that a colonia had to lack either potable water or adequate sewage systems. However, Arizona officials stated that communities could be designated colonias by meeting only one of the three objective criteria related to water, sewage, or housing.

Also, because HUD did not provide specific guidance, the states' methods for providing set-aside funds to the communities varied. Texas and California had specific laws and/or regulations for colonia set-aside funding. Texas and New

² Section 916 requires compliance with 42 U.S.C., Sections 5301 through 5320. Section 916 is included in Section 5306(d) annotations.

³ 24 CFR (*Code of Federal Regulations*) 570.480-482.

Mexico required communities to apply for funding and then distributed the funds based on competitive criteria. California used a method that distributed the funds to five local government entities that had colonias. Arizona used a formula based on poverty and population to distribute all CDBG funding to its cities and counties, but it did not have a specific method for distributing its colonia set-aside funds.

These inconsistencies led to funds being used for questionable activities. Further, because of the inconsistent funding methods New Mexico and Arizona did not always fund colonias with the greatest needs first; thus they did not provide basic needs to the intended beneficiaries'. In addition, while Texas and California generally complied with the Act, we observed numerous examples of families living without potable water, adequate sewage systems, and adequate housing in Texas.

New Mexico Awarded More Than \$5.6 Million for Questionable Activities

HUD's CPD reviews of CDBG activities and methods of distribution did not consider requirements of Section 916 of the Act. As a result, HUD was not aware that New Mexico could not support whether more than \$5.6 million⁴ was used for eligible colonias or whether the funding was provided to colonias with the greatest need of assistance first. This includes almost \$4.6 million that New Mexico could not support that it awarded for eligible colonias, and more than \$1 million that it could not support that it awarded based on greatest need. Of the more than \$5.6 million, which includes colonia set-aside and other funds, we question the \$4.45 million of colonia set-aside funds that New Mexico awarded for these projects.

New Mexico Could Not Support That Almost \$4.6 Million Was Awarded for Eligible Colonias

From 2005 to 2007, New Mexico awarded almost \$4.6 million to nine cities⁵ to improve existing water or wastewater collection systems versus awarding the funds to colonias with the greatest need of assistance first, including those that did not have potable water or adequate sewage systems. Further, New Mexico could not support that these nine cities met the definition of a colonia. Specifically, it could not provide support showing the specific identifiable boundaries of the colonias inside the cities or that all areas of the cities lacked potable water; adequate sewage systems; or decent, safe, and sanitary housing. While there may have been specific identifiable areas within the cities that could meet the criteria of the Act, New Mexico allowed cities to designate their entire city as a colonia, even if areas already had their basic needs met.

⁴ New Mexico used more than the 10 percent allocation of \$4,450,000 on colonia projects from 2005 to 2007.

⁵ Lordsburg, Columbus, Ruidoso Downs, Loving, Capitan, Carrizozo, Virden, Silver City, and Lake Arthur.

HUD stated that among the most pressing infrastructure needs in the colonias are the availability and access to safe, clean drinking water; sanitary sewage treatment systems; better roads; and adequate drainage. In addition, according to HUD, states recognized that in order to improve living conditions throughout the colonias, they had to start by making available basic water and wastewater service to residents.⁶

New Mexico Could Not Support That It Awarded More Than \$1 Million Based on Greatest Need

New Mexico could not support that it awarded more than \$1 million in grants to two colonia projects based on the greatest needs. One grant was used to improve water pressure of a colonia's existing water distribution system. Another grant was used for statewide housing rehabilitation projects in the colonias. New Mexico awarded the grants even though other colonias did not have potable water or adequate sewage systems.

The County of Eddy was awarded \$500,000 to upgrade the water pressure for the Malaga Water Improvement District. The main purpose of this water improvement project was to improve the colonia's fire fighting capability. According to New Mexico officials, the Malaga colonia already had adequate water and sewage systems and only lacked decent, safe and sanitary housing. However, 75 other colonias with 10,483 residents did not have adequate water and sewage systems. Further, New Mexico awarded the New Mexico Mortgage Finance Authority \$574,420 to rehabilitate, reconstruct, or provide new construction for 17 homes in any colonia neighborhood. We question whether these two projects are of greater need than providing potable water or sewage systems to those New Mexico colonias that lack such services. HUD should require New Mexico to provide support for the amounts spent or awarded for these projects to ensure that it complied with requirements.

Seventy-Five New Mexico Colonias Lacked Adequate Water and Sewage Systems

Seventy-five of the colonias in unincorporated areas of New Mexico did not have adequate water and sewage systems. Ninety-one percent, or 132 of the 145 colonias in New Mexico, were in unincorporated communities. The 132 colonias had 50,757 residents. The 13 colonias in incorporated areas had 40,267 residents. However, as previously discussed, New Mexico could not support that nine of these 13 incorporated communities met the definition of a colonia.

The incorporated colonias applied for colonia funds directly with the state. However, the residents in unincorporated areas relied on the counties to obtain colonia funds from the state. The counties are the only local government entities that can assist colonias in unincorporated areas. Since HUD did not have specific requirements, New Mexico created a funding methodology that did not ensure that it gave priority to those colonias with the greatest need.

⁶ HUD CPD Notice 03-10, issued August 8, 2003.

The following picture demonstrates the lack of adequate housing in the Keller Farm Colonia, Luna County, New Mexico. New Mexico state officials indicated that this colonia also lacked an adequate water source and sewage system. This is indicative of the conditions in the unincorporated areas of New Mexico.



Arizona Did Not Comply with Requirements of the Act

Similar to New Mexico, because HUD permitted Arizona to interpret Section 916 requirements and did not review compliance with Section 916 of the Act, it was not aware that Arizona could not support the \$3.9 million it had set-aside for colonia activities from 2004 through 2006. Also, while HUD's records showed that Arizona allocated the funds as colonia set-aside funds, Arizona reported that it used more than \$9.2 million in CDBG funds in colonias. Further, Arizona did not distinguish between colonia set-aside funds and other CDBG funds that it spent in areas designated as colonias. Thus, we could not determine whether funding for specific projects was from colonia set-aside funds or other CDBG funds. In addition, Arizona funded 44 grants to local government entities that could not support their colonia designations. Therefore, we question whether Arizona spent or awarded the set-aside funds in compliance with the Act.

Arizona Could Not Support Its Colonia Designations

Arizona could not support any of its colonia designations that received assistance from 2004 through 2006. While Arizona used the same definition of a colonia that was in the Act, it interpreted Section 916 to mean

- A colonia can be a HUD-designated colonia in an unincorporated area or any incorporated city, town, or village that was HUD-designated or self-determined.
- A colonia must meet at least one of the three objective criteria related to water, sewage, or housing.
- All activities in a self-determined or HUD-designated colonia will be considered to meet the requirements of Section 916.

Arizona designated most of the cities and towns within 150 miles from the United States-Mexico border as colonias. Arizona, like New Mexico, allowed cities to designate entire communities as colonias. As noted earlier, only the identifiable areas of the cities that met the specific criteria of Section 916 qualified for colonia set-aside funding. Arizona did not provide support that any of the cities met the requirements for designation as a colonia.

Arizona Did Not Base Fund Distributions on the Greatest Needs

Arizona did not prioritize colonia funding based on greatest needs related to water, sewage, or housing. Arizona allocated CDBG funds, including its colonia set-aside funds, through its Council of Governments. It did not separately distribute its colonia set-aside funds. Rather, it distributed the funds to the communities along with other regular CDBG funds. The Council of Governments distributed the funds based on an entitlement system that was based on a weighted formula that included factors such as population and poverty.

The cities and counties received annual funding on a rotational basis. This distribution of the colonia set-aside funds did not take into consideration the greatest needs and did not give priority to colonias that lacked essential water, sewage systems, or housing. The majority of the projects that were undertaken in the designated colonias were for activities that were not intended to meet water, sewage, and housing needs. Of the more than \$9.2 million spent in the designated colonias, only a little more than \$2 million (21 percent) was spent for water, sewage systems, or housing projects, while more than \$3.2 million was spent for activities related to parks, swimming pools, recreation centers, and other public facility improvements. However, since Arizona did not distinguish between the sources of the funds, we could not determine how much of the expenditures was from colonia set-aside funds or which projects received the funds.

The majority of Arizona's colonias are in unincorporated areas of the counties. However, Arizona's method of distribution did not effectively provide funding to

these colonias. Only the counties could undertake activities to meet the needs of these colonia residents. However, of the 44 projects undertaken in colonia-designated areas, Arizona only provided funding for four county-administered projects.

County officials believed that the distribution system favored the cities with larger populations and did not take into consideration the urgent needs of the colonia residents in unincorporated areas. During our tour of the colonias, we observed a number of colonias in Yuma and Cochise County that lacked potable water, adequate sewage systems, and decent housing.

The following picture depicts conditions in several Arizona colonias, typically in the unincorporated areas.



This residence in Drysdale Colonia, Yuma County, Arizona, lacked adequate water and sewage services. Note the waste water line that runs into the open ditch.

The following pictures show projects that Arizona reported that it assisted in colonias located in incorporated cities.



City of Coolidge, Pinal County, Arizona, park improvements.



City of Nogales, Santa Cruz County, Arizona, pool improvement.

Texas Complied with the Act's Requirements

For our review period, Texas complied with the Act's requirement by funding 57 colonia projects with more than \$21 million to address the greatest need for water or sewage services. Forty-four of these projects will provide 10,702 colonia residents in 153 colonias with first-time water or sewage services. In addition, Texas awarded some planning grants to counties to assist them in developing comprehensive plans specifically to address colonia residents' needs.

Texas was able to provide support to show that its colonias existed before November 1990 and were determined to be colonias based on the lack of a potable water supply; lack of an adequate sewage system; and lack of decent, safe, and sanitary housing. Texas's colonias had clear identifiable boundaries and were mapped and platted. The Texas Office of the Secretary of State is responsible for identifying and registering the colonias. The Texas Attorney General's Office maintains a colonia database, which included the colonia maps and data showing the number of residents who lacked water and sewage services.

Texas provided assistance to colonias on a competitive basis. It required counties to apply and compete for colonia funds on a biennial basis. The applications were ranked and scored using a numerical point system that emphasized community and economic distress such as poverty rates and project impact such as first-time water or sewage services. The applicants with the higher scores were determined to be the colonias with the greatest needs. Texas's method of distribution appeared to meet the requirements of the Act by awarding more points to the colonias with the greatest need for water and sewage services. Thus, this system would work well for counties that apply for first-time water and sewage projects. However, it is important for Texas to encourage all counties with colonias to apply and compete for funds.

While Texas had made an impact by providing 153 colonias with first-time water and sewage services, it faces a difficult task in meeting colonia needs because it has more than 2,000 colonias and very limited colonia resources. Texas had identified colonias in 32 of the 67 eligible counties. However, it had only gathered critical data on the health risks in colonias in six of its largest counties. The data showed that 31 percent of the residents in these colonias needed water and/or adequate sewage systems. Our tour of three of the six largest counties confirmed that many residents needed potable water and adequate sewage systems. Some residents had to travel long distances to get potable water. Some colonia residents used outhouses or pit latrines because they did not have adequate sewage systems. In some cases, raw sewage and wastewater discharged directly onto lawns, seeped to the surface and collected on driveways and roadways.

The following are some examples of the living conditions in Texas colonias that lacked water and sewage systems.



This residence in Pueblo Nuevo Colonia, Webb County, Texas, did not have adequate water and sewage services. The occupant's potable water is the clear plastic tank at the corner of the trailer.



This residence in Tanquecitos 2 Colonia, Webb County, Texas, had wastewater on the unpaved drive to the residence.

California Complied with the Act's Requirements

California generally complied with the Act's requirements. It funded 14 colonia projects with nearly \$10.4 million to address water, sewage, street, and drainage improvements. These projects would assist 21,300 residents in the colonias in meeting their water, sewage, and infrastructure needs.

California was able to support that its colonias existed before November 1990 and were determined to be colonias based on the objective criteria set forth in the Act. California provided colonia maps showing clear identifiable boundaries for all of its 15 colonias. Six colonias were located in incorporated areas of four cities, and nine colonias were in unincorporated areas of the county.

California allocated its colonia set-aside funds among five local government entities, four incorporated cities and one county. California officials stated that all of the colonia applications would be required to meet all CDBG and the state's requirements. California had met the water and sewage needs for all 15 of its colonias and had shifted its focus to improving infrastructure and housing conditions in the colonias.

Conclusion

HUD did not ensure that the states used colonia funds in compliance with Section 916 requirements because it gave maximum feasible deference to the states to interpret the legislation. HUD's lack of guidance or criteria allowed New Mexico and Arizona to create colonia definitions that fell short of the requirements of Section 916. In addition, HUD's review of the states' CDBG activities did not consider Section 916 requirements. HUD staff stated that there were no specific requirements or criteria for the CDBG colonia set-aside because it was only a segment of the CDBG allocation and all CDBG activities were eligible in colonias. As a result, from 2004 through 2007, New Mexico and Arizona could not support that more than \$9.6 million it allocated or spent for colonia activities met the requirements of Section 916. HUD should issue guidance to the states to ensure that they fund colonias with the greatest need of assistance first and effectively meet the needs of their colonia residents. By implementing effective controls, HUD can put more than \$2.8 million to better use in New Mexico and Arizona during the next 12 months.⁷

⁷ Refer to the Scope and Methodology section of this report for an explanation of the estimate of the amount of funds that can be put to better use.

Recommendations

We recommend that the Acting Director, Office of Block Grant Assistance,

- 1A. Require the state of New Mexico to support \$4,450,000, which it spent or awarded for questionable colonia activities. New Mexico should provide (1) support that the designated colonias had identifiable boundaries; (2) the objective criteria showing the number of residents that lacked potable water; adequate sewage systems; or decent, safe, and sanitary housing; and (3) support that the funds provided assistance to residents in properly designated colonias. Any amounts that cannot be supported should be repaid to its CDBG program or project funding terminated, as applicable.
- 1B. Require the state of Arizona to support \$3,998,000, which it spent or awarded for questionable colonia projects. Arizona should provide (1) support that the designated colonias had identifiable boundaries; (2) the objective criteria showing the number of residents that lacked potable water; adequate sewage systems; or decent, safe, and sanitary housing; and (3) support that the funds provided assistance to residents in properly designated colonias. Any amounts that cannot be supported should be repaid to its CDBG program or project funding terminated, as applicable.
- 1C. Issue criteria or other guidance that (1) better defines a colonia, (2) requires the states to support their colonia designations with objective criteria, and (3) requires the states to prioritize funding to colonias with the greatest need, thereby better assuring compliance with the Act. If HUD implements these controls, it can put an estimated \$2,816,000 to better use during the next 12 months.
- 1D. Include language in the states' contracts and agreements that requires them to comply with Section 916 of the Act.
- 1E. Include procedures in the CDBG monitoring guidance to assess compliance with Section 916 of the Act.

Finding 2: HUD Could Not Measure the Effect of the Colonia Funding

HUD did not have specific performance measures for the CDBG colonia set-aside funding. Thus, it could not determine or report whether the states used funds effectively to meet the water, sewage, or housing needs of colonia residents. Specifically, HUD did not use the data from the states' annual performance reports to determine compliance with Section 916 requirements. In addition, HUD's IDIS system did not have a specific program or activity codes to identify colonia-funded projects. As a result, HUD could not determine whether the \$209 million in colonia set-aside expenditures accomplished the intended purposes of the Act. Further, HUD could not determine how many colonia residents had adequate water, sewage services, and housing and how many residents remained without adequate housing or essential services.

HUD Did Not Have Codes to Identify and Track Colonia Funds

HUD CPD annually reviewed and approved the states' annual performance and evaluation reports (PER) and the consolidated annual performance and evaluation report (CAPER). The PERs listed all accomplishments and projects including the amount of colonia funding, the number of colonia residents assisted, and the amount of funding by colonia activity (water, sewage, street, etc.). The narrative component of the PER is part of the CAPER. The states input project data into HUD's IDIS. For each CDBG project in IDIS, the states must enter a program and activity code. However, IDIS did not have specific program or activity codes for reporting the CDBG colonia set-aside funds.

In 2006, HUD initiated its Outcome Performance Measurement System, which uses IDIS to gather data on grantees. HUD requires CDBG grantees to enter performance measurement data for specific objectives, outcomes, and indicators. The data are necessary to show the national results and benefits of the CDBG expenditures. However, this system cannot show the results or measure the effectiveness of the states' colonia projects because colonia set-aside funds do not have specific codes. For example, a project in IDIS can be identified as benefiting a colonia, but the funding for the project can be reported as CDBG or other HUD programs. Further, in response to the draft audit report, HUD admitted that it needs to do more work to ensure that all activities using colonia set-aside funds are properly recorded in IDIS.

HUD Could Not Measure or Report Performance

The Government Performance Results Act of 1993 (GPRA) required HUD to establish performance goals to define the level of performance to be achieved by its program activities. Further, GPRA required performance goals expressed in an objective, quantifiable, and measurable form to provide a basis for comparing HUD's actual program results with established performance goals. In addition, GPRA required HUD to establish performance indicators to be used in measuring its programs. HUD was required to prepare an annual performance report to compare its actual performance to the performance goals.

HUD acknowledged that it did not have specific performance goals or measure the results of its colonia activities. HUD management stated that the colonia funds represented only 1 percent of the total CDBG funds, all CDBG activities were eligible in colonias, and colonia accomplishments were reported under regular CDBG codes for national objectives and activities. HUD management believed that any activities undertaken in colonias were eligible as long as the activities met national objectives and citizen participation requirements.

HUD did not gather data on the number of colonias that existed or on the number of colonias and residents that had been assisted with water, sewage services, or housing. HUD also did not gather data on and did not require the states to identify how many colonias and residents needed assistance. With more than 2,000 colonias in the United States, it is important for HUD to know how many colonias exist and how many lack potable water and adequate sewage systems. For example, in 6 of the 67 counties in Texas that had colonias, there were 442 colonias and 62,675 residents who lacked water or sewage systems. New Mexico had 75 colonias in unincorporated areas where 10,483 residents lacked adequate water and sewage systems. Arizona had not determined how many colonia residents lacked water or sewage systems.

Without specific performance goals, HUD could not measure its accomplishments. Further, it could not determine whether the \$209 million spent for colonia activities met the intent of the Act to provide basic services based on the greatest need. Further, because it did not track colonia-specific data, HUD could not determine how many colonia residents had adequate water, sewage services, and housing and how many remained without adequate housing or essential services.

Recommendations

We recommend that the Acting Director, Office of Block Grant Assistance,

- 2A. Establish goals and performance measures and indicators for the CDBG colonia set-aside activities.
- 2B. Create specific program and activity codes to track colonia activities in HUD's databases.
- 2C. Require the states to identify and report to HUD all the colonias in each state and the estimated number of residents in each colonia. The states must ensure and document that the colonias meet the definition in Section 916.
- 2D. Require the states to provide data on all of the colonias and residents that have been assisted with colonia set-aside funds and how many residents have had their water, sewage, and housing needs met.
- 2E. Require the states to provide data on all of the colonias and residents that lack potable water; adequate sewage systems; and decent, safe, and sanitary housing.

SCOPE AND METHODOLOGY

Our audit objective was to determine whether HUD ensured that the states of Texas, New Mexico, Arizona, and California expended colonia funds in compliance with the Act. To accomplish our objective, we

- Reviewed and identified relevant legislation related to the CDBG colonia set-aside.
- Interviewed HUD, state, and county officials in the states responsible for approving and monitoring the states' CDBG funding.
- Identified HUD's internal controls and processes related to the CDBG colonia set-aside. The internal controls that are applicable to our audit are the funding and award processes, the monitoring and reporting processes, and compliance with Section 916 of the Act.
- Reviewed HUD's CDBG grant agreements, handbooks, monitoring reports, and correspondence.
- Reviewed the states' action plans, annual performance and evaluations reports, consolidated annual performance and evaluation reports, regulations, colonia funding application and scoring process, and other state reports.
- Reviewed the states' methods of distribution for CDBG and colonia funds.
- Reviewed the states' data on colonia designations.
- Analyzed and evaluated the data the states provided on the use of the colonia set-aside funds.
- Toured a sample of colonias in Texas, New Mexico, Arizona, and California.

Since we questioned all of the funding for New Mexico and Arizona over three year periods, we estimated the amount of funds to be put to better use for those states by calculating the average colonia set-aside funding over the three most recent years for which funding information was available. From 2005 to 2007, New Mexico set-aside a total of \$4,450,000. From 2004 to 2006⁸, Arizona set-aside a total of \$3,998,000. The three-year average funding for New Mexico was \$1,483,333 ($\$4,450,000/3$) and for Arizona it was \$1,332,667 ($\$3,998,000/3$). Combining the averages for the two states, we estimated that HUD could put \$2,816,000 ($\$1,483,333 + \$1,332,667$) to better use in New Mexico and Arizona during the next 12 months.

We conducted the audit in accordance with generally accepted government auditing standards. Our audit generally covered the period January 2004 through December 2007. We expanded the review period as necessary to accomplish our objective. We performed audit fieldwork at the HUD CPD offices in Washington, DC, and HUD's regional offices in Texas, New Mexico, Arizona, and California from September 2007 through March 2008.

⁸ Funding information for Arizona for 2007 was not available.

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:

- The funding and award process.
- The monitoring and reporting process.
- Documentation to support compliance with Section 916 of the Act.

We assessed the relevant controls identified above.

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

Significant Weaknesses

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

- HUD's grant agreements did not include specific requirements for compliance with Section 916 (finding 1).
- HUD did not issue formal criteria, rules, handbooks, notices, or regulations to ensure that the states funded colonias that met the definition in Section 916 or ensured that the states' distribution methods prioritized assistance to colonias with the greatest needs (finding 1).
- HUD did not have specific performance goals or measure the results of its colonia activities and could not demonstrate whether the colonia projects were effective at meeting the water, sewage, or housing needs of the colonia residents (finding 2).

APPENDIXES

Appendix A

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

Recommendation number	Unsupported <u>1/</u>	Funds to be put to better use <u>2/</u>
1A	\$4,450,000	
1B	\$3,998,000	
1C		\$2,816,000
Totals	\$8,448,000	\$2,816,000

1/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or an 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.

2/ 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, the amount represents the estimated amount that HUD can better ensure is expended only for eligible colonia activities by the states of New Mexico and Arizona during the next 12 months by implementing the OIG recommendations.


Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

06/30/08 11:59 DGH → 98179789316 NO. 143 002

 U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT JUN 30 2008

MEMORANDUM FOR: Gerald R. Kirkland, Regional Inspector General for Audit, 6AGA

FROM: *for Stanley Chimont* Stanley Chimont, Acting Director, Office of Block Grant Assistance, DGB

SUBJECT: Office of Inspector General Report—"HUD's Community Development Block Grant Set-Aside for Colonias Was Not Used for Its Intended Purposes"

This memorandum provides the response of HUD's Office of Community Planning and Development (CPD) to the recommendations for executive action made in the Office of Inspector General's (OIG) draft audit report entitled "*HUD's Community Development Block Grant Set-Aside for Colonias Was Not Used for Its Intended Purposes*" (2008-FW-0001). The Department appreciates the opportunity to provide this response.

The OIG draft report on the Office of Block Grant Assistance (OBGA) Community Development Block Grant (CDBG) program's colonias set-aside makes numerous recommendations for executive action. Prior to responding to the specific recommendations, OBGA will clarify its interpretations of Section 916 of the Cranston-Gonzalez National Affordable Housing Act (NAHA) as indicated below:

1. **Section 916 requires HUD to establish a universal definition of "colonia".**

The report indicates the fact that each state has established its own definition of "colonia" in absence of HUD guidance is evidence of violation of NAHA by HUD and the states. The report states that "HUD's lack of guidance or criteria allowed New Mexico and Arizona to create colonias definitions that fell short of the requirements of Section 916." Yet, the report itself comments that "all four states said that they designated colonias using objective criteria that included lack of potable water; lack of adequate sewage systems; and lack of decent, safe and sanitary housing...". This essentially restates the definition found in Section 916.

Apparently, the OIG desires that OBGA to establish a universal definition of "colonia" that is more narrow than the definition in Section 916. However, Section 916 does not direct HUD to establish a definition of "colonia" beyond that found in subsection (c), which the OIG itself notes is already used by the states. This fact, combined with the requirements of 24 CFR 570.480(c) to "...give maximum feasible deference to the state's interpretation of the statutory requirements and the requirements of this regulation..." leads OBGA to conclude that further definition of "colonia" is not required.

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Comment 1

2. States are not free to determine their greatest needs.

Section 916(c) states that “assistance shall be made available pursuant to this section in accordance with a distribution plan that gives priority to colonias having the greatest need for such assistance.” In the absence of specific language directing HUD to prioritize “need”, it is reasonable to interpret this passage to mean that Congress intended that each state would establish its own priority of assistance. States prioritize funding through the consolidated planning and citizen participation processes. Each year, each state publishes a proposed Action Plan with its proposed Method of Distribution for its annual CDBG allocation (including the colonias set-aside) that is available for public comment. If citizens of a state feel that funds are not being targeted properly, they have the opportunity to relay their concerns through comment into the public record. States must then either address these concerns or defend their proposed Method of Distribution. While the OIG’s report references “county officials” in Arizona who feel that the state’s current Method of Distribution does not consider the needs of colonia residents in unincorporated areas, it does not provide substantive evidence indicating that public comments were made and not addressed by the State of Arizona.

A review of the states’ most recent Action Plans for descriptions of the states’ priorities and Methods of Distribution in regard to colonias indicates that while each state chose different priorities and methods for distributing CDBG funds, each Action Plan met the requirements of both 24 CFR part 91 and Section 916 of NAHA. For instance, the State of Texas has several colonias-related funds that places priority on individual projects dealing with the planning and delivery of water/sewer infrastructure to colonias. The State of California, on the other hand, establishes as its priority “projects that provide a relatively high percentage of benefit to low-income persons and addresses serious community development needs.” The State of New Mexico has established “encouraging more infrastructure improvements in the colonias area” as its second overall priority, just after the priority of improving the entire state’s water/wastewater improvements. The State also sees housing rehabilitation as one of the greatest needs in the colonias. The State of Arizona distributes funds to non-entitlement municipalities and counties using a formula prioritizing poverty and population.

Upon reviewing these Action Plans, OBGAs find no evidence that the states violated any statute or CDBG regulation that would result in a finding that would require them to reimburse their program accounts for ineligible costs. Nevertheless, OBGAs agree that HUD should issue guidance to all four border State CDBG grantees to assist them in developing Action Plans that more clearly articulate the priorities that those states have established in regards to their Methods of Distribution. This guidance will also provide assistance in developing Methods of Distribution that clearly describe the processes the states will use to distribute funds in the colonias.

3. First-time water/sewer projects must be funded before upgrades.

The OIG’s report questions several instances in New Mexico and Arizona in which the states funded water and sewer improvement projects in some colonias rather than spending their set-aside funds on first-time access to water and sewer infrastructure in other colonias. Citing one such case, the report criticizes New Mexico’s decision to fund a project that would improve

Comment 2

Comment 3

Comment 3

water pressure in the town of Malaga so that its 2,000 residents would have enough fire fighting capability to protect their homes and those of surrounding areas rather than funding other colonias with inadequate water and sewer. There are an endless number of ways in which need may be defined, but HUD's policy, consistent with the basic tenets of the CDBG program, leaves this definitional exercise to the grantee. It would be impossible to answer these questions on anything but a case-by-case basis, which may be why Congress did not provide a single definition of "greatest need" in Section 916(c).

4. An entire city cannot be designated a colonia.

The OIG's report states that "only the identifiable areas of the cities that met the specific criteria of Section 916 qualified for colonias set-aside funding", yet a thorough reading of Section 916 reveals no such wording. Section 916(e)(1) defines "colonia" as "any identifiable community that (a) is in the State of Arizona, California, New Mexico or Texas; (b) is in the U.S. - Mexico border region; (c) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe and sanitary housing; and (d) was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act". Section 916 does not prevent a colonia from having coterminous boundaries with an incorporated unit of general local government.

However, the report has revealed a need for OBGA to issue guidance to some of its grantees to assist them in developing a process for designating and un-designating colonias (it is noted that newly recognized colonias must have been in existence since at least November 28, 1990, the date NAHA was enacted). HUD will issue guidance on this point.

II. OBGA Response to Recommendations

OBGA has the following response to the report's recommendations:

Recommendations 1A and 1B

The report recommends that the State of New Mexico support or repay funding of \$5.667 million spent on colonias activities for grant years 2005-2007, and that the State of Arizona support or repay funding of \$4.0 million spent on colonias activities for grant years 2004-2006. The report also recommends that these states provide documentation that their colonias have identifiable boundaries; a census of the number of residents lacking portable water, adequate sewage and decent, safe and sanitary housing; and proof that funds were provided to residents in properly designated colonias.

OBGA disagrees with these recommendations. The states have identified their colonia boundaries within the requirements of Section 916, as explained above. Furthermore, Section 916 does not require a census of residents as part of the objective criteria for designating colonias. In addition, in the June 17th exit conference call OBGA questioned the report's basis in

Comment 4

recommending, in the case of New Mexico, that \$5.6 million spent in program years 2005 – 2007 be repaid to its CDBG program, when the state's colonias set-aside was only \$4.45 million during that period—a point that the OIG readily conceded. Finally, even if the projects in question were deemed to be outside of the requirements of Section 916, the states would not be required to repay them if they were CDBG-eligible projects—they would simply not count them as colonias set-aside projects. In the end, such a move might be detrimental to the set-aside's purposes (and the intended beneficiaries), since the states might then argue that the set-aside is being under-utilized and push for a decrease in their set-aside percentages.

Comment 5

Recommendation 1C

The report also recommends that OBGA issue guidance that better defines a colonia and requires states to support their colonias designations with objective criteria. The report also recommends that OBGA require states to prioritize funding to colonias with the greatest need.

OBGA agrees with the recommendation to provide guidance to the states to help them where necessary in developing a process of re-certifying colonias as well as determining when areas are no longer colonias. As previously mentioned, HUD will also issue guidance to the four border state CDBG grantees to assist them in developing Action Plans that more clearly articulate the priorities that those states have established in regard to their Methods of Distribution, and provide assistance in developing Methods of Distribution. This guidance will also describe the processes the states will use to distribute funds in the colonias. Finally, HUD will re-issue CPD Notice 03-10, "Use of HUD Resources to Assist Colonias", which describes best practices in combining CDBG funds with other sources of federal funding in the colonias. However, since all four states use the Section 916 definition of colonias, OBGA disagrees with the report's recommendation to "better" define a colonia as there is no statutory basis for developing a more narrow interpretation. Also, since states currently prioritize funding through their Method of Distribution in accordance with the statute and program regulations, OBGA disagrees with the recommendation to impose a prioritization method on the states.

Comment 6

Recommendation 1D

The report recommends that HUD include language in the states' contracts and agreements that requires them to comply with Section 916 of the Act.

OBGA disagrees with the recommendation to include language in states' contracts and agreements requiring compliance with Section 916, since the certifications submitted by states as part of the Consolidated Plan process at 24 CFR 91.325(b)(7) already require compliance with all applicable laws—Section 916 being one of them.

Comment 7

Recommendation 1E

The report recommends that CPD include procedures in the CDBG monitoring guidance to assess compliance with Section 916 of the Act.

Comment 7

Regarding the monitoring of set-aside funds, it may be useful for OBGA to explain the process for monitoring all CDBG grantees. CPD field offices determine which grantees and programs to monitor by undertaking an annual risk analysis process which is described in CPD Notice 07-07 issued on October 19, 2007. Grantees and programs that receive more than 51 points on a 100 point scale are considered high risk and must be monitored unless there is an ongoing OIG audit or if the grantee or program has been monitored within the last two years. CPD has a goal of monitoring 20% of its formula grantees annually.

As of FY 2008, the CPD risk analysis process was changed to provide that grantees with grants greater than 10 million dollars will receive 40 points in risk analysis. Each of the four border states have grants exceeding 10 million dollars thus making it more likely that these states will be considered high risk and thus monitored. When a grantee is determined to be high risk, the field office will develop a grantee monitoring strategy and a work plan to address the issues that made the grantee high risk. Due to limited staff resources, the field office will only monitor the riskiest portion of a grantee's program. Thus, there is no guarantee that the colonias set-aside will be monitored if a field office monitors one of the four border states. Nevertheless, OBGA agrees to include an exhibit on monitoring the colonias set-aside the next time the CPD Monitoring Handbook is updated.

Recommendations 2A and 2B

The OIG also recommends that OBGA establish goals, performance measures and indicators for colonias set-aside activities. Further, the report recommends that OBGA create specific program and activity codes to track colonias activities in the Integrated Disbursement Information System (IDIS).

OBGA currently has no plans to establish performance measures specifically for the colonias set-aside funds because the accomplishments in those activities—including accomplishments relating to water, sewer and housing—are recorded within the framework of the entire State CDBG program. CPD introduced the Performance Measurement Framework in 2006 with a mandatory implementation date of October 1, 2006. In addition, recent changes to IDIS now allow states to report whether an activity is carried out in a colonia. However, since the colonias set-aside is neither a separate program nor an activity listed under Section 105(a) of the Housing and Community Development Act, as amended, the report has no basis for recommending the creation of specific program or activity codes within IDIS.

During the June 17, 2008 exit conference call with the OIG, the OIG stated that OBGA did not have reports to indicate the activities funded with set-aside funds. OBGA can generate reports from the IDIS system to indicate initial funding dates for activities in the colonias region, a listing of activities completed and underway, and activities containing performance measurement data. A review of the data, however, indicates that more work needs to be done to ensure that all activities using set-aside funds are properly entered into IDIS. OBGA will provide additional guidance (guidance was provided previously via e-mail) regarding the use of the colonias set-aside flag on the IDIS CDBG 06 screen which will result in improved data. Finally, OBGA can provide, upon request, data on colonias activities that was submitted by the states themselves as part of a data collection project undertaken last year.

Comment 8

Comment 8*Recommendation 2C, 2D and 2E*

The report recommends that HUD require states to identify and report all of their colonias and the estimated population of these colonias. The report also recommends requiring states to provide data on all colonias and residents who have been assisted with colonias set-aside funds and how many residents have had their water, sewage and housing needs met. Finally, the report recommends requiring states to enumerate all of the colonia residents who lack potable water, adequate sewage systems and decent, safe and sanitary housing.

OBGA disagrees with these recommendations, as there is no statutory mandate to undertake the data-gathering project recommended by this report. However, the Southwest Border Region, Colonias and Migrant Farmworkers Initiative, chaired by HUD, has been involved in a project that would map the colonias and attempt to gather some of this data, although progress has been limited due to funding constraints. Furthermore, although HUD has data on colonia residents who have received assistance since 2000, there is no statutory or regulatory requirement that states provide data that all water, sewer and housing needs have been "met." The open-ended nature of Section 916 appears to contemplate a long-term effort to address needs in the colonias, so long as funding is available through the CDBG program.

If you have any questions regarding this response, please contact me at 202-402-4559, or Diane Lobasso, Director, State and Small Cities Division at (202) 402-2191.

OIG Evaluation of Auditee Comments

Comment 1 The Office of Block Grant Assistance (OBGA) is correct that Section 916 of the Act does not require it to define a colonia. However, HUD is required to ensure that the states' interpretation of a colonia and their supporting objective criteria used to determine colonias is in compliance with Section 916 requirements. Although Arizona and New Mexico used the same language as Section 916 to define colonias, they could not provide support for the colonia designations. Section 916 states that colonias will be determined on the basis of objective criteria, including lack of a potable water supply; lack of adequate sewer systems; and lack of decent safe and sanitary housing. Arizona and New Mexico did not provide support to show these identifiable communities existed prior to November 1990 nor provide objective criteria that showed the colonia and the residents lacked water, sewer, or housing. Further, Arizona officials stated that communities could be designated as colonias by meeting only one of the three objective criteria related to water, sewage, or housing while the other three states required a community to meet all three criteria. We did not revise the finding based on OBGA's comments.

Comment 2 The OBGA stated that its review of the states Action Plans did not provide evidence that the states violated any statute or regulation. We disagree. Arizona could not support its colonia designation nor support how it made its determinations for first funding colonias with the greatest need.

Comment 3 The OBGA stated that it leaves the definitional exercise of defining "need" to the grantees (states). Section 916 uses the terms lack of potable water supply, lack of adequate sewer systems, and lack of decent, safe, and sanitary housing. The definition of lack means to be missing or in need of something. Arizona and New Mexico designated entire cities as colonias even though many of the areas of the cities neither lacked a potable water supply nor an adequate sewage system. In addition, Arizona and New Mexico provided assistance to entire cities to improve existing water and sewer systems and for other activities not related to water, sewer, or housing while they had many colonias in unincorporated areas that did lack adequate water and sewer systems. Neither Arizona nor New Mexico provided support as to their determination that improving existing systems and housing in the cities presented a greater need than providing water and sewer systems to those areas that lacked these services.

The OBGA did agree to issue guidance to assist the states in developing a process for designating and un-designating colonias.

Comment 4 The OBGA did not agree with recommendations 1A and 1B because it believed that the states identified their colonia boundaries according to Section 916 and thus should not have to repay or support the funding. However, as stated in the

finding and our responses to comments 1 and 3, Arizona and New Mexico did not comply with requirements.

We cannot predict what may or may not happen in the future if the states are unable to support the disbursements. However, if the funds are returned and used for eligible colonias based on the greatest need, as required by the Act, the funds would better serve the intended beneficiaries. HUD should ensure that any returned funds are used as required. The OIG is tasked with reporting questionable costs and making recommendations to resolve noncompliance. If the states did not spend the funds in compliance with the Act, they should repay them. The OBGA must also recognize that at the time of the draft report, not all of the funds in the recommendations had been spent; rather funds had been allocated for certain projects. The states need to provide support that those projects are in eligible colonias and support their assessments that those projects represent the greatest need. Otherwise, the project funding should be terminated.

We did not recommend that the states perform a census to support their colonia designations. The sections of the recommendations pertaining to objective criteria are in regards to the states determinations that the funded projects represent those with the greatest need. If the states cannot provide data as to the number of residents that lacked potable water, adequate sewage systems, or adequate housing, it is unlikely that they can support how they made determinations as to funding the colonias based on greatest need.

We revised the unsupported amount in recommendation 1A as we agreed to during the exit conference.

- Comment 5** The OBGA agreed to provide some guidance to the states on various matters to address recommendation 1C. However, it stated that it will not provide guidance that better defines a colonia or guidance that requires the states to prioritize funding to colonias with the greatest need first. This concerns the OIG as we would hope that the OBGA would desire to provide guidance to the states that helps them ensure that they comply with the Act. Representatives from the states and from HUD offices have expressed a need for guidance. If HUD fails to provide guidance it will be difficult to hold the states accountable if they are noncompliant.
- Comment 6** The OBGA did not agree with recommendation 1D, which addresses the need for specific language in the states' contracts and agreements requiring compliance with Section 916. The OIG believes that by including the reference in the contracts and agreements, HUD will be in a better position to take actions if a state does not comply with Section 916.
- Comment 7** While OBGA did not believe that is necessary to include procedures in its CDBG guidance to assess compliance with Section 916 of the Act, it did agree to include an exhibit on monitoring the colonias set-aside the next time that it updates the CPD Monitoring Handbook.

Comment 8 The OBGA did not agree with Finding 2 or any of the recommendations. Specifically, the OBGA did not agree that setting goals or performance measures is necessary to track progress, it stated that: it can generate reports to indicate the activities funded with set-aside funds; it can provide data on colonias activities that was submitted by the states; and there is no statutory mandate to undertake the data-gathering project recommended in our report.

The OIG feels that establishment of goals, performance measures, and tracking of accomplishments is critical to assessing the success of the colonia set-aside. Otherwise, HUD does not know if the states are effectively using the colonia set-aside funds to meet the residents' water, sewer, and housing needs as intended by the Act.

In the entrance conference, the OBGA stated that the IDIS system does not separate funding from the performance measure and that the system in conjunction with CAPERS reports the overall national objectives but that it was not specific to colonias. The system was initiated in 2006 through HUD Notices, and HUD required the states to report their performance. The OBGA further stated that it would not put too much faith in the IDIS system because the states had problems reporting their results and the data was not conclusive. Also, the performance measures had not been quantified for 2007. Further, although we requested performance reports, OBGA did not provide them.

IDIS does provide a method for the states to indicate if a project benefits a colonia; however, it does not allow the states to indicate that it was funded with colonia set-aside funds. Thus, the funding might be CDBG or other sources.

Regarding recommendations 2C, 2D, and 2E, since the OBGA claimed that it can provide data on colonias activities that was submitted by the states, it seems that there is at least some information available that could be useful. The OIG continues to believe that without information on the number of colonias, the estimated number of residents, the number of colonias and residents that have been assisted, and the number of colonias and residents that still lack potable water; adequate sewage systems; and decent, safe, and sanitary housing, HUD cannot: assess whether it or the states have met the intent of the Act; assess or report accomplishments; nor determine the continued need for colonia set-aside funding. These are basic management tools that are needed to effectively administer the colonia set-aside.