



City of Dallas, Dallas, TX

Community Housing Development Organizations

**Office of Audit, Region 6
Fort Worth, TX**

**Audit Report Number: 2019-FW-1004
June 17, 2019**





To: Shirley J. Henley, Director, Community Planning and Development, 6AD

//signed//

From: Kilah S. White, Regional Inspector General for Audit, 6AGA

Subject: The City of Dallas, Dallas, TX, Did Not Follow Environmental Requirements or Effectively Manage Its Community Housing Development Organizations

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the City of Dallas' community housing development organization program.

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

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

If you have any questions or comments about this report, please do not hesitate to call me at 817-978-9309.



Audit Report Number: 2019-FW-1004

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The City of Dallas, Dallas, TX, Did Not Follow Environmental Requirements or Effectively Manage Its Community Housing Development Organizations

Highlights

What We Audited and Why

We audited the City of Dallas' management of its community housing development organizations (CHDO) because of our previous audit work on the City's HOME Investment Partnerships program. During that audit, we concluded¹ that the City did not follow HOME regulations and its own policies and procedures in its reconstruction program or the administration of its match contributions, resulting in more than \$4.2 million in ineligible funds. Our audit objectives were to determine whether the City followed environmental requirements and managed its CHDOs in accordance with U.S. Department of Housing and Urban Development (HUD) regulations and guidance.

What We Found

The City did not follow environmental requirements or effectively manage its CHDOs. It did not always complete an environmental review or obtain HUD approval before committing funds, maintain environmental review documentation, exercise due diligence, or properly administer its CHDO program in accordance with requirements. These conditions occurred because the City did not fully understand or follow HUD environmental or HOME regulations and its own policies, procedures, and contract terms. As a result, it misspent more than \$6.6 million and did not account for more than \$180,000 in program income.

What We Recommend

We recommend that the Director of the Fort Worth Office of Community Planning and Development require the City to (1) repay approximately \$2.4 million in funds committed before completion of an environmental review or HUD approval; (2) support or repay \$424,325 committed to projects without environmental reviews; (3) support or repay more than \$3.8 million for unsupported files and draws; (4) support or repay \$180,051 in program income; (5) repay \$13,055 in ineligible costs; and (6) strengthen its underwriting procedures and implement documentation, homebuyer income verification, and CHDO recertification procedures.

¹ City of Dallas, HOME Investment Partnerships Program, audit report number 2018-FW-1004, issued May 8, 2018

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Background and Objectives

The City of Dallas, an entitlement grantee, received annual allocations of HOME Investment Partnerships program funds, authorized under the Cranston-Gonzalez National Affordable Act as amended, from the U.S. Department of Housing and Urban Development (HUD). HUD's HOME program² allocated funds by formula among eligible State and local governments (participating jurisdictions) to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for very low-income and low-income families.

The City, as a participating jurisdiction, could use HOME funds to carry out multiyear housing strategies through acquisition, rehabilitation, and new construction of housing and tenant-based rental assistance. It could provide assistance in a number of eligible forms, including loans, advances, equity investments, interest subsidies, and other forms of HUD-approved investments. The City was required to set aside³ at least 15 percent of its annual HOME allocation for community housing development organizations (CHDO) to perform acquisition, rehabilitation, or new construction of rental housing or home-buyer properties. A CHDO is as a private, nonprofit, community-based service organization that has obtained or intends to obtain staff with the capacity to develop affordable housing. Table 1 contains the City's HOME allocation and required CHDO set-asides.

Table 1. City HOME allocations and CHDO set-asides

City of Dallas HOME allocation and CHDO set-asides		
Funding year-fiscal year	HOME allocation	CHDO set-aside
2012-2013	\$4,700,686	\$705,103
2013-2014	4,240,210	636,032
2014-2015	4,365,818	654,873
2015-2016	3,956,627	593,494
2016-2017	4,132,323	619,848

The City, in its role as an investor in its CHDOs and their projects, had a responsibility to provide help and guidance to the CHDOs to meet its affordable housing and community development priorities and regulatory requirements in a cost-effective manner. It also had the responsibility to oversee the activities of its CHDOs and control their disbursements.

² HUD's Office of Community Planning and Development (CPD) administered the HOME program.

³ 24 CFR (Code of Federal Regulations) 92.300

During the audit scope, the City managed 5 CHDOs with 14 projects. See table 2.

Table 2. CHDOs and projects

CHDO	Projects	Total contracts	Total payments
Builders of Hope Community Development Corporation	4	\$1,390,757	\$1,024,531
CityWide Community Development Corporation	2	2,339,913	487,761
East Dallas Community Organization	3	2,620,579	573,844
South Dallas Fair Park Innerscity Community Development Corporation	3	2,325,323	1,016,763
SouthFair Community Development Corporation	2	1,032,667	395,396
Totals	14	9,709,239	3,498,295

Our audit objectives were to determine whether the City followed environmental requirements and managed its CHDOs in accordance with HUD regulations and guidance.

Results of Audit

Finding 1: The City Did Not Follow Environmental Requirements

The City did not follow environmental requirements.⁴ Specifically, it did not always complete an environmental review or obtain HUD approval before committing funds to a project or include required restrictive language in its contracts. Further, it did not maintain environmental documentation for all of its CHDO projects. These conditions occurred because the City did not fully understand environmental requirements⁵ and did not maintain documentation on its projects. As a result, it committed approximately \$2.4 million in HUD funds on projects before completion of an environmental review or HUD approval. It also could not provide environmental reviews for projects totaling \$424,325.

The City Did Not Always Complete an Environmental Review or Obtain HUD Approval Before Committing Funds

The City did not always complete an environmental review or obtain HUD approval before committing funds to projects. Further, when it signed contracts before the completion of the review, it did not include the required “conditional commitment” language in the contracts.⁶ HUD required the City to certify that it had fully carried out its responsibilities for environmental review before HUD approved the City’s use of the grant funds.⁷ While HUD allowed the City to make a “conditional commitment” of funds to a project, it required the City to include language in the contract conditioning the commitment of funds on the satisfactory completion of an environmental review. Contrary to these requirements, the City signed contracts without environmental review conditions and committed HUD funds before completion of the review or HUD’s approval for the use of grant funds. For instance, the City committed funds for ICDC’s Pittman Final Phase project before HUD’s signing of the Authority to Use Grant Funds (AUGF) causing the more than \$400,000 in committed funds to be ineligible. This condition occurred because the City did not fully understand environmental requirements and thought that its contracts sufficiently addressed the conditional commitment requirements and the required environmental clearance. The City committed almost \$2.4 million to projects without an environmental review, HUD approval, or required contract restrictive language. See table 3.

⁴ Audit report 2018-FW-1004, issued May 8, 2018. The report also concluded that the City did not follow environmental regulations.

⁵ According to HUD’s records, four City employees attended training on HUD’s environmental requirements during 2017 and 2018 with one person attending twice.

⁶ Notice CPD-15-09, Requirements for Committing HOME Funds, required that contracts for “conditional commitments” contain language stating that the contract did not constitute a commitment of funds or site approval. Further, the commitment of funds or approval could occur only upon satisfactory completion of an environmental review and receipt of an approval of the request for release of funds and certification from HUD.

⁷ The City signs and submits to HUD a Request for Release of Funds, HUD Form 7015.15. HUD approves the City’s request by signing and returning to the City an Authority to Use Grant Funds (AUGF), HUD Form 7015.16.

The City Did Not Maintain Environmental Documentation

The City did not provide environmental reviews for 6 of 10 sites included in the East Dallas Community Organization (EDCO) Scattered Site project and all 6 sites included in the South Dallas Fair Park Innercity Community Development Corporation (ICDC) Pittman Final Phase project. This condition occurred because the City did not maintain its files and did not follow documentation requirements. Because the City did not provide environmental reviews for these projects, it could not show that it performed the required environmental review and that the proposed projects did not negatively impact the surrounding environment or that the property site itself would not have an adverse environmental or health effect on end users. See table 3.

Table 3. Amounts unsupported or ineligible due to environmental deficiencies

Project	Funds Committed	Environmental Review completed	AUGF signed by HUD	Ineligible	Unsupported
Builders of HOPE Prairie Creek	9/10/2014	11/14/2014	12/24/2014	\$480,000	
EDCO Scattered Sites (4 sites)*	4/17/2017	9/14/2017	11/1/2017	\$282,883	
EDCO Scattered Sites (6 sites)*	4/17/2017	Not provided	3/2/2017		\$424,325
ICDC Scattered S contract (5 sites)	8/30/2015	10/23/2015	12/10/2015	\$320,000	
ICDC Scattered S (6 sites)	11/7/2017	1/30/2018	3/21/2018	\$900,000	
ICDC Pittman Final Phase	7/1/2015	Not provided	7/30/2015	\$415,989	
Total				2,398,872	424,325

*EDCO's Scattered Site project included 10 sites. The environmental review the City provided covered only four of the sites. However, the City completed the environmental review after committing the funds, which made the funding for the four sites ineligible. Since the City could not provide environmental reviews for six sites, those funds were considered unsupported.

Conclusion

The City did not follow environmental requirements. It did not always complete an environmental review or obtain HUD approval for the use of grant funds before signing contracts and committing funds to a project. Further, it did not include required restrictive language in its contracts signed before the completion of the environmental review or maintain environmental documentation for all of its CHDO projects. These conditions occurred because the City did not fully understand environmental requirements and did not maintain documentation on its projects. As a result, it misspent approximately \$2.4 million in HUD funds on projects before HUD approval or the completion of an environmental review. It also could not provide environmental reviews for projects totaling \$424,325.

Recommendations

We recommend that the Director of the Fort Worth Office of Community Planning and Development require the City to

- 1A. Repay \$2,398,872 from non-Federal funds to the City's HOME program for funds committed to projects before the completion of an environmental review or HUD approval.
- 1B. Support or repay \$424,325 from non-Federal funds to the City's HOME program for funds committed without documentation of an environmental review.
- 1C. Comply with HOME's environmental requirements, including required restrictive contract language, and maintaining documentation of environmental reviews.

Finding 2: The City Did Not Effectively Manage Its Community Housing Development Organizations

The City did not manage its CHDOs in accordance with HUD regulations and guidance, its policies and procedures, or contract terms. Specifically, the City did not (1) exercise due diligence in its management of the CHDOs or their projects or (2) administer its program in accordance with requirements. These conditions occurred because the City did not follow HOME regulations or its own contract terms, and it lacked adequate policies and procedures. As a result, it misspent almost \$4 million and did not correctly account for more than \$180,000 in program income.

The City Did Not Exercise Due Diligence

The City did not exercise due diligence in the management of the CHDOs or their projects. Specifically, it did not perform sufficient underwriting on CHDO projects or execute contracts in a timely manner and advanced funds to CHDOs to meet a HUD deadline. These conditions occurred because the City ignored HUD's requirements and its contracts. Further, the City did not have controls or processes to ensure that it executed contracts in a timely manner. As a result, it rushed to commit more than \$3.4 million to projects without considering the time needed to complete preconstruction or predevelopment activities⁸ and ensuring that the CHDO had effective project controls. In addition, due to the delay in executing its contracts, the City created unrealistic and unachievable contract terms. It also spent approximately \$600,000 on projects before the CHDOs incurred eligible expenses.

The City Did Not Perform Sufficient Underwriting or Execute Its Contracts in a Timely Manner

The City did not perform sufficient underwriting on its CHDO projects to ensure the eligibility of the projects, that construction could begin within 12 months of contract execution,⁹ or the timely execution of 8 of 14 CHDO contracts. HUD required the City, as part of its underwriting, to ensure that the projects met HOME requirements and the project was a reasonable investment. This requirement included verifying that the CHDOs owned the properties and that necessary roads or rights of way had been acquired. Further, HUD required commitment of CHDO set-aside funds within 24 months of grant execution¹⁰ and expenditure of those funds within 5 years.¹¹ However, the City ignored HUD underwriting, commitment, and expenditure requirements. Further, it obtained Dallas City Council approval of the projects without executing contracts with CHDOs in a timely manner, although the City Council's approval had project completion deadlines.

According to an April 16, 2018, internal City memorandum, the City knew of the deficiencies with its underwriting and contract execution. The memorandum in part stated, "There have been several issues and challenges to complete these developments outside of normal construction delays. First, many of the contract deadlines did not anticipate the time it takes to go through the

⁸ Predevelopment or preconstruction work, including platting, zoning, and other infrastructure requirements

⁹ Notice CPD-15-09, Requirements for Committing HOME Funds

¹⁰ 24 CFR 92.300(a)(1)

¹¹ 24 CFR 92.500(d)(2)(i)(C)

City's development processes such as platting, zoning, and/or infrastructure plans review. Second, some of the lots acquired for these developments were either tax foreclosures or land bank lots and clearing title was a challenge due to lien releases or issues with heirship. Finally, many of the contracts were brought forward to Council for consideration and executed prematurely. For example, underwriting was not performed, the contract was not drafted in advance of Council action, and environmental clearance was not complete for federally funded developments." Examples of the deficiencies included the following:

- **EDCO Bexar Street Townhomes** – The project experienced significant delays because the City did not ensure that predevelopment or preconstruction work was complete. The City Council approved the \$900,000 project on September 9, 2015; however, the City did not execute the 2-year contract until more than 2 months later. Before construction could begin, the City required EDCO to complete an alleyway and replat the property. Although the City allowed EDCO 2 years to complete construction of the project, the alleyway and replat of the property took 2 years to complete. As of March 2019, construction of the project had not begun.
- **ICDC's Scattered Sites project** – The project experienced significant delays because the City did not ensure that ICDC owned the property and that predevelopment or preconstruction work was complete before approval. The City Council approved the \$320,000 project on June 10, 2015; however, the City did not execute the 1-year contract until 2 months later.¹² The contract allowed ICDC 1 year from City Council approval to complete five single-family homes and sell them to qualified buyers. On September 14, 2016, the City Council approved a modification to increase the number of single-family homes from 5 to 11 and the funding by \$900,000. The City Council approval also extended the completion date to December 31, 2017. However, the City did not execute the modification until November 7, 2017, leaving ICDC only 1 month to complete the additional six homes. According to an April 16, 2018, internal memorandum, construction on the additional six homes had begun as of March 2018 and was expected to be complete by July 2019.
- **EDCO Bexar Street Seniors project** – The project experienced significant delays because the City did not ensure that EDCO owned the property and that predevelopment or preconstruction work was complete. The City Council approved the \$608,331 project on April 22, 2015; however, the City did not execute the 1-year contract for almost 8 months. The contract allowed EDCO 1 year to construct three single-family homes and two duplexes and have qualified individuals occupy the units. Because the City took almost 8 months to execute the contract and the contract went into effect upon approval by the City Council, EDCO had only 4 months to complete the project. The City later extended the completion date to November 30, 2018.

¹² August 20, 2015

- **ICDC’s Frank Street project** – The City Council approved the \$771,355 project on May 25, 2016; however, the City did not execute the 2-year contract until 10 months later.¹³ The contract allowed ICDC 2 years from City Council approval to construct 10 single-family homes and sell them to qualified buyers. According to an April 16, 2018, interim City memorandum, the City amended the contract to extend the completion date to February 28, 2019.

Because the City did not perform sufficient underwriting on the projects, execute the contracts upon City Council approval, or extend project completion deadlines to account for the delays, it gave itself and its CHDOs unrealistic and unachievable contract terms.

The City Advanced Funds to CHDOs

The City advanced almost \$600,000 in HOME funds to CHDOs before they incurred the expenses. Regulations¹⁴ stated that reimbursement was the preferred method of payment, and the City’s contracts required that advances be made only when funds were needed for payment of eligible costs. Contrary to these requirements, however, the City advanced funds to the CHDOs to meet a HUD deadline and before construction had started on a project.

- **Bexar Street Townhomes** – The City advanced \$150,000 to EDCO for the Bexar Street Townhomes project on August 15, 2017. At the time of the advance, the City knew that construction on the project had not begun but still made the advance payment. The \$150,000 advance contributed to the project’s being \$166,743 over budget. As of March 2019, construction had not begun on the project. Although almost 2 years had passed since the advance, the City had not requested that the money be returned, nor had it required EDCO to account for the funds.
- **Bexar Street Seniors** – The City advanced \$150,000 to EDCO for the Bexar Street Seniors project on August 31, 2017. EDCO later provided payment requests totaling more than \$150,000; however, it did not provide invoices, receipts, or other supporting documents. The City did not reconcile the payment requests to ensure that they supported the advanced funds. An intra-City memorandum, dated August 25, 2017, requested that the payment be expedited “in order to meet HUD’s expenditure deadline.”

¹³ March 31, 2017

¹⁴ 2 CFR 200.305(b)(3)

- **ICDC Frank Street** – The City advanced \$227,099 to ICDC for the Frank Street project on August 29, 2017. The City’s file did not contain a payment request form¹⁵ but, rather, only continuation sheets for the payment request. The file also did not contain supporting invoices or other documentation. Draws made in March and April 2018 totaling \$104,206 showed that they were “funded from advanced funds.”
- **SouthFair 6 Lots** - The City advanced \$72,000 to SouthFair for the 6 Lots project. Although the City attached documentation to the draw request, it was unorganized and did not match the payment made. The documentation did not contain a request from SouthFair for the draw, and the payment request form was incomplete, was unsigned, and did not total \$72,000. Only the continuation sheets for the payment request were included. Further, the continuation sheets did not contain addresses, and the date shown on the forms was “1/0/1900.” An intra-City memorandum, dated August 9, 2017, requested that the payment be expedited “in order to meet HUD’s expenditure deadline.” See table 4.

Table 4. Funds advanced to CHDOs

CHDO-project	Date of advance	Amount of advance
EDCO Townhomes	08/15/2017	\$150,000
EDCO Seniors	08/31/2017	150,000
ICDC Frank Street	08/29/2017	227,099
SouthFair 6 Lots	08/08/2017	72,000
Total		599,099

These conditions occurred because the City did not execute contracts concurrently with City Council approval. In addition, when there was a significant delay in executing a contract, the City did not modify the completion date(s). The City’s delay in executing its contracts left it with little time to spend the HOME funds before the regulatory deadline. This condition further added to the City’s need to advance funds to the CHDOs well in advance of the CHDOs’ expenditure of the funds to meet a HUD deadline.

The City Did Not Properly Administer Its CHDO Program

The City did not administer its CHDO program in accordance with requirements. Specifically, it did not (1) maintain or require its CHDOs to submit supporting documentation, (2) account for or require CHDOs to return program income, (3) ensure that expenditures were eligible, (4) properly document or calculate home-buyer income, and (5) properly certify its CHDOs.

The City Did Not Maintain or Require CHDOs To Submit Supporting Documentation

The City did not maintain files on all of its CHDO projects, nor did it require CHDOs to submit supporting documents for their draws totaling almost \$4 million. Specifically, the City could not provide documentation for CityWide’s Serenity Place Apartments project, which cost more than

¹⁵ American Institute of Architects Documents G702, Application and Certification for Payment, and G703, Continuation Sheet

\$1.95 million to build. Further, the City did not always require CHDOs to submit supporting documentation for their draws totaling more than \$1.9 million. These conditions occurred because the City did not maintain control of its files and did not follow documentation requirements.¹⁶

City staff responsible for file maintenance stated that the Serenity Place project files had been requested under the Freedom of Information Act (FOIA). The City Housing Department information officer insisted that the files were returned to the City's archives. However, the City's archives stated that it sent the files to the City Housing Department during the FOIA request and the files had not been returned. The City could not locate the project files during the audit. As a result, it did not support more than \$1.95 million provided to Serenity Place.

In addition, the City did not always require that CHDOs submit supporting documentation for payments received. The City paid five CHDOs more than \$1.9 million without maintaining or requiring them to submit supporting documentation, such as invoices, receipts, or other documentation. Generally, the only documents the City retained were unsigned, incomplete payment certification forms.¹⁷ In addition, included in the unsupported draws was more than \$89,500 in duplicate payments to two CHDOs.

The City Did Not Account for or Require CHDOs To Return Program Income

The City did not require its CHDOs to remit or account for all program income.¹⁸ HOME regulations¹⁹ stated that the City's loan agreement with a CHDO was required to state whether it would remit program income to the City or retain the income for additional eligible activities. The loan agreements with the CHDOs and City Council meeting minutes stated that CHDOs would remit program income to the City.²⁰ The City could not support that the CHDOs remitted program income. This condition occurred because two CHDOs were unaware that they had to account for program income and the City did not enforce its contract terms. As a result, the City could not account for \$180,051 in program income accumulated through June 2018. See appendix D.

The City Did Not Ensure the Eligibility of CHDO Expenditures

When the City did review payment requests, it did not verify the eligibility of expenditures. Specifically, the City paid ICDC for construction management expenses totaling almost \$13,000 for its Pittman Final Phase²¹ and Scattered Sites²² projects. The City paid ICDC a developer fee

¹⁶ See finding 1.

¹⁷ American Institute of Architects Document G702, Application and Certification for Payment, which is used when a contractor applies for payment and the architect certifies that the payment is due

¹⁸ According to 24 CFR 92.2, program income is gross income directly generated from the use of HOME funds or matching contributions.

¹⁹ 24 CFR 92.504(c)(1)(iii)

²⁰ In its response, the City provided one City Council resolution that stated a CHDO could retain the program income for one of the four Builders of Hope projects.

²¹ Six single-family homes with a developer fee of \$15,000 per home

²² Five single-family homes with a developer fee of \$15,000 per home

to compensate it for its risk, time, and effort to build the properties.²³ The City did not support why ICDC received almost \$13,000 in addition to its \$165,000 developer fee. In addition, the City incorrectly charged the Builders of Hope Topletz III project for a \$105 draw that was for its Reese Jones project.

The City Did Not Properly Obtain Required or Current Income Documentation or Correctly Calculate Home-Buyer Income

The City did not obtain required and current income documentation or correctly calculate income. Specifically, it

- did not obtain 2 months of required current wage statements for 42 of 51 home buyers (82 percent),
- did not obtain current income documentation for 7 of 51 home buyers (14 percent), and
- incorrectly calculated income for 3 of 51 home buyers.

HOME regulations²⁴ required the City to reexamine the family's income if 6 months had passed since the City determined that the family qualified as income eligible to receive HOME assistance. The City and CHDOs generally accepted tax returns and verification of employment forms. The use of tax returns and verification of employment forms does not meet the 2 months of source documentation in HOME regulations.²⁵ When the City obtained Social Security income, it did not reverify the income after 6 months, or if it obtained the income in December, it did not verify changes in the new calendar year. In addition, in three instances, the City miscalculated home buyers' income. While ineligible home buyers were not identified, the City did not have the required procedures to ensure that it would not assist ineligible households.

The City Did Not Have Sufficient Recertification Procedures or Properly Certify Its CHDOs

The City lacked sufficient CHDO recertification procedures. Specifically, it did not have policies and procedures to document unpaid tax resolutions, financial accountability, or the status of potentially ineligible CHDO board members. The City recertified CHDOs with unpaid taxes, outstanding audit findings, and potentially ineligible board members.

The City did not document the resolution of 49 Builders of Hope and 26 CityWide properties with taxes owed to the Dallas County Appraisal District. HOME regulations prohibited the City from using HOME funds to pay delinquent taxes.²⁶ The Builders of Hope recertification files contained information from the Dallas County Appraisal District only on taxes owed. The CityWide recertification file contained an email notifying CityWide that it had unpaid taxes. However, the files did not contain other documentation or receipts showing that the CHDOs paid the taxes. The City's CHDO manual and policies and procedures addressed only obtaining a listing of taxes due, not steps to take if the CHDO had unpaid taxes.

²³ Notice CPD-15-11, Requirements for the Development and Implementation of HOME Underwriting and Subsidy Layering

²⁴ 24 CFR 92.203(d)(2)

²⁵ 24 CFR 92.203(a)(2)

²⁶ 24 CFR 92.214(a)(8)

The City did not ensure that EDCO met Federal financial accountability standards. According to EDCO's 2014 annual financial statements, EDCO had material weaknesses in its internal control over its financial reporting and major programs. Additionally, EDCO did not have a required financial audit performed in 2010 and submitted its 2011 and 2012 financial statements late. The financial audit report also reflected a finding related to procedures for compliance with suspension and debarment requirements. The City did not have procedures or requirements reflecting actions or documentation required to determine that the CHDO cleared the audit findings or took reasonable steps to address the findings.

The City did not resolve the issue when a CHDO's board member's name was on the System of Award Management (SAM)²⁷ excluded parties list. HOME regulations²⁸ excluded debarred, suspended, or ineligible persons from receiving HOME funds. To determine compliance, the City must review SAM for the names of CHDOs' executives and board members. For four CHDOs,²⁹ the SAM report showed an individual with the same name as a board member.³⁰ The City's file did not contain evidence that it evaluated and determined the eligibility of the board member. This condition occurred because the City only had procedures to conduct a review and no procedures on how to resolve the SAM conflicts. Additionally, a City compliance review in August 2017 had a similar finding. Further, when the Housing and Community Services Department³¹ responded to a compliance report, it provided only the board members who did not have SAM issues. The board member who was potentially ineligible was not included in Housing and Community Services' response. Further, Housing and Community Services did not respond to the compliance report regarding the development of policies and procedures on resolving SAM conflicts.

Conclusion

The City did not manage its CHDOs in accordance with HUD regulations and guidance, its own policies and procedures, or contract terms. Specifically, it did not (1) exercise due diligence in the management of the CHDOs or their projects or (2) administer its program in accordance with requirements. These conditions occurred because the City did not follow HUD HOME regulations or its own contract terms, and it lacked adequate policies and procedures. As a result, it misspent almost \$4 million and did not account for more than \$180,051 in program income. Appendix C contains a table of findings by CHDO, and appendix D contains the City's questioned costs by CHDO.

²⁷ SAM contains the electronic roster of debarred companies and individuals excluded from Federal procurement and nonprocurement programs throughout the U.S. Government and from receiving Federal contracts and financial and nonfinancial assistance and benefits.

²⁸ 24 CFR 92.350(a)

²⁹ Builders of Hope, CityWide, EDCO, and ICDC

³⁰ SAM data contain reasons for violations as well as names and addresses.

³¹ Renamed Housing and Neighborhood Revitalization Department

Recommendations

We recommend that the Director of the Fort Worth Office of Community Planning and Development require the City to

- 2A. Support or repay \$1,959,913 from non-Federal funds to the City's Community Development Block Grant program for funds expended for Serenity Place Apartments because the City cannot locate any of the project files.
- 2B. Support or repay \$1,402,875 from non-Federal funds to the City's HOME program for CHDO draws paid with no supporting documentation.³²
- 2C. Support or repay \$80,842 in program income from non-Federal funds to the City's HOME program.³³
- 2D. Repay \$105 in ineligible costs from non-Federal funds to the City's HOME program.³⁴
- 2E. Strengthen and comply with its underwriting and project evaluation policies and procedures, including ensuring that when it signs and commits funds, project construction can begin within 12 months.
- 2F. Develop and implement policies and procedures on documentation required to support draws.
- 2G. Comply with requirements to obtain the required income documentation, including ensuring that employees know and apply the requirements.
- 2H. Develop and implement policies and procedures to review source income documentation as required by the HOME regulations.
- 2I. Develop and implement policies and procedures for documenting the results of its recertification procedures, including documenting the results of unpaid taxes, the resolution of CHDO audit findings, and the resolution of ineligible CHDO board members or employees because of a SAM search.

³² The total amount of the finding was more than \$1.9 million; \$498,091 was included in recommendation 1A. Appendix A includes only the unduplicated amount of \$1.4 million.

³³ The total amount of the finding was \$180,051; \$39,362 was included in recommendation 1A, and \$59,847 was included in recommendation 2B. Appendix A includes only the unduplicated amount of \$80,842.

³⁴ The total amount of the finding was \$13,055; \$12,950 was included in recommendation 1A. Appendix A includes only the unduplicated amount of \$105.

Scope and Methodology

We performed our audit work between June 2018 and March 2019 at Dallas City Hall located at 1500 Marilla Street, Dallas, TX, and at HUD's Fort Worth office located at 801 Cherry Street, Fort Worth, TX. Generally, the audit period was October 1, 2015, through September 30, 2017. We expanded our audit period to review City Council minutes from December 2013 to June 2018 and CHDO activities, such as construction starts, draws, and sales of single-family homes, from July 2014 through April 2018.

To accomplish our objectives, we

- Reviewed relevant HOME and environmental requirements and other applicable Federal regulations.
- Reviewed the City's policies and procedures pertaining to CHDOs.
- Reviewed CHDOs' loan agreements.
- Reviewed audits and reviews performed by the city auditor and HUD.
- Interviewed staff from the City's Housing and Neighbor Revitalization Department, the City's Budget and Management Services Department, and HUD as well as an assistant city manager and a City Council representative.
- Obtained an understanding of the City's management controls and procedures through interviews with eight City employees, one City Council member, and five CHDOs' senior management officials.
- Conducted onsite observation of 10 of 95 CHDO-built houses, one apartment complex, and vacant property for future townhomes.
- Interviewed 4 homeowners during the observation of 10 homes.
- Reviewed the recertification files for all 5 CHDOs, 51 of 95 home buyers' individual files, 14 project environmental files, and 6 AUGF forms.
- Obtained and reviewed payments to the CHDOs.
- Reviewed City Council resolutions pertaining to the 14 projects.

We reviewed 100 percent of the 14 projects with contracts totaling more than \$9.7 million, which included 95 single-family homes, 1 senior duplex, 10 townhomes, and 1 apartment complex.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Internal Controls

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

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

- Effectiveness of the City's underwriting process and timely execution of contracts.
- Effectiveness and efficiency of operations – Policies and procedures implemented by the City to ensure that it effectively administers its HOME CHDO program activities, including the recertification process and the reservation of the 15 percent CHDO set-aside funds.
- Compliance with applicable laws and regulations – Policies and procedures implemented by the City to ensure that it complies with HOME CHDO and environmental requirements.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiencies

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

- The City did not have adequate controls to ensure that it followed environmental requirements (finding 1).
- The City did not have adequate controls to ensure that it spent funds only on eligible costs (finding 2).
- The City did not have adequate controls to ensure the management of its CHDOs or administration of its CHDOs' activities (finding 2).

Appendixes

Appendix A

Schedule of Questioned Costs³⁵

Recommendation number	Ineligible 1/	Unsupported 2/
1A	\$2,398,872	
1B		\$424,325
2A		1,959,913
2B		1,402,875
2C		80,842
2D	105	
Totals	2.398.977	3,867,955³⁶

- 1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations.
- 2/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.

³⁵ As discussed in recommendations 2B, 2C, and 2D, some amounts were ineligible or unsupported for multiple reasons, and we have included only the unduplicated amounts in this appendix.

³⁶ The total amount questioned in the recommendations, \$6,877,182, less duplicated amounts of \$610,250 equals the \$6,266,932 reported in this appendix.


Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Comment 1



City of Dallas

May 28, 2019

Ms. Kilah S. White, Regional Inspector General for Audit
Fort Worth Region 6 Office of Audit
Office of Inspector General
819 Taylor Street-Suite 13A09
Fort Worth, TX 76102

RE: Office of Inspector General Draft Audit Report (Community Housing Development Organizations and Environmental Requirements for the Home Investment Partnership Program)

Dear Ms. White:

The City of Dallas is in receipt of the draft audit report (the "Draft Report") and your accompanying letter dated, May 9, 2019 prepared by the U.S. Department of Housing and Urban Development's (HUD) Office of Inspector General (OIG), following its recent audit of the City's management of its community housing development organizations (CHDO), which focused on the City's HOME allocations between funding and fiscal years 2012-2017. The City appreciates the opportunity to review the Draft Report and to provide you with our perspective on the twelve recommendations described therein.

1A. Repay \$1,982,883 from non-Federal funds to the City's HOME program for funds committed to projects before the completion of an environmental review.

The City rejects this recommendation. The city's procedure for managing commitment of funds extends beyond execution of the agreement. Although the agreements do not include the specific HUD recommended conditional commitment language, the language cited in the agreements do allow for withdrawal of commitment by stating the following: (1) Borrower shall not commence construction on any portion of the property without a written Notice to Proceed from the Director. To obtain a written Notice to Proceed, Borrower must provide documentation...satisfactory to the Director...and must receive the written approval by the Director as to: (b) all environmental testing and studies commissioned by or on behalf of Borrower (Loan Agreement, Article IV, Section 4.02); (2) if Borrower shall fail to comply with any of the covenants, duties, requirements, or obligations of Borrower in the Agreement or in the Loan Documents, such constitutes an Event of Default (Loan Agreement, Article V, Section 5.01); and (3) upon the occurrence of an Event of Default, the obligation of Lender to disburse the Funds and the Borrower's Deposit and all other obligations of Lender hereunder shall, at Lender's option, immediately terminate (Loan Agreement, Article VI, Section 6.03). All projects cited in accordance with this recommendation have loan agreements that stipulate the above conditions. Additionally, the city does not process draws for any project costs until the Authority to Use Grant Funds (ATUGF) and Request for Release of Funds (RFROF) have been received. In an effort to demonstrate compliance with 24 CFR Part 58 requirements for environmental reviews, the City developed a chart that indicates the dates of the Authority to Use Grant Funds and Request for Release of Funds, which were received prior to the initial draw dates for all projects.

HOUSING / NEIGHBORHOOD REVITALIZATION DEPARTMENT CITY HALL 60N DALLAS, TEXAS 75201 TELEPHONE 214-670-5888

Auditee Comments

Project	Loan Agreement Executed	ATUGF/RFROF	IDIS Initial Draw
Builders of Hope Prairie Creek	9/10/2014	1/15/2009 11/14/2014 12/24/2014	5/9/2015
EDCO Scattered Sites	4/17/2017	3/2/2017 9/14/2017 11/1/2017	8/21/2017
ICDC Scattered Sites (initial 5 sites)	8/20/2015	10/23/2015 12/10/2015	7/19/2016
ICDC Scattered Sites (modification to add 6 sites)	11/7/2017	12/10/2015 1/30/2018 3/21/2018	N/A, no draws entered for this phase
ICDC Pittman Final Phase	7/1/2015	7/30/2015	11/3/2015

1B. Support or repay \$840,314 from non-Federal funds to the City's HOME program for funds committed without documentation of an environmental review.

The City rejects this recommendation. The City has duplicate files for your review and requests an opportunity to cure these deficiencies through provision of additional documentation for all projects cited in this finding. These duplicate files contain copies of the loan agreements which state the same conditions as explained above in 1A.

1C. Comply with HOME's environmental requirements, including required restrictive contract language, and maintaining documentation of environmental review.

The City accepts this recommendation. The City will ensure that all loan agreements include the HUD recommended conditional commitment language of, "This agreement does not constitute a commitment of funds or site approval, and the commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the City of Dallas of an approval of the request for release of funds and certification from the U.S. Department of Housing and Urban Development under 24 CFP Part 58. The provision of any funds to the project is conditioned on the City of Dallas' determination to proceed with, modify or cancel the project based on the results of the environmental review."

The city recognizes the issue of record retention of environmental reviews and other compliance related materials and has hired a consultant, AECOM, to provide guidance on policies and procedures for internal controls, which include maintaining compliance related documentation to include environmental reviews. The city provided the HUD Ft. Worth Office with the plan to reorganize the management of the environmental review process and train to begin entries into the HEROS system to prevent missing files.

2A. Support or repay \$1,959,913 from non-Federal funds to the City's HOME program for funds committed to Serenity Place Apartments because the City cannot locate any of the project files.

Comment 2

Comment 1

Comment 3

Comment 4

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Comment 5

The City rejects this recommendation. Serenity Place Apartments is not a HOME funded CHDO project. IDIS shows the HOME activity as canceled (see IDIS Activity ID 12013). Initially, Citywide Community Development Corporation (CWCDC) was awarded \$50,000 in HOME funding for the construction of this project, however, due to the developer's change in approval of their Low-Income Housing Tax Credits (LIHTC) award, the City along with the developer agreed to additional federal funding which could be provided with CDBG funding. The developer repaid all HOME funds expended and the city replaced the awarded HOME funds with Community Development Block Grant (CDBG) funding in the amount of \$1,959,913 (see IDIS Activity ID 11970). The city located all project documentation to create a duplicate file.

2B. Support or repay from non-Federal funds, \$1,402,875 in CHDO draws paid to the City's HOME program with no supporting documentation.

The City rejects this recommendation. The City provided source documentation to support the CHDO draws cited in this recommendation. The City's process for approval of draw requests requires the developer to provide: (1) the request for reimbursement of expenses; (2) the industry standard American Institute of Architects (AIA) Document G702 construction invoices to support all eligible hard costs; and (3) invoices and/or receipts to support all eligible soft costs. The projects identified in this recommendation include all three components of supporting documentation. Additional invoices used to generate the AIAs are maintained by the CHDO and available for review upon request.

2C. Support or repay \$109,939 in program income from non-Federal funds to the City's HOME program.

The City rejects this recommendation. Remittance of program income is not a HOME requirement. The City's process for remittance or retention of program income is a negotiated point at contract approval and determined based on the underwriting of the project. HOME regulations require the loan agreement to state the CHDOs requirements with respect to remittance or retention of program income. For the City Wide Runyon Springs, Builders of Hope (BOH) Prairie Creek, Toplez II and Reese Jones Projects, the contract language pertaining to remittance or retention of program income is silent. As such, concluding that the program income was required to be paid is not accurate. Based on the project underwriting and subsidy layering review, the City agreed to allow the CHDOs to retain all program income for these projects, given the limited amount of federal funding provided to aid the construction of the projects. Additionally, in some instances the council resolution states the requirements for program proceeds. As is the case for the BOH Creekside Project. The City agreed to allow BOH to retain all sales proceeds (see Council Resolution 150989, Section 2f). While the City should be more explicit in its contract language on program income requirements, the conclusion drawn in this audit is an assumption that was never intended to be made.

2D. Repay \$105 in ineligible costs from non-Federal funds to the City's HOME program.

The City rejects this recommendation. The city has revised the IDIS to properly draw it from the appropriate project activity.

2E. Strengthen and comply with its underwriting and project evaluation policies and procedures, including ensuring that when it signs and commit funds, project construction can begin within 12 months.

Comment 6

Comment 7

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Comment 3

The City accepts this recommendation. As a response to the 2017 HOME Monitoring review, the City submitted revised policies and procedures (Development Division Administrative Manual) to HUD detailing its underwriting and project evaluation method. HUD approved these policies and procedures on October 6, 2017, and the City began implementation of this process. Additionally, these policies and procedures stipulate the obligations of the developer to commence construction within 12 months of Notice to Proceed (NTP) otherwise, the City reserves the right to revoke the NTP, requiring the developer to seek re-approval.

2F. Develop and implement policies and procedures on documentation requirements.

Comment 8

The City rejects this recommendation. The City previously provided to HUD the Application Intake and Loan Underwriting Procedures which was subsequently approved by HUD on November 7, 2017, however, the city has since revised all policies and procedures to indicate that the Part 5 Method will be utilized as part of the Dallas Homebuyer Assistance Program as well as the Homeowner Improvement and Preservation Program (HIPP), which could potentially utilize HOME funding. These policies and procedures detail the procedures necessary for the review of a household's income through an examination of appropriate source documentation. These revisions were provided to HUD on May 17, 2019 as a response to Recommendation 11 for the 2018 OIG Audit Report.

Comment 3

2G. Comply with requirements to obtain the required income documentation, including ensuring that employees know and apply the requirements.

The City accepts this recommendation. City staff recently participated in an income determination training on May 8, 2019 administered by TDA Consultants, which focused primarily on utilizing the Part 5 method to determine participant eligibility (see attached sign-in sheet). This training provided staff with guidance on the minimum required number and types of source documentation that is needed in order to accurately calculate a participant's area median family income (AMFI). Additionally, training and staff development will be regularly offered to staff and steps will be taken to achieve measurable improvement in staff capacity. These same procedures that were a part of the training are also reflected in the policies and procedure revisions provided to HUD on May 17, 2019.

2H. Develop and implement policies and procedures to review source documentation as required by HOME regulations.

The City accepts this recommendation. Again, these newly adopted income determination methods and procedures were provided to HUD on May 17, 2019. Additionally, staff has already received training on implementation of the Part 5 income method which will be utilized as part of the Dallas Homebuyer Assistance Program.

2I. Develop and implement policies and procedures for documenting the results of its recertification procedures, including documenting the results of unpaid taxes, the resolution of CHDO audit findings, and the resolution of ineligible CHDO board members or employees because of a SAM search.

The City accepts this recommendation. The city requires nonprofit organizations seeking CHDO funding to submit qualification documentation annually. The CHDO recertification process is a detailed review of each organization's qualifications, however, the city agrees that it is lacking procedures to resolve outstanding


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issues or inconsistencies identified during this review. The city will revise its CHDO certification procedures to include this process.

If you have questions regarding this matter, please contact David Noguera at (214) 670-3619.

Sincerely,



Michael Mendoza, Chief of Economic Development and Neighborhood Services

Cc: T.C. Broadnax, City Manager
David Noguera, Director
Chan Williams, Assistant Director
Cynthia Rogers-Ellickson, Assistant Director

OIG Evaluation of Auditee Comments

Comment 1 The City disagreed with recommendation 1A. While the City agreed that their contracts did not include the HUD recommended conditional commitment language, the City stated that their agreements did allow for a withdrawal of commitment if the borrower (CHDO) failed to fulfill its obligations. Further, the City stated that it received HUD's AUGF³⁷ before the initial draw dates for the projects.

However, the City's written notice to proceed was based upon the CHDO providing documentation on environmental testing and studies commissioned by the CHDO. While the CHDO would be responsible for a Phase I environmental assessment, which must be performed by an environmental professional, this was separate and distinct from what HUD required the City to perform. The CHDO's environmental assessment did not relieve the City of its responsibility to complete a HUD compliant environmental review. As stated in the report and in the City's response, its agreements did not contain a provision conditioning the City's commitment of funds to a project based on its completion of its environmental responsibilities. In addition, HUD required the City to have the AUGF before they committed funds, not before they expended funds.

Based on the City's comments and discussions with HUD, we made changes to the report related to the City not obtaining the AUGF before committing funds. HUD's signed AUGF forms reflected that the City did not obtain HUD's approval before committing the funds to the projects in violation of HUD requirements. Our draft report reflected that the \$415,989 committed to ICDC's Pittman Final Phase project was unsupported because the City did not provide an environmental review. However, based on the AUGF form, the amount was determined to be ineligible. See table 3.

Comment 2 The City disagreed with recommendation 1B. It responded that it had duplicate files to cure these deficiencies.

The City did not provide these files during the audit. The City needs to work with HUD during the audit resolution process to determine if its files support the amount questioned. However, the amount unsupported has been reduced to \$424,325 since the \$415,989 committed to ICDC's Pittman Final Phase was determined to be ineligible and included in recommendation 1A.

³⁷ The City signs and submits to HUD a Request for Release of Funds, HUD Form 7015.15. HUD approves the City's request by signing and returning to the City an Authority to Use Grant Funds (AUGF), HUD Form 7015.16.

Comment 3 The City agreed with recommendations 1C, 2E, 2G, 2H, and 2I, and it outlined an action plan to correct the deficiencies.

We appreciate the City's commitment to resolve the deficiencies. The City will need to work with HUD during the audit resolution process to ensure the City implements the action plan and corrects the deficiencies.

Comment 4 The City disagreed with recommendation 2A stating that it was funded with Community Development Block Grant funds.

Based on the City's response we modified the recommendation from HOME funds to Community Development Block Grant funding. The City needs to provide supporting documentation to HUD for the more than \$1.9 million expended on this project or repay any unsupported funds.

Comment 5 The City disagreed with recommendation 2B stating that it provided sufficient documentation supporting the payments.

We disagree that the City provided documentation to support the CHDO draws. As reflected in the report, in many instances the City only had a continuation sheet for the American Institute of Architects (AIA) Document G702. The file did not include the invoices for hard or soft costs. The City was responsible for maintaining and providing supporting documentation for its draw payments. We maintained our position. The City will need to work with HUD during the audit resolution process to provide adequate supporting documentation or repay the funds.

Comment 6 The City disagreed with recommendation 2C. The City responded that the Builders of Hope and CityWide contracts were silent on program income. The City provided a City Council resolution allowing Builders of Hope to retain program income for its Creekside project.

However, Exhibit B section C titled Program Income to the CHDOs contracts with the City clearly stated, "Borrower agrees to remit to Lender all Sales Proceeds, Rental Proceeds, repayments, interest, or other income generated by the HOME funds." This clause was in all the contracts reviewed. We maintain our position. Based on the City Council resolution, we modified the report and reduced the unsupported program income by \$29,097 for the Builders of Hope the Creekside project. This reduced the questioned costs to \$180,051.

Comment 7 The City disagreed with recommendation 2D. The City stated that it revised HUD's system to draw the \$105 funds from the appropriate project activity.

The City did not provide any documentation to support its statement. The City needs to work with HUD to ensure the monies were correctly revised and drawn from the appropriate project. The City's response did not address the remaining \$12,950 that ICDC received in addition to its developer fee.

Comment 8 The City disagreed with recommendation 2F. The City's response referenced its policies and procedures to review appropriate source documentation on homebuyer income.

We have modified and added additional detail to the recommendation to clarify that the City should develop and implement policies and procedures on documentation required to support draws.

Appendix C

Table of City Findings by CHDO

Findings	Builders of Hope	CityWide	EDCO	ICDC	SouthFair
Environmental review not performed before committing funds	x		x	x	
Lack of sufficient underwriting			x		
Contracts not executed in a timely manner			x	x	x
Funds advanced before CHDO submitted draws			x	x	x
CHDO project documentation missing		x			
CHDO draws not supported	x	x	x	x	x
Program income not returned to the City	x	x			
CHDO ineligible expenditures	x			x	
Home-buyer income not obtained, current, or calculated correctly	x	x			
CHDO unpaid taxes not resolved	x	x			
Financial statement material weaknesses not resolved			x		
CHDO board members not reviewed in SAM	x	x	x	x	x
Totals	7	6	7	6	4

Appendix D

Table of City's Questioned Costs by CHDO

Findings	Builders of Hope	CityWide	EDCO	ICDC	SouthFair
Ineligible questioned costs for environmental review before contract signed	\$480,000		\$282,883	\$1,635,989	
Unsupported questioned costs for environmental review before contract signed			424,325		
Unsupported CHDO project documentation		\$1,959,913			
Unsupported CHDO draws	5,551	295,295	373,355	880,469	\$346,296
Unsupported program income not returned to the City	120,204	59,847			
Ineligible CHDO draws	105			12,950	
Totals	605,860	2,315,055	1,080,563	2,529,408	346,296