



City of Chicago, IL

HOME Investment Partnerships Program



Issue Date: September 30, 2014

Audit Report Number: 2014-CH-1011

TO: Ray E. Willis, Director of Community Planning and Development, 5AD

//signed//

FROM: Kelly Anderson, Regional Inspector General for Audit, Chicago Region, 5AGA

SUBJECT: The City of Chicago, IL, Lacked Adequate Controls Over Its HOME Investment Partnerships Program-Funded Rental New Construction Projects and Program Income

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 Chicago's HOME Investment Partnerships 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 Web site. 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 (312) 353-7832.



September 30, 2014

The City of Chicago, IL, Lacked Adequate Controls Over Its HOME Investment Partnerships Program-Funded Rental New Construction Projects and Program Income

Highlights

Audit Report 2014-CH-1011

What We Audited and Why

We audited the City of Chicago's HOME Investment Partnerships Program. We selected the City's Program based upon our analysis of risk factors related to Program grantees in Region 5's¹ jurisdiction. Our objectives were to determine whether the City complied with HUD's requirements regarding (1) leases between rental new construction projects' owners and households, (2) use and reporting of Program income, and (3) monitoring of projects.

What We Recommend

We recommend that the Director of HUD's Chicago Office of Community Planning and Development require the City to (1) ensure that leases between the owners and the households for Program-funded units do not include prohibited language; (2) reimburse its Program or HUD, for transmission to the U.S. Department of the Treasury, from non-Federal funds; (3) ensure inspected units were Program-assisted units; and (4) implement adequate procedures and controls to address the findings cited in this audit report.

¹ Region 5 includes the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

What We Found

Leases between the owners and the households for Program-funded units in two projects included language prohibited by HUD's regulations and the City's regulatory agreements with the owners. As a result, the City drew down nearly \$7.4 million in Program funds for two projects in which the rights of 73 households were not protected.

The City did not always follow HUD's requirements in its use and reporting of Program income. It (1) inappropriately drew down nearly \$25.2 million in Program funds from its HOME investment trust fund treasury account from January 1, 2012, through December 31, 2013, when it had available Program income, (2) inappropriately used Program income, (3) did not report more than \$4.3 million in Program income in HUD's Integrated Disbursement and Information System in a timely manner, and (4) did not deposit Program income into its HOME investment trust fund local account. As a result, (1) the U.S. Treasury paid more than \$30,000 in unnecessary interest on the Program funds that the City drew down from its treasury account when Program income was available, (2) the City had more than \$9,000 less in Program income to be used for eligible Program activities, and (3) HUD and the City lacked assurance regarding the amount of Program income available to the City.

The City did not always conduct required annual compliance monitoring of projects in calendar year 2013. As a result, HUD and the City lacked assurance that households were (1) living in units that met HUD's property standards requirements, (2) income eligible, and (3) not paying excessive rents.

TABLE OF CONTENTS

Background and Objectives	3
Results of Audit	
Finding 1: Leases Between Rental New Construction Projects’ Owners and Households Included Prohibited Language	4
Finding 2: The City Did Not Always Use and Report Program Income in Accordance With HUD’s Requirements	7
Finding 3: The City Did Not Always Conduct Required Annual Compliance Monitoring of Rental New Construction Projects	10
Scope and Methodology	13
Internal Controls	15
Appendixes	
A. Schedule of Questioned Costs and Funds to Be Put to Better Use	17
B. Auditee Comments and OIG’s Evaluation	18
C. HUD’s Requirements and the City’s Regulatory Agreements	23
D. Schedule of Program Income That Was Not Reported in a Timely Manner	25

BACKGROUND AND OBJECTIVES

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

The City. The City of Chicago is governed by a mayor and 50 alderman elected to 4-year terms. The City's Office of Budget and Management manages, monitors, and enforces the grants management processes for the City's Program. The City's Department of Planning and Development administers the City's Program. The mission of the Department is to promote the comprehensive growth and well-being of the City and its neighborhoods. The City's Program records are located at 121 North LaSalle Street, 10th Floor, Chicago, IL.

The following table shows the amount of Program funds the U.S. Department of Housing and Urban Development (HUD) awarded the City for Program years 2009 through 2013.

Program year	Program funds
2009	\$32,210,131
2010	32,135,117
2011	28,453,829
2012	17,226,156
2013	16,059,598
Totals	<u>\$126,084,831</u>

Our objectives were to determine whether the City complied with HUD's requirements regarding (1) leases between rental new construction projects' owners and households, (2) use and reporting of Program income, and (3) monitoring of projects.

RESULTS OF AUDIT

Finding 1: Leases Between Rental New Construction Projects' Owners and Households Included Prohibited Language

Leases between rental new construction projects' owners and the households for Program-funded units in two projects included language prohibited by HUD's regulations and the City's regulatory agreements with the owners. This weakness occurred because the City lacked adequate procedures and controls to ensure that the leases did not contain prohibited language. As a result, the City drew down nearly \$7.4 million in Program funds for two projects in which the rights of 73 households were not protected.

Projects' Leases Included Prohibited Language

We reviewed the leases between the projects' owners and the households for 23 of the 794 Program-assisted units from the 14 projects that the City reported as complete in HUD's Integrated Disbursement and Information System² from January 1, 2012, through December 31, 2013. The City drew down nearly \$55 million in Program funds for the 14 projects.

The leases between the owners and the households for two units in two projects (numbers 8806 and 10289) included language prohibited by HUD's regulations at 24 CFR (Code of Federal Regulations) 92.253(b)(3) and the City's regulatory agreements with the owners. Project numbers 8806 and 10289 consisted of 40 and 33 Program-assisted units, respectively. Therefore, we reviewed the leases for an additional 10 units in each of the two projects. These leases also contained prohibited language. Property managers for each of the projects stated that all of the leases for the Program-assisted units included the same prohibited language.

The leases for the units in project number 8806 contained the following prohibited language.

4. UTILITIES AND SERVICES: Interruption or curtailment of any utility or any other service to the premises shall not entitle the Tenant to any claim against the Landlord or any abatement of rent. Failure of any appliance to operate or failure of Landlord to make any repairs whatsoever shall give the Tenant no claim for damages against the Landlord or the Landlord's agents, or entitle the Tenant to any abatement of rent. The Landlord shall furnish water, sewer and trash removal. The

² HUD's System is the drawdown and reporting system for the Program.

20. LIABILITY: The Tenant agrees that the Landlord shall not be liable for any damage or injury to the tenant, the Tenant's agents or employees or to any person entering the premises or the building of which the premises are a part, or to goods or personal property therein resulting from any defect in the premises structure or its equipment, or in the structure or equipment of the structure of which the premises are a part, and the Tenant further agrees to indemnify and save the Landlord harmless from all claims of every kind and nature.

The leases for the units in project number 10289 contained the following prohibited language.

i. Landlord strongly encourages all tenants to purchase appropriate renter's insurance. *Tenant is responsible for insuring its personal possessions.* Landlord is not an insurer of Tenant's health or of its personal possessions. Tenant agrees that both Tenant's person and Tenant's property in the Apartment or elsewhere in the Building shall be at Tenant's own risk.

The City drew down nearly \$7.4 million in Program funds for the two projects (\$4,913,961 for project number 8806 and \$2,448,226 for project number 10289).

In May 2014 and as a result of our audit, the City had the owner of project number 8806 execute lease addenda that removed the prohibited language from the leases for 34 of the 40 units in the project. The City also provided a new lease for an additional unit that did not contain prohibited language. For the remaining five units, three of the units were vacant, and the owner was involved in ongoing eviction proceedings with the households in two units. Further, in April and May 2014, the City had the owner of project number 10289 execute lease addenda that removed the prohibited language from the leases for the 33 units in the project.

The City Lacked Adequate Procedures and Controls

The weakness described above occurred because the City lacked adequate procedures and controls to ensure that the leases between the projects' owners and the households did not contain language prohibited by HUD's regulations and the City's regulatory agreements with the owners. The assistant commissioner of the Monitoring and Compliance Division in the City's Department of Planning and Development stated that although the City did not review projects' standard leases before the projects were completed and units were leased, the Division's staff should have reviewed the projects' leases during the City's required annual compliance monitoring. However, the staff did not review the leases because the staff assumed that the owners used leases that complied with HUD's regulations and the regulatory agreements. Further, the Division's long-term Program monitoring requirements and procedures required owners to submit leases for new households only and did not specify that the Division's staff should review the leases for prohibited language.

Conclusion

The City lacked adequate procedures and controls to ensure that the leases between the projects' owners and the households did not contain language prohibited by HUD's regulations and the City's regulatory agreements with the owners. As a result, the City drew down nearly \$7.4 million in Program funds for two projects in which the rights of 73 households were not protected due to prohibited language in the leases.

Recommendations

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

- 1A. Ensure that over the next year, the owner of project number 8806 does not execute leases that include prohibited language for the 38 units in which (1) the owner executed lease addenda for 34 units that removed the prohibited language from the current leases, (2) the owner executed a new lease for a unit that did not contain prohibited language, or (3) three units were vacant. This measure will ensure that \$4,668,263 ($\$4,913,961 / 40 \text{ units} * 38 \text{ units}$) in Program funds drawn down for the 38 units in the project was used in accordance with HUD's regulations and the City's regulatory agreement with the owner.
- 1B. Ensure that for the two Program-assisted units in project number 8806 in which the owner is involved in ongoing eviction proceedings with the households, (1) the leases between the owner and the households are amended to remove the prohibited language if the households are not evicted, (2) the owner executes leases that do not include prohibited language with new households if the households are evicted, or (3) reimburse its Program from non-Federal funds for the \$245,698 ($\$4,913,961 / 40 \text{ units} * \text{two units}$) in Program funds drawn down for the two units as appropriate.
- 1C. Ensure that over the next year, the owner of project number 10289 does not execute leases that include prohibited language for the 33 units in which the owner executed lease addenda that removed the prohibited language from the current leases. This measure will ensure that \$2,448,226 in Program funds drawn down for the 33 units in the project was used in accordance with HUD's regulations and the City's regulatory agreement with the owner.
- 1D. Implement adequate procedures and controls to ensure that leases associated with Program-assisted units are reviewed to ensure that the leases do not contain prohibited language.

Finding 2: The City Did Not Always Use and Report Program Income in Accordance With HUD's Requirements

The City did not always follow HUD's requirements in its use and reporting of Program income. It (1) inappropriately drew down nearly \$25.2 million in Program funds from its HOME investment trust fund treasury account from January 1, 2012, through December 31, 2013, when it had available Program income, (2) inappropriately used Program income, (3) did not report more than \$4.3 million in Program income in HUD's System in a timely manner, and (4) did not deposit Program income into its HOME investment trust fund local account. These weaknesses occurred because the City lacked adequate procedures and controls to ensure that it used and reported Program income in accordance with HUD's requirements. As a result, (1) the U.S. Department of the Treasury paid more than \$30,000 in unnecessary interest on the Program funds that the City drew down from its treasury account when Program income was available, (2) the City had more than \$9,000 less in Program income to be used for eligible Program activities, and (3) HUD and the City lacked assurance regarding the amount of Program income available to the City.

The City Inappropriately Drew Down Program Funds When It Had Program Income

Contrary to regulations at 24 CFR 92.502(c)(3), the City did not always properly use income generated from its Program. The City inappropriately made 60 drawdowns from its treasury account from January 1, 2012, through December 31, 2013, when it had available Program income. The drawdowns totaled nearly \$25.2 million in Program funds.

The City Inappropriately Used Program Income

The City did not use Program income in accordance with regulations at 24 CFR 92.503(a)(1). The City received \$9,200 in Program income in April 2013. However, in July 2013, it inappropriately reported the Program income in HUD's System as Community Development Block Grant program. In September 2013, the City used this Program income for the expenses of two Block Grant-funded activities. The City's assistant comptroller in the Department of Finance's Grants and Project Accounting Division stated that the activities were not eligible under the Program.

The City's Reporting of Program Income to HUD Was Not Timely

Contrary to HUD's Office of Community Planning and Development Notice 97-9, the City did not report Program income in HUD's System in a timely manner. The City reported in HUD's System that it received more than \$4.3 million in Program income from January 1, 2012, through December 31, 2013, through 24 entries. However, it exceeded HUD's 30-day reporting requirement for all of the entries by 10 to 159 days. The table in appendix D of this report shows the month in which the City earned Program income, the amount of Program income earned, the date on which the City reported the Program income in HUD's System, and the number of days it exceeded HUD's 30-day requirement.

Further, the City did not deposit Program income into its HOME investment trust fund local account as required by regulations at 24 CFR 92.503(a)(1). Although the City deposited Program funds drawn down from its treasury account into its local account, it deposited income generated from its Program into the City's Grants and Project Accounting Division's bank account and tracked the Program income through its accounting system.

The City Lacked Adequate Procedures and Controls

The weaknesses described above occurred because the City lacked adequate procedures and controls to ensure that it used and reported Program income in accordance with HUD's requirements. The assistant comptroller in the Grants and Project Accounting Division stated that the City mistakenly drew down Program funds from the treasury account rather than using available Program income due to staff oversight. The assistant comptroller also stated that an accountant, who was responsible for reporting Program income in HUD's System, and the supervisor of accounting in the Division had other responsibilities. Therefore, ensuring that Program income was reported in HUD's System in a timely manner was not their main focus. The accountant said that there were times when he got behind and deposited several months of Program income at one time rather than monthly.

Conclusion

The City lacked adequate procedures and controls to ensure that it used and reported Program income in accordance with HUD's requirements. As a result, (1) the U.S. Department of the Treasury's paid \$30,225 in unnecessary interest on the nearly \$25.2 million in Program funds that the City drew down from its

treasury account when Program income was available,³ (2) the City had more than \$9,000 less in Program income to be used for eligible Program activities, and (3) HUD and the City lacked assurance regarding the amount of Program income available to the City.

Recommendations

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

- 2A. Reimburse HUD, for transmission to the U.S. Treasury, \$30,225 from non-Federal funds for the unnecessary interest the U.S. Department of the Treasury paid on the Program funds that the City drew down from its treasury account when Program income was available.
- 2B. Reimburse its Program from non-Federal funds \$9,200 for the Program income inappropriately used for two Block Grant activities.
- 2C. Implement adequate procedures and controls to ensure that it (1) uses available Program income for eligible housing activities before it draws down Program funds from its treasury account, (2) reports Program income in HUD's System in a timely manner, and (3) deposits Program income into its local account.

³ See scope and methodology.

Finding 3: The City Did Not Always Conduct Required Annual Compliance Monitoring of Rental New Construction Projects

The City did not always conduct required annual compliance monitoring of Program-funded rental new construction projects in calendar year 2013. This weakness occurred because the City lacked adequate procedures and controls for conducting annual compliance monitoring of projects as required by HUD's regulations. As a result, HUD and the City lacked assurance that households were (1) living in units that met HUD's property standards requirements, (2) income eligible, and (3) not paying excessive rents.

The City Did Not Always Conduct Required Annual Compliance Monitoring of Projects

We reviewed the City's annual compliance monitoring for the six Program-funded projects that the City reported as completed in HUD's System from January 1 through December 31, 2012. The City drew down more than \$26.3 million in Program funds for the six projects. Each project contained more than 25 units.

The City did not always conduct annual compliance monitoring of projects from January 1 through December 31, 2013, as required by regulations at 24 CFR 92.504(d)(1). It did not perform annual onsite inspections of Program-assisted units for project numbers 8806, 10288, 10289, and 10295 to determine whether the units complied with the property standards requirements of 24 CFR 92.251. Further, contrary to regulations at 24 CFR 92.252(f)(2), the City did not ensure that the owner of project number 10289 provided the City with information on the rents and occupancy of Program-assisted units to demonstrate compliance with 24 CFR 92.252. Therefore, the City also did not perform an onsite review to verify the information that the owner was required to submit.

In April 2014 and as a result our audit, the owner of project number 10289 provided the City with information on the rents and occupancy of Program-assisted units and the City performed an onsite review to verify the information that the owner submitted. Further, as of August 2014, the City had performed onsite inspections of units in the four projects. However, it did not provide sufficient documentation to support that the units it inspected for project numbers 10288 and 10289 were Program-assisted units at the time of the inspections.

The City Lacked Adequate Procedures and Controls

The weakness described above occurred because the City lacked adequate procedures and controls for conducting annual compliance monitoring of projects from January 1 through December 31, 2013, as required by HUD's regulations. The Construction and Compliance Division in the City's Department of Planning and Development did not have a sufficient number of rehabilitation construction specialists to complete the annual onsite inspections of Program-assisted units in a timely manner. The Department planned to hire an additional rehabilitation construction specialist in 2015. The deputy commissioner of the Construction and Compliance Division also stated that three of the six rehabilitation construction specialists missed a significant amount of work time due to illness and other issues. The assistant commissioner of the Monitoring and Compliance Division in the City's Department of Planning and Development said that the City could not contract for inspectors due to union issues.

The assistant commissioner said that for project number 10289, the City's Multifamily Affordable Financing Division in the City's Department of Planning and Development did not provide the Monitoring and Compliance Division the regulatory agreement and Program-funded unit information. Although the Monitoring and Compliance Division requested the documentation from the Multifamily Affordable Financing Division, it did not follow up when it did not receive the documentation. Therefore, it did not know which units were Program-funded units and did not monitor the project.

Conclusion

The City lacked adequate procedures and controls for conducting annual compliance monitoring of projects from January 1 through December 31, 2013, as required by HUD's regulations. As a result, HUD and the City lacked assurance that households were (1) living in units that met HUD's property standards requirements, (2) income eligible, and (3) not paying excessive rents.

Recommendations

We recommend that the Director of HUD's Chicago Office of Community Planning and Development

- 3A. Ensure that the units the City inspected for project numbers 10288 and 10289 were Program-assisted units at the time of the inspections.

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

- 3B. Implement adequate procedures and controls to ensure that (1) it performs annual onsite inspections of Program-assisted units for projects with more than 25 units to determine whether the units complied with the HUD's property standards requirements, (2) the projects' owners provide the City with information on the rents and occupancy of Program-assisted units to demonstrate compliance with 24 CFR 92.252, and (3) it performs annual on-site inspections to verify the information submitted by the owners for projects with more than 25 units.

SCOPE AND METHODOLOGY

We performed our onsite audit work from January through April 2014 at the City's offices located at 121 North LaSalle Street, Chicago, IL. The audit covered the period January 2012 through December 2013 and was expanded as necessary.

To accomplish our objectives, we reviewed

- Applicable laws, regulations at 24 CFR Part 92, HUD's "Building HOME: A Program Primer," and HUD's Office of Community Planning and Development Notice 97-9.
- The City's consolidated plan for 2010 through 2014, action plans for 2012 and 2013, single audit reports for 2011 and 2012, accounting records, data from HUD's System and the City's MITAS enterprise loan system, policies and procedures, Program project files, and organizational chart.
- HUD's files for the City.

In addition, we interviewed the City's and projects' employees and HUD's staff.

Finding 1

We randomly selected leases between the rental new construction projects' owners and the households for 23 of the 794 Program-assisted units from the 14 projects that the City reported as complete in HUD's System from January 1, 2012, through December 31, 2013. The City drew down nearly \$55 million in Program funds for the 14 projects. The leases between the owners and the households for two units in two projects (numbers 8806 and 10289) included language prohibited by HUD's regulations. Project numbers 8806 and 10289 consisted of 40 and 33 Program-assisted units, respectively. Therefore, we reviewed the leases for an additional 10 units in each of the two projects.

Finding 2

We were conservative in our determination of the amount of unnecessary interest that the U.S. Treasury paid. We based our calculation on the 10-year U.S. Treasury rate, using simple interest on the City's daily balance of Program income. Further, we did not include in the City's daily balance of Program income any Program income received during a month until the first day of the following month.

Finding 3

We selected the City's annual compliance monitoring for the six Program-funded rental new construction projects that the City reported as completed in HUD's System from January 1

through December 31, 2012. The City drew down more than \$26.3 million in Program funds for the six projects. Each project contained more than 25 units.

We relied in part on data in the City's system and HUD's System. Although we did not perform a detailed assessment of the reliability of the data, we performed minimal levels of testing and found the data to be adequately reliable for our purposes.

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 and efficiency of operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Reliability of financial reporting – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.
- Compliance with applicable laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.

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 lacked adequate procedures and controls to ensure that

- The leases between the rental new construction projects' owners and the households did not contain language prohibited by HUD's regulations and the City's regulatory agreements with the owners (see finding 1).
- It used and reported Program income in accordance with HUD's requirements (see finding 2).
- It conducted annual compliance monitoring of rental new construction projects as required by HUD's regulations (see finding 3).

APPENDIXES

Appendix A

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

Recommendation number	Ineligible 1/	Funds to be put to better use 2/
1A		\$4,668,263
1B	\$245,698	
1C		<u>2,448,226</u>
2A	30,225	
2B	<u>9,200</u>	
Totals	<u>\$285,123</u>	<u>\$7,116,489</u>

- 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/ 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. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this instance, implementation of our recommendations will ensure that (1) over the next year, the projects' owners will not execute leases that include prohibited language and (2) Program funds will be used in accordance with HUD's regulations and the City's regulatory agreements with the owners.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

Comment 1
Comment 2

Comments 2
and 3


OFFICE OF BUDGET AND MANAGEMENT
CITY OF CHICAGO

September 9, 2014

Brent G. Bowen, Assistant Regional Inspector for Audit
United States Department of HUD – Office of Inspector General
Ralph H. Metcalfe Federal Building
77 W. Jackson Boulevard, Room 2201
Chicago, Illinois 60604

Dear Mr. Bowen:

The City of Chicago is in receipt of the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General discussion draft audit report dated August 29, 2014. Outlined below is the City's response to the three findings noted in the draft audit report.

HUD OIG Finding 1: Leases Between Rental New Construction Projects' Owners and Households Included Prohibited Language.

City Response:
The City is in agreement with the finding.

The City has amended its existing policies and procedures regarding the monitoring of tenant files to specifically incorporate the review of all lease agreements, including all riders. A copy of the updated policies and procedures incorporating the language pertaining to lease agreements is included with this response, see Attachment 1. Also, monitoring staff will review all lease agreements during the Annual Owners Certification (AOC) process, in addition to the annual on-site HOME records inspections.

In addition, Attachment 1a includes copies of lease addendums for the 33 Program-assisted units in project number 10289, removing any prohibited language. File records for new tenants who have rented HOME- funded units within the 2014 AOC submittal time frame have been reviewed as part of the AOC review process and the lease agreements do not contain the prohibited language.

HUD OIG Finding 2: The City did not always use and report program income in accordance with HUD's requirements.

2A: Reimburse HUD, for transmission to the U.S. Treasury, \$30,225 from non-Federal funds for the unnecessary interest the U.S. Department of the Treasury paid on the Program funds that the City drew down from its treasury account when Program income was available.

121 NORTH LASALLE STREET, ROOM 604, CHICAGO, ILLINOIS 60602

Ref to OIG Evaluation

Auditee Comments

Comment 4

City Response:

The City is in agreement with the finding.

The City will repay any unnecessary interest incurred from improperly administering program income.

2B: Reimburse its Program from non-Federal funds \$9,200 for the Program income inappropriately used for two Block Grant activities.

City Response:

The City is in agreement with the finding.

Comment 5

The City acknowledges that program income was inappropriately used and will reimburse HUD.

2C: Implement adequate procedures and controls to ensure that it (1) uses available Program Income for eligible housing activities before it draws down Program Funds from its treasury account, (2) reports Program income in HUD's System in a timely manner and (3) deposits Program Income into its local account.

City Response:

The City is in agreement with the finding.

Comment 6

Comment 2

(1) To address the timely usage of program income the City has updated its procedures to ensure that it uses available program income for eligible housing activities before it draws down Program Funds. See Attachment 2, "HOME Program Income Process", under the section titled "Entering Program Income into The General Ledger and IDIS", paragraph 5 for details.

Comment 6

Comment 2

(2) To ensure the receipt of program income in IDIS, the City revised the HOME Program Income Process requiring the City's Department of Finance to record in HUD's IDIS by the 30th day of each month following the receipt of the program income. Please reference paragraph 4 of the section titled "Entering Program Income into The General Ledger and IDIS".

Comment 2

and 6

(3) The program income process referred to above, includes a requirement to deposit all program income earned into a local account, see paragraph 3 of the section titled "Entering Program Income into MITAS."

HUD OIG Finding 3: The City did not always conduct required annual compliance monitoring of rental new construction projects.

City Response:

The City is in agreement with the finding.

Comment 7

The Department of Planning and Development (DPD) maintains a spreadsheet which tracks the monitoring of all HOME funded projects including Annual Owner Certification (AOC) submittals, annual records inspections and annual physical inspections. This spreadsheet has been shared with the HUD Regional Office. In order to meet program requirements, DPD auditors will complete all outstanding monitoring inspections from 2013 by December 31, 2014.

Ref to OIG Evaluation

Auditee Comments

If you have any questions or need additional information, please feel free to contact Rosalind Stevens,
Director of Grants Administration at 312-744-2519 or Rosalind.Stevens@cityofchicago.org

Sincerely,



Arlene Ortiz-Cruz
Managing Deputy Budget Director

Enclosures

Cc: Rosalind Stevens
Rolando De Luna
Peter Murawski

OIG's Evaluation of Auditee Comments

Comment 1 The City stated that it amended its existing policies and procedures regarding the monitoring of tenant files to specifically incorporate the review of all lease agreements including all riders. The City provided its Department of Planning and Development's Monitoring and Compliance Division's revised long-term Program monitoring requirements and procedures as attachment 1. The City also stated that its monitoring staff will review all lease agreements during the City's annual owners' certification process in addition to the annual onsite Program records inspections.

We recognize that the City amended its policies and procedures regarding the review of leases associated with Program-assisted units. However, the revised long-term Program monitoring requirements and procedures stated that for the City's annual owners' certification process, rental new construction projects' owners must submit leases for new households only and did not specify whether the Division's staff would review the leases for prohibited language. Further, the Division would continue to use a 20 percent sample for projects with more than five units during the City's annual onsite Program records inspections. In addition, the City's amended policies and procedures do not indicate whether a review of the projects' standard leases would occur before the projects are completed and units are leased. Therefore, the City should work with HUD's Chicago Office of Community Planning and Development to ensure that leases associated with Program-assisted units do not contain prohibited language.

Comment 2 We did not include in appendix B the attachments that the City provided since the attachments were not necessary to understand the City's comments. We provided the Director of HUD's Chicago Office of Community Planning and Development with a complete copy of the City's written comments plus the attachments.

Comment 3 The City provided as attachment 1A lease addenda executed by the owner of project number 10289 that removed the prohibited language from the leases for the 33 Program-assisted units.

We revised the report to state the following:

- Further, in April and May 2014, the City had the owner of project number 10289 execute lease addenda that removed prohibited language from the leases for the project's 33 units.

We also amended recommendation 1C to reflect this revision.

Comment 4 The City stated that it will repay any unnecessary interest incurred from improperly administering Program income. The City should work with HUD's Chicago Office of Community Planning and Development regarding the reimbursement to HUD, for transmission to the U.S. Treasury, from non-Federal

funds for the unnecessary interest the U.S. Department of the Treasury paid on the Program funds that the City drew down from its treasury account when Program income was available.

Comment 5 The City stated that it will reimburse HUD for the Program income that was inappropriately used. The recommendation is that the City reimburse its Program from non-Federal funds for the Program income that was inappropriately used for two Block Grant activities. Therefore, the City should work with HUD's Chicago Office of Community Planning and Development to ensure that this recommendation is appropriately implemented.

Comment 6 The City provided its Department of Finance's Grants and Project Accounting Division's Program income process as attachment 2. The Program income process stated that an operations analyst in the Division will record the receipt of Program income in the City's MITAS enterprise loan system. At the end of the month, the operations analyst will provide to the Division's accountant responsible for the Program a report that details the Program income activity reflected in the MITAS enterprise loan system for the month. The accountant will create and submit for approval a cash receipt for the Program income. Once approved, the Program income will be reported in the City's general ledger. The accountant will then report the Program income in HUD's System by the 30th day of the following month.

We recognize that the City amended its policies and procedures regarding the use, reporting, and depositing of Program income. However, since the Program income process does not contain timeframes for the creation, submission, and approval of the cash receipt, it is not clear whether the reporting of the Program income in HUD's System will be the 30th day of the following month from when the Program income was (1) received or (2) reported in the City's general ledger. Further, the City would have already determined the amount of Program income received by the end of each month that it was earned. Therefore, the City should work with HUD's Chicago Office of Community Planning and Development to ensure that Program income is (1) used for eligible housing activities before it draws down Program funds from its treasury account and (2) reported in HUD's System in a timely manner.

Comment 7 Although the City maintained the spreadsheet to track the annual compliance monitoring of projects from January 1 through December 31, 2013, it did not perform annual onsite inspections of Program-assisted units for project numbers 8806, 10288, 10289, and 10295 to determine whether the units complied with the property standards requirements of 24 CFR 92.251. Further, the City did not ensure that the owner of project number 10289 provided the City with information on the rents and occupancy of Program-assisted units to demonstrate compliance with 24 CFR 92.252 and did not perform an onsite review to verify the information that the owner was required to submit.

Appendix C

HUD'S REQUIREMENTS AND THE CITY'S REGULATORY AGREEMENTS

Finding 1

Regulations at 24 CFR 92.253(b)(3) state that a lease between an owner and a tenant of rental housing assisted with Program funds may not contain a provision excusing the owner from responsibility in which the tenant agrees to not hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent.

Regulations at 24 CFR 92.504(a) state that a participating jurisdiction is responsible for managing the day-to-day operations of its Program, ensuring that Program funds are used in accordance with all Program requirements and written agreements, and taking appropriate action when performance problems arise. The use of subrecipients or contractors does not relieve the participating jurisdiction of this responsibility.

Sections 2.15 and 2.12 of the City's regulatory agreements with the owners of rental new construction project numbers 8806 and 10289, respectively, state that the leases for units in the projects will not contain a provision in which the tenant agrees to not hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent.

Finding 2

Regulations at 24 CFR 92.2 define Program income as gross income received by a participating jurisdiction directly generated from the use of Program funds or matching contributions. Program income also includes interest earned on Program income pending its disposition.

Regulations at 24 CFR 92.502(c)(3) state that a participating jurisdiction must disburse Program funds, including Program income and recaptured Program funds, in its local account before requesting Program funds from its treasury account.

Regulations at 24 CFR 92.503(a)(1) state that a participating jurisdiction must use Program income in accordance with the requirements of 24 CFR Part 92 and deposit Program income into its local account unless it permits a State recipient or subrecipient to retain the Program income for additional Program projects under the written agreement required by 24 CFR 92.504.

HUD's Office of Community Planning and Development Notice 97-9, issued September 12, 1997, requires available Program income to be determined and recorded in HUD's System in periodic intervals not to exceed 30 days.

Finding 3

Regulations at 24 CFR 92.252 state that Program-assisted units in a rental housing project must be occupied only by low-income households and meet HUD's maximum Program rent limits to qualify as affordable housing. Section 92.252(f)(2) states that project owners must annually provide a participating jurisdiction with information on rents and occupancy of Program-assisted units to demonstrate compliance with 24 CFR 92.252.

Regulations at 24 CFR 92.504(d)(1) state that during the period of affordability, a participating jurisdiction must perform onsite inspections of Program-assisted rental housing to determine compliance with the property standards at 24 CFR 92.251 and to verify the information submitted by owners in accordance with the requirements of 24 CFR 92.252 no less than every year for projects containing 26 or more units. Inspections must be based on a sufficient sample of units.

Appendix D

SCHEDULE OF PROGRAM INCOME THAT WAS NOT REPORTED IN A TIMELY MANNER

Month Program income received	Program income earned	Date reported in HUD's System	Days over HUD's 30-day requirement*
Dec. 2011	Not applicable	Jan. 24, 2012	Not applicable
Jan. 2012	\$29,519	Mar. 16, 2012	22
Feb. 2012	26,752	June 25, 2012	71
Mar. 2012	32,862	June 25, 2012	71
Apr. 2012	30,120	Dec. 31, 2012	159
May 2012	31,858	Dec. 31, 2012	159
June 2012	30,578	Dec. 31, 2012	159
July 2012	34,270	Dec. 31, 2012	159
Aug. 2012	20,106	Dec. 31, 2012	159
Sept. 2012	29,898	Dec. 31, 2012	159
Oct. 2012	21,033	Dec. 31, 2012	159
Nov. 2012	41,508	Dec. 31, 2012	159
Dec. 2012	3,537,990	Mar. 28, 2013	57
Jan. 2013	25,356	Aug. 5, 2013	100
Feb. 2013	135,847	Aug. 5, 2013	100
Mar. 2013	31,187	Aug. 5, 2013	100
Apr. 2013	37,433	Aug. 5, 2013	100
May 2013	28,006	Aug. 5, 2013	100
June 2013	28,249	Oct. 10, 2013	36
July 2013	29,464	Oct. 10, 2013	36
Aug. 2013	28,745	Oct. 10, 2013	36
Sept. 2013	28,396	Nov. 19, 2013	10
Oct. 2013	28,589	Jan. 30, 2014	42
Nov. 2013	32,734	Jan. 30, 2014	42
Dec. 2013	51,453	May 2, 2014	62

* The number of days after the 30th day since the City last reported Program income in HUD's System.