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MEMORANDUM NO.
2009-CH-1802

September 17, 2009

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


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

SUBJECT: Cook County, Illinois, Needs to Improve Its Capacity to Effectively and Efficiently
Administer Its Neighborhood Stabilization Program

INTRODUCTION

We reviewed Cook County's (County) Neighborhood Stabilization Program. The review was part of the activities in our fiscal year 2009 annual audit plan. We selected the County based upon the results of our three previous audits of the County's HOME Investment Partnerships Program (HOME). Our objective was to determine whether the County had the capacity to effectively and efficiently administer its Neighborhood Stabilization Program.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

BACKGROUND

The Program. Authorized under Title III of the Housing and Economic Recovery Act (Act), as amended, the Neighborhood Stabilization Program provides grants to every state and certain local communities to purchase foreclosed or abandoned homes and to rehabilitate, resell, or redevelop these homes to stabilize neighborhoods and stem the decline in value of neighboring homes. The U.S. Department of Housing and Urban Development (HUD) allocated more than \$3.9 billion in Neighborhood Stabilization Program funds to grantees.

The County. Organized under the laws of the State of Illinois, the County is governed by a 17-member board of commissioners (board), including a board president, elected to four-year terms. The board designated the County's Department of Planning and Development (Department) to administer its Neighborhood Stabilization Program. The overall mission of the Department is to promote community and economic growth in the region by investing in affordable housing,

public infrastructure and safety, and the retention and expansion of businesses and jobs in the County. The County's records are located at 69 West Washington Street, Chicago, Illinois.

HUD allocated nearly \$28.2 million in Neighborhood Stabilization Program funds to the County based upon the funding formula developed by HUD pursuant to the Act. On March 31, 2009, HUD entered into a grant agreement with the County for the full amount allocated. The County's revised Neighborhood Stabilization Program budget included the following: nearly \$19 million for the purchase and rehabilitation of abandoned or foreclosed homes or residential properties to sell, rent, or redevelop the homes or properties; \$100,000 to establish land banks for foreclosed homes; \$1 million for the demolition of blighted structures; \$5.3 million for the redevelopment of demolished or vacant properties; and more than \$2.8 million for planning and administration costs. The County also plans to provide a financing mechanism for the purchase and redevelopment of foreclosed homes and residential properties with the nearly \$19 million for the purchase and rehabilitation of abandoned or foreclosed homes or residential properties.

Congress amended the Neighborhood Stabilization Program and increased its funding as part of the American Recovery and Reinvestment Act of 2009 (Recovery Act). The County, as part of a consortium, submitted an application to HUD, dated July 14, 2009, which totaled more than \$75 million in additional Neighborhood Stabilization Program funds under the Recovery Act. The application is under review by HUD.

We issued three audit reports (Office of Inspector General (OIG) Audit Report numbers 2007-CH-1015, 2008-CH-1009, and 2009-CH-1004) on the County's HOME program from September 26, 2007, through February 13, 2009. We found that the County did not adequately manage its HOME program. It inappropriately used HOME funds and income and American Dream Downpayment Initiative (Initiative) funds, incorrectly reported HOME match contributions and the amounts of HOME contributions it was required to provide in its consolidated annual performance and evaluation reports to HUD, and lacked documentation to support its use of HOME and Initiative funds because its management did not implement adequate procedures and controls to ensure that its HOME program was operated according to HUD's and its own requirements.

METHODOLOGY AND SCOPE

To accomplish our objective, we reviewed

- Applicable laws; the *Federal Register*, dated October 6, 2008, and June 19, 2009; HUD's regulations at 24 CFR (*Code of Federal Regulations*) Parts 85 and 570; OIG Audit Report numbers 2007-CH-1015, 2008-CH-1009, and 2009-CH-1004; HUD's Neighborhood Stabilization Program grant agreement with the County; and HUD's Chicago Office of Community Planning and Development's monitoring reports for the County's HOME and Community Development Block Grant (Block Grant) programs from 2006 to 2009.

- The County's 2008 action plan substantial amendment for the Neighborhood Stabilization Program, policies and procedures, staffing plans and allocations, budgets, job descriptions, and organizational charts.

We also interviewed the County's employees and HUD's staff.

We performed our on-site review work from July through August 2009 at the County's office located at 69 West Washington, Chicago, Illinois. The review covered the period October 2006 through May 2009 and was expanded as determined necessary.

RESULTS OF REVIEW

1. The County Needs to Improve Its Capacity to Effectively and Efficiently Administer Its Neighborhood Stabilization Program

The *Federal Register*, dated October 6, 2008, stated that HUD encouraged each local jurisdiction receiving an allocation of Neighborhood Stabilization Program funds to carefully consider its administrative capacity to use those funds within the statutory deadline versus the capacity of a state administrator. Further, HUD expected that after such consideration, some local jurisdictions would choose to apply for less than the full amount of the funds allocated to them.

Policies, Procedures, and Controls

As of September 9, 2009, the County had not established sufficient policies and procedures for its Neighborhood Stabilization Program. On July 24 and July 31, 2009, the County provided its draft Community Development Block Grant procedures and operations manual (draft Block Grant manual), dated July 2009, and draft financial grant management procedures manual (draft financial manual), dated July 2009, respectively, which contained policies and procedures concerning the County's Neighborhood Stabilization Program. However, the draft manuals were incomplete. The draft Block Grant manual lacked sections covering policies and procedures for organization and program function, performance reporting, and civil rights and fair housing. The draft financial manual lacked sections covering reliability of data and allocation of administrative expenses. The draft manuals also did not contain management's monitoring procedures to ensure that funds were used appropriately.

On September 9, 2009, the County provided a revised financial grant management procedures manual (financial manual), dated September 2009. The financial manual included the sections mentioned above that were missing in the draft financial manual. However, the sections were incomplete. Appendix A.7 identified the following items for reconciliation: postage, petty cash, program income, project expenditures, draw down revenue, and HUD's Integrated Disbursement and Information System and Disaster Recovery Grant Reporting system. It also stated that procedures for several of the items were contained throughout the financial manual. However, the financial manual only contained policies and procedures for the reconciliation of program income. In addition, the policies and procedures only referred to reconciling data with HUD's Integrated Disbursement and Information System. Neighborhood Stabilization Program data is contained in HUD's Disaster Recovery Grant Reporting system. The section covering allocation of administrative expenses stated administrative expenses that cannot be directly associated with

one or more of the County's grants will be allocated to all of the grants based on the percentage of time the County's employees work on each grant. However, allocating costs based on employees' time is not appropriate for all administrative expenses.

As previously stated, the County did not adequately manage its HOME program. The County's policies and procedures for its Neighborhood Stabilization Program, if implemented, should address most of the issues we identified with the County's HOME program that could impact the Neighborhood Stabilization Program. However, the following issues, identified in OIG Audit Report number 2008-CH-1009, if left uncorrected, could also impact the Neighborhood Stabilization Program.

The County did not effectively administer its HOME program income and administrative costs and failed to follow HUD's requirements. It did not allocate interest earned from HOME program income as income and used HOME program funds for inappropriate administrative costs and did not have sufficient documentation to support that it used HOME program funds for eligible HOME program administrative costs. The policies and procedures for the County's Neighborhood Stabilization Program income and administrative costs in its manuals did not address these issues identified for HOME program income and administrative costs to ensure that Neighborhood Stabilization Program funds are used appropriately.

The County had never been involved in establishing land banks for foreclosed homes. The deputy director of the Department said that there was at most a 10 percent chance that the County would use the \$100,000 in Neighborhood Stabilization Program funds for establishing land banks. If the County moved forward with establishing land banks, the funds could be used to award \$10,000 grants to maintain properties in the land banks. The *Federal Register*, dated June 19, 2009, stated that land bank operation costs charged to the Neighborhood Stabilization Program are limited to those properties that were acquired with Neighborhood Stabilization Program funds. If the land bank is a government entity, it may also maintain foreclosed property that it does not own, provided it charges the owner of the property the full cost of the service or places a lien on the property for the full cost of the service. However, the County's draft Block Grant manual did not contain specific policies and procedures for land bank operating costs. The deputy director also said that the County may increase funding for establishing land banks once its staff obtains a better understanding of the activities that can be completed through land banks.

On July 20, 2009, the deputy director said that the County's draft manuals were being developed. However, the County was not ready to fully establish the draft manuals because it had not completed sections and had not had a chance to thoroughly review the draft manuals for completeness and accuracy. The County had not been able to complete the draft manuals due to completing its application, changes to the Neighborhood Stabilization Program's requirements, and the lack of guidance HUD provided for different Neighborhood Stabilization Program functions, including the Disaster Recovery and Grants Reporting system.

Staffing

Through the *Federal Register*, dated October 6, 2008, HUD notified the County that it had been allocated nearly \$28.2 million in Neighborhood Stabilization Program funds. The County

submitted its 2008 action plan substantial amendment to HUD for the Neighborhood Stabilization Program on November 25, 2008. The County's initial detailed budget for planning and administrative costs included nearly \$953,000 in salaries and benefits for three staff members at the County to monitor a lead agency; more than \$165,000 for advertising, printing, publishing, and computer services; more than \$144,000 in salaries and benefits for other staff to provide support services; \$10,500 for office supplies and computer equipment and supplies; and nearly \$284,000 for an administration reserve. In addition to the detailed budget, the County planned to use more than \$1.5 million in planning and administration costs for a lead agency to administer the day-to-day operations of its Neighborhood Stabilization Program. The detailed budget for and planned use of planning and administration costs totaled nearly \$3.1 million, which exceeded the allowable amount for planning and administration costs by more than \$260,000.

On March 31, 2009, the County issued a request for proposal for a lead agency to administer the day-to-day operations of its Neighborhood Stabilization Program. According to the request for proposal, the selection of the lead agency was expected in June 2009. On July 8, 2009, the director of the Department said that the County received proposals from seven organizations and was still evaluating the proposals to determine whether it would contract with a lead agency to have the Department administer the day-to-day operations of its Neighborhood Stabilization Program. If the County decided not to contract with a lead agency, the County had designated 10 staff members from the Department to assist in the administration of the Neighborhood Stabilization Program.

The County provided a time allocation sheet for Department staff on July 20, 2009, that included 28 employees that would devote the equivalent of 14.1 staff years annually if the County decided that the Department would administer the operations of the Neighborhood Stabilization Program. On July 27, 2009, the County decided that its Department would administer the Neighborhood Stabilization Program. Further, the deputy director said that the County would contract with regional agencies to assist with inspections and environmental reviews of activities carried out under the Neighborhood Stabilization Program. On July 28, 2009, the County showed us a revised time allocation sheet which included more than \$2.2 million in Neighborhood Stabilization Program funds for salaries of the 28 employees who would devote the equivalent of 14.1 staff years annually to administer the operations of the Neighborhood Stabilization Program over the four years. However, the County did not provide the revised time allocation sheet since it did not accurately represent the Department's staff that would work on the Neighborhood Stabilization Program over the four-year period and did not take into consideration the costs of the regional agencies that would assist in the administration of the Neighborhood Stabilization Program.

On July 31, 2009, the County provided a staffing plan which included staffing time, salary allocations, and position descriptions for the Department's staff reflecting its decision that the Department would administer its Neighborhood Stabilization Program without the assistance of a lead agency. The staffing plan included 17 employees who would devote the equivalent of 11 staff years annually to administer the operations of the Neighborhood Stabilization Program. The staffing plan also included nearly \$2.2 million in Neighborhood Stabilization Program funds for the 17 employees' salaries over the four years. The County did not provide a detailed budget

for its planning and administrative costs. Further, the staffing plan did not include fringe benefits, which if included, would have totaled more than the County's \$2.8 million for planning and administrative costs.

On August 5, 2009, the County provided a revised staffing plan and budget for more than \$2.8 million in planning and administrative costs. The revised staffing plan included 19 employees who would devote the equivalent of 10.25 staff years annually to administer the operations of the Neighborhood Stabilization Program. Of the 19 employees, 5 would contribute 100 percent of their time to the Neighborhood Stabilization Program. The positions for three of the five employees were vacant and would be hired from outside the County's staff. The County had posted a notice of job opportunity (notice) and was interviewing for one of the positions and needed to advertise for the other two. The notice for the one position required at least three years of experience working with and managing federal grants for a large governmental organization or an equivalent nongovernmental corporation. The business manager of the Department said that the other two notices would require the same level of experience. The deputy director also said that the County plans to provide Neighborhood Stabilization Program training to the new employees. This would include providing the new staff with materials that the Department's current staff received at training for the Neighborhood Stabilization Program. However, the County did not have a specific plan for the training that it would provide. The budget included more than \$2.3 million for the 19 employees' salaries and benefits; more than \$220,000 for advertising, printing, publishing, and computer services; \$10,500 for office supplies and computer equipment and supplies; and nearly \$284,000 for an administration reserve. The deputy director said that the County would directly charge the costs of the regional agencies to Neighborhood Stabilization Program activities as project delivery costs to the specific activity costs within the budget.

The County made multiple revisions to its plan for the administration of its Neighborhood Stabilization Program. The deputy director and business manager said that our audit helped the County in moving forward and deciding on how to administer its Neighborhood Stabilization Program. If the County implements the revised staffing plan and budget provided to us on August 5, 2009; hires individuals with experience in the planned activities; and provides adequate training, it should have sufficient staff to administer its Neighborhood Stabilization Program.

2. HUD's Chicago Office of Community Planning and Development Did Not Include Special Conditions in Its Neighborhood Stabilization Program Grant Agreement with the County

HUD's regulations at 24 CFR 85.12 state that a grantee may be considered high risk if it has a history of unsatisfactory performance or has not conformed to the terms and conditions of previous awards. Special conditions and/or restrictions shall correspond to the high-risk condition and shall be included in the award.

On February 24, 2009, HUD's Director of Field Management provided guidance on Neighborhood Stabilization Program grant agreements to all of the directors of the Office of Community Planning and Development. The guidance addressed when a special condition must be included in the Neighborhood Stabilization Program grant agreement with the grantee. The guidance stated that if

a grantee's Neighborhood Stabilization Program funds totaled at least three times its fiscal year 2008 Block Grant fund allocation or had unresolved monitoring findings or other serious actions, a special condition must be included in the Neighborhood Stabilization Program grant agreement with the grantee. The guidance also included the following standard language to be included in grant agreements:

Pursuant to 24 CFR 85.12(a)(1), (2), (4), or (5), a special condition applies to the Neighborhood Stabilization Program grant agreement due to past performance in the Block Grant program. The Program grantee shall submit documentation describing how past Block Grant program performance issues have been resolved or are now being resolved and explain how they will not impact the administration of the Program. If the Program grantee fails to submit such documentation within 60 days from the date HUD signed the Program grant agreement, HUD may withhold the Program grantee's authority to incur additional obligations of Program funds or take other actions authorized under 24 CFR 85.12(b).

The Assistant Director of Financial Management in HUD's Office of Block Grant Assistance stated that the special conditions referred to the Block Grant program since Neighborhood Stabilization Program funds were considered a special allocation of Block Grant funds. However, if a grantee had a history of unsatisfactory performance in another community planning and development program, such as the HOME program, and that unsatisfactory performance was applicable to the grantee's Neighborhood Stabilization Program, it would be appropriate to include special conditions in the grant agreement.

As previously stated, we identified significant deficiencies in the County's administration of its HOME program, which included issues applicable to the County's Neighborhood Stabilization Program. Further, the Department administers both the Neighborhood Stabilization Program and the HOME program. However, HUD's Chicago Office of Community Planning and Development did not place special conditions in its Neighborhood Stabilization Program grant agreement with the County based on its review of the County's 2008 action plan substantial amendment. The Director of HUD's Chicago Office of Community Planning and Development said that although there were previous issues identified with the County's HOME program, he did not believe that special conditions were necessary since his office was handling the deficiencies with the County's HOME program through the management decision process and HOME and the Neighborhood Stabilization Program were separate programs. Further, he did not believe that amending the County's grant agreement to include special conditions was appropriate. However, based upon HUD's regulations at 24 CFR 85.12, the guidance provided by HUD's Director of Field Management and Assistant Director of Financial Management, and the previous issues identified in the OIG audit reports, which included issues applicable to the County's Neighborhood Stabilization Program, we believe that the inclusion of special conditions in the County's Neighborhood Stabilization Program grant agreement is warranted.

RECOMMENDATIONS

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

- 1A. Implement adequate policies, procedures, and controls to ensure that Neighborhood Stabilization Program funds are used effectively and efficiently and in accordance with applicable requirements.
- 1B. Implement its revised staffing plan and budget for planning and administrative costs provided on August 5, 2009, and provide its new employees with adequate training on the Neighborhood Stabilization Program to ensure that the County has sufficient capacity to effectively and efficiently administer its Neighborhood Stabilization Program.

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

- 2A. Include special conditions in its Neighborhood Stabilization Program grant agreement with the County. The special conditions should include but not be limited to (1) requiring the County to submit documentation describing how unresolved HOME program performance issues were resolved or are being resolved and explain whether they will impact the administration of the Neighborhood Stabilization Program and (2) performing additional monitoring.

AUDITEE COMMENTS AND OIG's EVALUATION

Ref to OIG Evaluation

Auditee Comments

September 9, 2009

Brent G. Bowen, Assistant Regional Inspector General for Audit
United States Department of Housing and Urban Development
Office of the Inspector General
77 West Jackson, Suite 2646
Chicago, IL 60604-3507

RE: Office of Inspector General's Audit
Cook County, Illinois - Neighborhood Stabilization Program
Memorandum No. 2009-CH-180X

Dear Mr. Bowen:

The Cook County Department of Planning and Development (CCDPD) acknowledges receipt of the August 21, 2009 HUD's Office of Inspector General's (OIG) draft audit memorandum on Cook County's Need to Improve Its Capacity to Effectively and Efficiently Administer Its Neighborhood Stabilization Program. Thank you for allowing CCDPD additional time to respond to the report.

We recognize the importance of adhering to the United States Department of Housing and Urban Development's (HUD's) regulations and share in the OIG's goals of insuring that we effectively administer the program, appropriately provide matching contributions, and disburse program funds according to HUD's requirements.

If you have any questions or need further information, please contact Ms. Sheila L. Jackson, Finance Manager at (312) 604-1036.

Sincerely,

Maurice S. Jones
Planning and Development Director

MSJ/SLJ/nctk

Attachments:

1. CCDPD Comments to OIG Recommendations
2. Financial Grant Procedures Manual
3. Activity Sheets
4. Supply Request Form
5. Chapter 5 - HOME Manual "Financial Management"

Ref to OIG Evaluation

Auditee Comments

ATTACHMENT 1

COOK COUNTY DEPARTMENT OF PLANNING AND
DEVELOPMENT (CCDPD) COMMENTS TO OIG

Ref to OIG Evaluation

Auditee Comments

OIG RECOMMENDATIONS

1A. Implement adequate policies, procedures and controls that Neighborhood Stabilization Program funds are used effectively and efficiently and in accordance with applicable requirements.

Financial

The draft copy of the Financial Grant Procedures Manual (FGPM) provided to the OIG auditors on July 31, 2009 was identical to the Draft Financial Grant Procedures submitted to the Director of HUD's Chicago Office of Community Planning and Development on February 27, 2009. The date on the manual submitted to the OIG auditors represented the date the copy of printed, July 31, 2009.

Comment 1

CCDPD has removed "Draft" from the document because all of the policies and procedures outlined in the manual were in place at the time of issuance, February 27, 2009. CCDPD will continue to revise the manual on an ongoing basis as the policies, procedures and controls are assessed for the most current compliance requirements. The date of any revisions will be footnoted on the appropriate page and forwarded to the HUD local office.

Comment 2

1A-F1: Finance Manual lacked sections covering the reliability of data.

Comment 1

CCDPD has included the procedures for reconciling program income in the manual. This reconciliation procedure as stated in the FGPM is between the Cook County records, TRAKKER, Lotus Approach Data Base and IDIS. And this will process/reconciliation will continue on a monthly basis. (See FGPM, Page 34)

Comment 1

Also, included in the manual are the procedures for reconciling or verifying the costs associated with projects, administration and draw downs. (See FGPM, Page 40)

1A-F2: Finance Manual lacked sections regarding the allocation of administrative costs.

Comment 1

The FGPM includes procedures for the procurement of administrative purchases. All administrative purchases require prior approval by the division supervisor and

Ref to OIG Evaluation

Auditee Comments

Comment 1

reviewed by the Executive Assistant to the Director. The appropriate grant benefiting from the purchase is identified and it is determined if the purchase is allowable, reasonable and necessary per appropriate HUD guidelines. (See FGPM, Page 41)

CCDPD has included the methodology of allocating administrative costs that can not be associated with a specific grant. This methodology will result in a Cost Allocation Plan to insure that administrative costs are charged to the appropriate grant. (See FGPM, Page 42)

1B. Implement its revised staffing plan and budget for planning and administrative costs provided on August 5, 2009, and provide its new employees with adequate training on the Neighborhood Stabilization Program to ensure the County has sufficient capacity to effectively and efficiently administer its Neighborhood Stabilization Program.

Comment 3

CCDPD will implement the August 5, 2009 staffing plan and budget, as submitted to the OIG auditors. CCDPD will provide all new employees with all of the training and reference materials on the Neighborhood Stabilization Program available. CCDPD has also requested additional HUD and OIG training.

Programmatic

Cook County Department of Planning and Development (CCDPD) has made the following strides to comply with the Department of Housing and Urban Development as it relates to the Neighborhood Stabilization Program;

1A-P1: Establish Policies and Procedures for the Neighborhood Stabilization Program

Comment 4

During the audit, CCDPD provided the OIG staff with a draft manual for Neighborhood Stabilization Program. Cook acknowledges that procedures are necessary for the operation of Neighborhood Stabilization Program. Therefore, CCDPD is constantly updating the Neighborhood Stabilization Program Manual to meet the ever changing needs of the Neighborhood Stabilization Program. Currently, we are striving to integrate policies and procedure already established in the CDBG and HOME programs to facilitate operation of the program. Additionally, CCDPD provided HUD OIG with a copy of its policies and procedures manual for its Single Family Rehabilitation Program. The manual contains Neighborhood Stabilization Program updates. Notwithstanding, the existence of CCDPD Single Family Rehabilitation Manual and modifications made thereto, CCDPD will continue to make revisions to the manual as the Neighborhood Stabilization Program evolves.

Ref to OIG Evaluation

Auditee Comments

Comment 5

1A-P2: Manual lacked sections covering organization and program function.

CCDPD has included a copy of its organization chart as well as a flow chart of its program design. Although the manual is in draft form, it contains specific sections regarding the operation of the Neighborhood Stabilization Program and instances where it differs from the CDBG program. CCDPD continues to update this draft manual as it modifies its program to comply with the regulation. CCDPD requests a model of what a complete and accurate manual would consist of for operation of Neighborhood Stabilization Program from HUD OIG.

Comment 6

1A-P3: Manual lacked sections covering performance reporting.

CCDPD is in the process of contracting with a computer service agency for the purposes of automating and streamlining required performance reporting through DRGR for Neighborhood Stabilization Program. Once an agency has been selected, an outline of the performance reporting process will be included in manuals. In the meantime, CCDPD is in the process of including its existing reporting process as part of the draft manual.

Comment 7

1A-P4: Manual lacked sections covering civil rights and fair housing.

CCDPD acknowledges that the civil rights and fair housing section was not included in the draft manual. However, as part of its ongoing process of updating the manual, the aforementioned section has been included. The draft language for that section is provided below:

(A). Affirmative Marketing Plan for Fair Housing
It is the policy of the Department of Planning and Development that developments of 5 or more housing units must adhere to the Department's Affirmative Marketing Plan. The County's plan identifies the methods that CDBG Program recipients are to use in developing their affirmative marketing plans for submission and approval by the Department.

CCDPD will inform the public, owners and potential tenants about Federal fair housing laws and the County affirmative marketing policy through the distribution of fair housing information at each of the public hearings that are held throughout the year. In addition, the CCDPD will make fair housing information available in its office, on its website and in application materials distributed to all potential CDBG Program applicants. The information that will be made available will list the County policy and a prescribed method for achieving compliance with the County requirements.

Each owner who has received County CDBG funding must conduct its business operation in a manner that promotes fair and equal access to all those who apply and are eligible for tenancy. That should include the selection of a management agent or the employment of internal staff that is familiar with the fair housing laws as well as what constitutes prohibited acts under the fair housing laws. All owners are required to use the Fair Housing Logo and Slogan on all marketing materials, with the inclusion of information on where discrimination complaints can be filed by rejected applicants.

Comment 7

All CCDPD CDBG applicants must submit an affirmative marketing plan that indicates the racial composition of the housing primary market area in which the housing will be located. In the plan it is also required to submit a list of the targeted groups the CDBG applicant believes is least likely to apply for housing in the project. In arriving at this group, the CDBG applicant should consider factors such as price or rental of housing, sponsorship of housing, racial/ethnic characteristics of housing market area in which housing will be located, disability or familial status of eligible population and public transportation routes.

The CDBG applicant must describe the marketing program that it will use to attract members of the eligible population, with special emphasis on those groups designated least likely to apply. The applicant shall state: the type of media identified in the plan and the size or duration of newspaper advertising or length and frequency of broadcast advertising. Community contacts include individuals or organizations that are well known in the housing market area or the locality that can influence persons within groups considered least likely to apply. Such contacts may include neighborhood, minority and women=s organizations, labor unions, employers, public and private agencies, disability advocates, schools and individuals who are connected with these organizations and/or well known in the community.

The CDBG applicant must also include information that best describes marketing activities for outreach to fill vacancies as they occur after the project has been initially occupied.

In addition, the CDBG applicant must indicate whether the sales/rental staff has had previous experience in marketing housing to groups identified as least likely to apply for the housing. The applicant must describe the instructions and training provided or to be provided to sales/rental staff. This information must include information regarding Federal, State and local fair housing laws and the affirmative plan.

(B). Record-Keeping/Requirements for Affirmative Marketing

The HOME applicant will be responsible for maintaining documentation that demonstrates the applicant affirmative marketing efforts. Such information should include copies of the correspondence sent to community agencies that represent outreach to those groups least likely to apply along with meetings minutes, or resolutions from the agency documenting the organizations= efforts in reaching their respective constituents. The HOME applicant must keep the affirmative marketing records, from the marketing study which begins prior to the start of construction until 60 percent of occupancy is achieved.

CCDPD staff conducts an annual assessment of each municipality that applies for funding under the HOME Program. Municipalities that are not in compliance with CCDPD and HUD's requirements regarding the affirmative plan, will be denied funding for the Program year.

CCDPD will annually assess the success of the affirmative marketing action at each annual on-site compliance review for projects of 26 or more. For projects between 5 and 25 all affirmative marketing action will be subject to a desk monitoring and an onsite inspection, if the desk monitoring uncovers a preliminary finding of non compliance. The success of the Affirmative Marketing Plan will be judged on the basis of the number of application received from those identified as least likely to apply and the number that actually rent or purchase units within the project. At least 5% of all application received should be from the targeted groups, with at least 1% of new residents representing one of

Comment 7

the targeted groups. If an inspection determines that no applications are being received from those least likely to apply, the department will require the HOME subrecipient to institute a more aggressive affirmative marketing plan, with monitoring being conducted more frequently to ensure reaching the Department=s affirmative marketing goals.

Provisions (§570.600)

§ 570.600 General.

(a) This subpart K enumerates laws that the Secretary will treat as applicable to grants made under section 106 of the Act, other than grants to States made pursuant to section 106(d) of the Act, for purposes of the Secretary's determinations under section 104(e)(1) of the Act, including statutes expressly made applicable by the Act and certain other statutes and Executive Orders for which the Secretary has enforcement responsibility. This subpart K applies to grants made under the Insular areas program in §570.405, with the exception of §570.612. The absence of mention herein of any other statute for which the Secretary does not have direct enforcement responsibility is not intended to be taken as an indication that, in the Secretary's opinion, such statute or Executive Order is not applicable to activities assisted under the Act. For laws that the Secretary will treat as applicable to grants made to States under section 106(d) of the Act for purposes of the determination required to be made by the Secretary pursuant to section 104(e)(2) of the Act, see §570.487.

(b) This subpart also sets forth certain additional program requirements which the Secretary has determined to be applicable to grants provided under the Act as a matter of administrative discretion.

(c) In addition to grants made pursuant to section 106(b) and 106(d)(2)(B) of the Act (subparts D and F, respectively), the requirements of this subpart K are applicable to grants made pursuant to sections 107 and 119 of the Act (subparts E and G, respectively), and to loans guaranteed pursuant to subpart M.

*[53 FR 34456, Sept. 6, 1988, as amended at 61 FR 11477, Mar. 20, 1996]
Affirmatively Furthering Fair Housing (§570.601)*

§ 570.601 Public Law 88–352 and Public Law 90–284; affirmatively furthering fair housing; Executive Order 11063.

(a) The following requirements apply according to sections 104(b) and 107 of the Act:

(1) Public Law 88–352, which is title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), and implementing regulations in 24 CFR part 1.

(2) Public Law 90–284, which is the Fair Housing Act (42 U.S.C. 3601–3620). In accordance with the Fair Housing Act, the Secretary requires that grantees administer all programs and activities related to housing and community development in a manner to affirmatively further the policies of the Fair Housing Act. Furthermore, in accordance with section 104(b)(2) of the Act, for each community receiving a grant under subpart D of this part, the certification that the grantee will affirmatively further fair housing shall specifically require the grantee to assume the responsibility of fair housing planning by conducting an analysis to identify impediments to fair housing choice within its jurisdiction, taking appropriate actions to overcome the effects of any impediments identified through that analysis, and maintaining records reflecting the analysis and actions in this regard.

(b) Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959–1963 Comp., p. 652; 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing), and implementing regulations in 24 CFR part 107, also apply.

Civil Rights (§570.602)

§ 570.602 Section 109 of the Act.

Comment 7

Section 109 of the Act requires that no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance made available pursuant to the Act. Section 109 also directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act and the prohibitions against discrimination on the basis of disability under Section 504 shall apply to programs or activities receiving Federal financial assistance under Title I programs. The policies and procedures necessary to ensure enforcement of section 109 are codified in 24 CFR part 6.

[64 FR 3802, Jan. 25, 1999]

Employment and Contracting opportunities (§570.607)

§ 570.607 Employment and contracting opportunities.

To the extent that they are otherwise applicable, grantees shall comply with:

(a) *Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR 1964–1965 Comp. p. 339; 3 CFR, 1966–1970 Comp., p. 684; 3 CFR, 1966–1970., p. 803; 3 CFR, 1978 Comp., p. 230; 3 CFR, 1978 Comp., p. 264 (Equal Employment Opportunity), and Executive Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and the implementing regulations at 41 CFR chapter 60; and*

(b) *Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135.*

[68 FR 56405, Sept. 30, 2003]

Handicapped Accessibility (§570.614)

§ 570.614 Architectural Barriers Act and the Americans with Disabilities Act.

(a) *The Architectural Barriers Act of 1968 (42 U.S.C. 4151–4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that insure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this part after December 11, 1995, and that meets the definition of “residential structure” as defined in 24 CFR 40.2 or the definition of “building” as defined in 41 CFR 101–19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151–4157) and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 CFR part 40 for residential structures, and appendix A to 41 CFR part 101–19, subpart 101–19.6, for general type buildings).*

(b) *The Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.*

[60 FR 56917, Nov. 9, 1995]

1A-P5: Land Banking

CCDPD is in the process of formalizing procedures for maintaining land banks. This eligible activity would include maintaining (-i.e. grass cutting and waste collection) land banks. CCDPD will further develop procedures as needed, and will forward a copy to HUD.

1A-P6: Guidance from HUD

As a point of clarification, HUD has provided guidance to CCDPD as follows:

- Summit on Housing – October 2008
- HUD Implementation Session – February 2009
- HUD Implementation Session/Conference Call – February 2009
- HUD NSP Implementation Session – July 2009

Additionally, HUD has provided CCDPD a bridge notice to the NSP NOFA which provides further clarification as to the Neighborhood Stabilization Program regulations. HUD has also provided technical assistance via telephone and through its website.

CCDPD, as part of its response to the audit request for information, provided HUD OIG with a binder which contains all of the training materials and guidance provide to CCDPD by HUD. CCDPD has combined all of the information, including HUD's program modifications and updates in an effort to create policies and procedures for the operation of CCDPD's Neighborhood Stabilization Program.

1A-P7: Program Income

CCDPD original draft of its HOME Manual references program income, however, CCDPD has updated to include additional program income language to Chapter 2 of the HOME Manual.

HOME PROGRAM ALLOCATION AND GENERAL USE OF FUNDS

2 (a). Level of Funding

CCDPD Home Investment Partnerships Program (HOME) anticipates receiving an allocation of \$5,599,793 for Program Year 2008 for use in eligible activities. CCDPD HOME has also received an allocation of \$44,853 for the American Dream Down Payment Initiative (ADDI).

*The CCDPD has been designated by the Cook County Board of Commissioners as the lead agency and administrator of the Cook County HOME Program. The Cook County Board of Commissioners has allocated \$925,000 in corporate funds for eligible activities pursuant to the federal regulations governing local matching funds requirements. Additionally, the HOME Program generates approximately \$ 1,700,523 in program income from loan repayments and payoffs. CCDPD is allowed to utilize up to 10% of the Entitlement Grant and Program Income ** towards Administrative Costs. (see Department of Planning and Development's Finance staff for further detail regarding special rules governing Program Income- which must be spent prior to expending Home Entitlement Funds, and rules governing Administrative Costs).*

Comment 8

| Funding Sources | Estimated Amount |
|------------------------|-------------------------|
| HOME Entitlement Grant | \$5,599,793 |
| Corporate | 925,000 |
| Program Income | 1,700,523 |
| ADDI | 44,853 |
| Total Funding | \$8,270,129 |

**** Program Income**

It is important to ensure that HOME Program Income is utilized first for eligible activities, before drawing down HOME Program funds from Cook County's treasury account.

To ensure that this is accomplished, the HOME Program has eliminated the practice of reserving program income funds for larger multifamily developments and has returned to the practice of allocating program income funds to eligible activities at the County Board of Commissioners ' recommendation phase for project awards. Generally the activities that are awarded and funded come under the Single Family Rehabilitation Program. The HOME Program staff working in tandem with the assigned accountant identifies projects for which program income funds will be utilized. A sub-award database is created in CCDPD's database systems and activities are deducted as they become due. Simultaneously, projects are submitted utilizing the HOME Program's set-up forms. Once they are received, the administrative staff begins setting up the available activities, utilizing program income as the source of funding.

Note: Program Income

A grantee must approve (a) whether a Subrecipient will be allowed to retain and use program income, and (b) for what activities the program income may be used. The use of such program income must be in compliance with all other applicable program requirements and, upon the expiration of the Subrecipient Agreement, any program income on hand or subsequently received by the Subrecipient must be returned to the grantee.

- 1. The Subrecipient agrees that any proceeds from the use of HOME funds or from the disposition of property acquired with HOME funds constitutes Program Income. The Subrecipient further agrees to adhere to the provisions of this Section 2. which defines Program Income.*
- 2. The County is responsible to HUD for all income generated from the use of HOME funds. Program income must be returned to the County upon its receipt by the Subrecipient. The County will reissue the funds as needed for pre-approved,*

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eligible activities. The Subrecipient agrees to abide by the procedures outlined below:

- a. Definition: "Program Income" - gross income received by a Subrecipient and directly generated from the use of HOME funds. Program income includes, but is not limited to, the following:
 - i. Repayment of loans for rehabilitation of private property, including installment loans or deferred payment forgivable loans.
 - ii. Proceeds from residential rehabilitation junior mortgages when title transfers.
 - iii. Interest on loans made with HOME funds.
 - iv. Proceeds from the sale of property acquired or improved with HOME funds pursuant the requirements set out in the Agreement.
 - v. Collection of liens, e.g., demolition costs funded with HOME funds, including:
 - 1. Proceeds from the sale of property acquired through Quit Claim Deed voluntarily submitted by owner in lieu of demolition lien;
 - 2. Proceeds from the sale of property acquired at a Sheriffs Auction, as a Sheriffs Deed, upon foreclosure of a demolition lien;
 - 3. Cash payment by owner for the amount of the lien plus interest on the lien, if any;
 - 4. Mortgages collected as the result of the sale of property to a third party.
 - vi. Proceeds from the sale of HUD homes purchased and/or rehabilitated with HOME funds.
 - vii. Rental income realized from occupants of acquired property.
 - viii. Repayment proceeds from HOME loans.
 - ix. Proceeds from mortgage foreclosure and judgments on notes

NOTE: Since HOME funds cannot be deposited in interest-bearing investment instruments or accounts, no program income can be realized from such interest; however, in the event that such funds are deposited in an interest bearing account. any funds derived therefrom shall be tendered to CCDPD and shall be utilized to undertake additional HOME activities as specified herein.

- b. Program income from County-approved Revolving Funds for Rehabilitation projects:

Record Keeping Requirements

- i. Program income must be accounted for separately from the

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grant amount from which it was generated. It shall not be added to the original amount.

- ii. In all instances of the generation or return of program income/revolving loan funds, quarterly financial reports must be made to the County's Community Development Staff Accountant.*
- iii. A separate bank account should be used for program income.*
- iv. Program Income must be used first, before grant funds are drawdown from the County.*
- c. Program Income may be used only for eligible activities. Eligible activities are limited to those listed in the Handbook of Eligible Activities and must be undertaken in accordance with all rules and regulations governing the use of HOME funds.*
- b. Program Income should be made payable to:*

*"COOK COUNTY TREASURER"
and mailed to:
Cook County Department of
Planning and Development County
Building - Room 824
118 North Clark Street
Chicago, Illinois 60602*

OIG's Evaluation of Auditee Comments

Comment 1 We revised this memorandum to state the following:

- As of September 9, 2009, the County had not established sufficient policies and procedures for its Neighborhood Stabilization Program.
- On September 9, 2009, the County provided a revised financial grant management procedures manual (financial manual), dated September 2009. The financial manual included the sections mentioned above that were missing in the draft financial manual. However, the sections were incomplete. Appendix A.7 identified the following items for reconciliation: postage, petty cash, program income, project expenditures, draw down revenue, and HUD's Integrated Disbursement and Information System and Disaster Recovery Grant Reporting system. It also stated that procedures for several of the items were contained throughout the financial manual. However, the financial manual only contained policies and procedures for the reconciliation of program income. In addition, the policies and procedures only referred to reconciling data with HUD's Integrated Disbursement and Information System. Neighborhood Stabilization Program data is contained in HUD's Disaster Recovery Grant Reporting system. The section covering allocation of administrative expenses stated administrative expenses that cannot be directly associated with one or more of the County's grants will be allocated to all of the grants based on the percentage of time the County's employees work on each grant. However, allocating costs based on employees' time is not appropriate for all administrative expenses.
- The County's policies and procedures for its Neighborhood Stabilization Program, if implemented, should address most of the issues we identified with the County's HOME program that could impact the Neighborhood Stabilization Program.
- The policies and procedures for the County's Neighborhood Stabilization Program income and administrative costs in its manuals did not address these issues identified for HOME program income and administrative costs to ensure that Neighborhood Stabilization Program funds are used appropriately.

Comment 2 The County's commitment to assess its policies, procedures, and controls and revise its financial manual as appropriate, if fully implemented, should improve its capacity to effectively and efficiently administer its Neighborhood Stabilization Program.

Comment 3 The County's commitment to implement its revised staffing plan and budget for planning and administrative costs provided on August 5, 2009, and provide its new employees training on the Neighborhood Stabilization Program, if fully

implemented, should improve its capacity to effectively and efficiently administer its Neighborhood Stabilization Program.

Comment 4 The County's commitment to update its draft Block Grant manual and policies and procedures manual for its single family rehabilitation program as appropriate, if fully implemented, should improve its capacity to effectively and efficiently administer its Neighborhood Stabilization Program.

Comment 5 The County did not provide its draft Block Grant manual to support that it included a departmental organizational chart and flow chart of its Neighborhood Stabilization Program design in the draft Block Grant manual. The County's commitment to update its draft Block Grant manual as appropriate, if fully implemented, should improve its capacity to effectively and efficiently administer its Neighborhood Stabilization Program. We do not have the authority to provide the County a model of what a complete and accurate model. The County should make its request to HUD's Chicago Office of Community Planning and Development.

Comment 6 The County's commitment to update its draft Block Grant manual regarding performance reporting once it contracts with a computer service agency, if fully implemented, should improve its capacity to effectively and efficiently administer its Neighborhood Stabilization Program.

Comment 7 The County did not provide its draft Block Grant manual to support that it included policies and procedures for the civil rights and fair housing section in the draft Block Grant manual.

Comment 8 HUD's regulations at 24 CFR 92.502(c)(3) state that a participating jurisdiction must disburse HOME program funds, including HOME program income, in its HOME investment trust fund local account (local account) before requesting HOME program funds from its HOME investment trust fund treasury account (treasury account). Allocating HOME program funds for eligible activities at the board's recommendation for activity awards could lead to the County drawing down and disbursing HOME program funds from its treasury account before disbursing HOME program income from its local account.