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Audit Report Number 2009-DE-1001

TO: Edward Atencio, Acting Director, Denver Office of Community Planning and Development, 8AD

FROM: Ronald J. Hosking, Regional Inspector General for Audit, Region 8AGA

SUBJECT: The Adams County, Colorado, Did Not Comply with HOME Investment Partnerships Program Regulations

HIGHLIGHTS

What We Audited and Why

We audited Adams County's HOME Investment Partnerships Program (HOME) for the following reasons:

- The U.S. Department of Housing and Urban Development (HUD) rated Adams County's HOME program as high risk,
- HUD had not performed a comprehensive monitoring review of Adams County's HOME program since 2004,
- HUD documentation indicated that Adams County had capacity issues, and
- Adams County received more than \$1 million in HOME grants from HUD in both fiscal years 2007 and 2008.

The objectives of the audit were to determine whether Adams County appropriately spent and accounted for HOME funds and maintained supporting documentation for its matching contributions reported to HUD.

What We Found

Adams County inappropriately spent or could not support more than \$2.1 million in HOME funds. Specifically, it (1) used \$72,500 in HOME funds for ineligible community housing development organization operating grants, (2) used \$25,000 in HOME funds without entering into a contract with the subrecipient, (3) provided \$10,000 in HOME funds to a subrecipient before the cost was incurred, and (4) spent nearly \$2 million in HOME funds without documentation to support that the funds benefited eligible HOME recipients.

Adams County also could not support two of the last three matching contributions that it reported to HUD. These contributions totaled more than \$1.8 million.

What We Recommend

We recommend that HUD ensure that Adams County reimburses its HOME trust fund from nonfederal funds for any ineligible HOME expenditures, provides supporting documentation showing that the funds benefited eligible HOME recipients, reduces the amount of HOME matching contributions recorded on its books which are not supported or eligible, implements an acceptable internal control structure by preparing and implementing effective policies and procedures, and receives technical assistance from HUD to ensure compliance.

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.

Auditee's Response

We provided the discussion draft of the audit report to Adams County on February 4, 2009, and requested its comments by February 19, 2009. Adams County chose not to provide written comments but provided its oral response on February 10, 2009. It concurred with the findings and recommendations and stated it will work with HUD to address the recommendations.

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BACKGROUND AND OBJECTIVES

The National Affordable Housing Act of 1990 created the U.S. Department of Housing and Urban Development's (HUD) HOME Investment Partnerships Program (HOME). Adams County's HOME program is administered by its Office of Community Development (Adams County). Its offices are located in both Brighton and Westminster, Colorado. HUD has allocated more than \$3 million in HOME funds to Adams County over the past three grant years.

Grant year	Grant amount
2006	\$ 955,770
2007	\$ 1,091,343
2008	\$ 1,038,321
Total	\$ 3,085,434

The intent of Adams County's HOME program includes providing decent affordable housing to lower income households, expanding the capacity of nonprofit housing providers, strengthening the ability of state and local governments to provide affordable housing, and leveraging private-partner participation. Its mission is to support and build the capacity of citizen groups in Adams County so that they may enhance the economic, social, environmental, and cultural well-being of their communities. Adams County's HOME program funds the following programs:

- Community housing development organizations (development organization). A development organization is a private nonprofit, community-based service organization that has obtained or intends to obtain staff with the capacity to develop affordable housing for the community it serves.
- Tenant-based rental assistance (rental assistance). Rental assistance is a rental subsidy that can be used to help individual households afford housing costs such as rent, utility costs, security deposits, and utility deposits.
- Housing rehabilitation. Housing rehabilitation allows HOME funds to be used to assist existing homeowners with the repair, rehabilitation, or reconstruction of owner-occupied units.
- Home buyer program. This program helps home buyers purchase affordable homes by providing downpayment and closing cost assistance.
- Large HOME projects. This program relates to multifamily projects in which HOME funds are used to assist new construction, multifamily rehabilitation, and other low- to very low-income initiatives throughout Adams County.

The objectives of our review were to determine whether Adams County appropriately spent and accounted for HOME funds and maintained supporting documentation for its matching contributions reported to HUD.

RESULTS OF AUDIT

Finding 1: Adams County Inappropriately Spent or Could Not Support More Than \$2.1 Million in HOME Funds

Adams County inappropriately spent or could not support more than \$2.1 million in HOME funds. This condition occurred because Adams County lacked the internal controls needed to effectively manage the use of its HOME funds. As a result, the HOME funds inappropriately spent by Adams County were not available to benefit low- and very low-income families. Also, HUD and Adams County lacked assurance that HOME funds were used for eligible HOME activities and that the intended program benefits were realized.

Adams County Inappropriately Spent HOME Funds

Adams County inappropriately spent or could not support more than \$2.1 million in HOME funds. Specifically, it (1) used \$72,500 in HOME funds for ineligible development organization operating grants, (2) used \$25,000 in HOME funds without entering into a contract with the subrecipient, (3) provided \$10,000 in HOME funds to a subrecipient before the cost was incurred, and (4) spent nearly \$2 million in HOME funds without documentation to support that the funds benefited eligible HOME recipients.

Development Organization Operating Grants Were Ineligible

Adams County used \$72,500 in HOME funds for ineligible development organization operating grants. According to 24 CFR [*Code of Federal Regulations*] 92.300(e), if Adams County provides operating grants to a development organization, it must enter into a written agreement with the development organization, which states that the development organization is expected to receive set-aside funds within 24 months of receiving the funds for operating expenses. The agreement must also specify the terms and conditions upon which this expectation is based. Also, in keeping with 24 CFR 92.208, Adams County may not use HOME funds to pay operating expenses incurred by a development organization acting as a subrecipient under the HOME program.

Adams County awarded operating grants to two separate development organizations during our audit period. However, it did not enter into written agreements with the development organizations to provide set-aside funds within 24 months of receiving the operating expenses. Adams County provided HOME entitlement funds to each

of the development organizations within 24 months; however, one of the development organizations used the HOME funds for rental assistance, which does not qualify as an eligible development organization activity. Therefore, the development organization acted as a subrecipient. The second development organization used its HOME funds for owner-occupied rehabilitation, which is an eligible development organization activity; however, Adams County treated it as a subrecipient activity.

HOME Funds Were Spent without a Contract

Adams County used \$25,000 in HOME funds without entering into a contract with the subrecipient. According to 24 CFR 92.504(b), Adams County must enter into a written agreement with an entity before disbursing any HOME funds to that entity. Adams County disbursed \$60,000 in HOME funds to a subrecipient when the contract between Adams County and the subrecipient only included \$35,000 in HOME funds. Therefore, the \$25,000 spent without a contract was an ineligible HOME expenditure.

HOME Funds Were Drawn Before Expenses Were Incurred

Adams County provided \$10,000 in HOME funds to a subrecipient before the cost was incurred. HOME regulations at 24 CFR 92.502(c)(2) state that HOME funds must be spent for eligible costs within 15 days of disbursing those funds. Also, any interest earned after the 15 days must be remitted promptly to HUD. Adams County provided \$10,000 to a subrecipient in December 2002; however, the first use of the funds did not occur until June 2003. Also, the subrecipient spent less than half of the \$10,000 before January 1, 2007. Adams County had no records showing that it tracked the interest earned on the \$10,000 or that it remitted any interest earned to HUD.

Supporting Documentation Was Incomplete

Adams County spent nearly \$2 million in HOME funds without documentation to support that the funds benefited eligible HOME recipients. According to HOME regulations at 24 CFR 92.504, Adams County is responsible for ensuring that HOME funds are used in accordance with HOME requirements and written agreements. Those requirements state the HOME funds must be used for families that are eligible low-income families and the housing must remain affordable for a specified period. The use of subrecipients or contractors does not relieve Adams

County of this responsibility. Adams County must review the performance of each contractor and subrecipient at least annually.

Adams County spent nearly \$2 million in HOME funds on activities administered by either a subrecipient or a development organization during our review period. We reviewed all 18 HOME activities. For all 18 activities, Adams County was not able to provide supporting documentation to show that the HOME funds spent benefited eligible HOME recipients. Also, Adams County could not provide documentation to support that it reviewed the performance of its subrecipients or development organizations at least annually.

Adams County Lacked Internal Controls

Adams County lacked the internal controls needed to effectively manage the use of its HOME funds. Specifically, it (1) lacked detailed written policies and procedures regarding the administration of HOME funds awarded to subrecipients and/or development organizations, (2) assigned nearly all of the roles and responsibilities related to the administration of HOME funds awarded to subrecipients and/or development organizations to its program manager, and (3) did not ensure that the program was consistently administered by knowledgeable and capable management staff. During a 30-month period, the program manager position was vacant for 10 months. For the remaining 20 months, Adams County had three separate program managers, and the position became vacant during our audit.

Intended Program Benefits Might Not Be Realized

Because Adams County lacked the internal controls needed to effectively manage the use of its HOME funds, the HOME funds it inappropriately spent were not available to benefit low- and very low-income families. Also, HUD and Adams County lacked assurance that HOME funds were used for eligible HOME activities and that the intended program benefits were realized.

Conclusion

The HOME funds inappropriately spent by Adams County were not available to benefit low- and very low-income families. This condition occurred because Adams County lacked the internal controls needed to effectively manage the use of its HOME funds. Consequently, it needs to reimburse its HOME trust fund for any ineligible HOME activities and provide supporting documentation to HUD showing that the HOME funds benefited eligible HOME recipients. In addition, it

should prepare and implement effective written policies and procedures to ensure that it administers its HOME program in compliance with HOME regulations.

Recommendations

We recommend that the Acting Director of the HUD Denver Office of Community Planning and Development

- 1A. Ensure that Adams County reimburses its HOME trust fund from nonfederal funds for the \$107,500 in ineligible HOME expenditures.
- 1B. Ensure that Adams County recaptures any interest earned on the \$10,000 in HOME funds provided before costs were incurred and deposits those funds into its HOME trust fund.
- 1C. Require Adams County to provide supporting documentation for the \$1,996,459 in unsupported HOME funds, showing that the funds benefited eligible HOME recipients.
- 1D. Ensure that Adams County reimburses its HOME trust fund from nonfederal funds for any portion of the \$1,996,459 which it cannot support as being eligible.
- 1E. Ensure that Adams County management and staff fully implement an acceptable internal control structure by preparing and implementing effective written policies and procedures for the administration of the HOME program in compliance with HOME regulations.
- 1F. Provide technical assistance to Adams County to ensure that its management and staff comply with HOME regulations.

Finding 2: Adams County Could Not Support HOME Matching Contributions That It Reported to HUD

Adams County could not support more than \$1.8 million in HOME matching contributions that it reported to HUD. This condition occurred because Adams County did not have written policies and procedures to ensure that it obtained adequate documentation for its HOME matching contributions. As a result, it could be depriving its low- and very low-income families of needed benefits.

HOME Matching Contributions Were Unsupported

Adams County could not support more than \$1.8 million in HOME matching contributions that it reported to HUD. According to 24 CFR 92.218, Adams County is required to make contributions to housing that qualifies as affordable housing under the HOME program. These contributions must equal not less than 25 percent of the HOME funds drawn by Adams County during each fiscal year. For a matching contribution to be eligible under HOME regulations, at least 50 percent of the housing must meet HOME's affordable housing requirements. Section 92.508 requires Adams County to maintain records demonstrating compliance with the matching requirements. Adams County could not provide supporting documentation for two of the last three matching contributions that it reported to HUD. The two unsupported matching contributions totaled more than \$1.8 million.

Adams County reported the first of the two unsupported matching contributions as a \$1.15 million land donation. The land was sold by a private owner to Adams County's subrecipient to develop a mixed-use community, which included low-income rental units. A hand-written note on the matching report stated that the value of the land was \$2.25 million and the land was sold for \$1.1 million, for a donation of \$1.15 million. However, Adams County did not have an appraisal of the land to support that the value of the land was \$2.25 million or to show what portion of the donated land was used in developing the low-income housing. In addition, Adams County could not provide a legal document showing the purchase price of the land as \$1.1 million. Without the appraisal or legal purchase document, Adams County could not support that at least 50 percent of the housing developed on the land met HOME's affordable housing requirements.

Adams County reported the second of the two unsupported matching contributions as \$721,000 in waived fees. It provided documentation showing that the City of Brighton preliminarily approved the waiver of approximately \$721,000 in development fees related to the construction of low-income housing developed by Adams County's subrecipient in the Brighton. However, Adams County could not

provide documentation to support that the City of Brighton had waived the development fees.

Written Policies and Procedures Were Inadequate

Adams County did not have adequate written policies and procedures to ensure that it obtained adequate documentation for its HOME matching contributions. It provided a 12-page policies and procedures manual for its administration of HOME projects carried out by its subrecipients. The manual included a brief explanation of the 25 percent matching contribution requirement with a list of eligible types of matching contributions. However, the manual did not address (1) who was responsible for ensuring that the matching contribution requirement was met, (2) the types of documentation needed to support the matching contributions reported to HUD, or (3) how Adams County would monitor the matching contributions to ensure that at least 50 percent of the housing met HOME's affordable housing requirements.

Low-Income Families Might Not Receive Needed Benefits

Based on the lack of documentation, Adams County did not know whether its balance for matching contributions was accurate, so it could be in noncompliance with HUD regulations. If any portion of the matching contributions that Adams County reported to HUD is ineligible and Adams County does not remove those contributions from its books, it would deprive its low- and very low-income families by not providing the required amount of HOME matching contributions.

Adams County needs to provide supporting documentation for the more than \$1.8 million in unsupported HOME matching contributions that it reported to HUD to ensure that all of its matching contributions are eligible HOME matching contributions. In addition, it should prepare and implement policies and procedures to ensure that its matching contributions comply with HOME regulations.

Recommendations

We recommend that the Acting Director of the HUD Denver Office of Community Planning and Development

- 2A. Require Adams County to provide supporting documentation for the \$1,871,000 in unsupported HOME matching contributions.

- 2B. Ensure that Adams County reduces the amount of HOME matching contributions recorded on its books for any portion of the \$1,871,000 which it cannot support or that HUD determines is ineligible.

- 2C. Ensure that Adams County management prepares and implements effective written policies and procedures to ensure that its matching contributions comply with HOME regulations and that Adams County maintains the required supporting documentation.

SCOPE AND METHODOLOGY

Our review covered the period March 1, 2006, to September 30, 2008. We expanded the period as needed to evaluate historical and current information pertinent to our review. Our review was limited to HOME program activities.

To achieve our objectives, we reviewed HUD and Adams County criteria and contracts, met with HUD and Adams County staff, and reviewed HUD and Adams County records.

We used Adams County HOME activity reports obtained from HUD's Integrated Disbursement and Information System to determine that Adams County spent funds on 18 HOME activities administered by subrecipients during our review period. We reviewed 100 percent of the HOME activity funds provided to and administered by subrecipients.

For the 18 HOME activities administered by subrecipients, we reviewed each project file for pertinent documentation such as contract applications, contract agreements, contract approval, HOME fund drawdowns, HOME project monitoring performed by Adams County, and project closeout.

We performed our audit work on site at Adams County's Westminster office located at 12200 Pecos Street, Westminster, Colorado, and at Adams County's Brighton office located at 450 South 4th Avenue, Brighton, Colorado, from October to December 2008. We briefed Adams County management on the results of the review on November 6, November 10, and December 11, 2008. We also briefed HUD's Denver Office of Community Planning and Development management on October 27 and December 2, 2008.

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 an integral component of an organization's management that provides reasonable assurance that the following controls are achieved:

- Program operations,
- Relevance and reliability of information,
- Compliance with applicable laws and regulations, and
- Safeguarding of assets and resources.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. They 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:

- Controls over the administration of HOME funds disbursed to subrecipients.
- Controls over identifying, recording, and documenting HOME matching contributions.

We assessed the relevant controls identified above.

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

Significant Weaknesses

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

- Adams County did not have adequate controls to ensure that the administration of its HOME funds disbursed to subrecipients complied with HOME regulations (see finding 1).
- Adams County did not have adequate controls to ensure that its matching contributions reported to HUD complied with HOME regulations (see finding 2).

APPENDIX

SCHEDULE OF QUESTIONED COSTS

Recommendation Number	Ineligible 1/	Unsupported 2/
1A	\$107,500	
1C		\$1,996,459
2A		\$1,871,000

1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or federal, state, or local policies or regulations.

2/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.