

# OVERSIGHT OF HUD'S HOME PROGRAM

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## HEARING BEFORE THE COMMITTEE ON FINANCIAL SERVICES U.S. HOUSE OF REPRESENTATIVES ONE HUNDRED TWELFTH CONGRESS FIRST SESSION

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JUNE 3, 2011  
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## OVERSIGHT OF HUD'S HOME PROGRAM

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Friday, June 3, 2011

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FINANCIAL SERVICES,  
*Washington, D.C.*

The committee met, pursuant to notice, at 9:30 a.m., in room 2128, Rayburn House Office Building, Hon. Spencer Bachus [chairman of the committee] presiding.

Members present: Representatives Bachus, Hensarling, Royce, Biggert, Capito, Garrett, Neugebauer, Pearce, Posey, Fitzpatrick, Luetkemeyer, Huizenga, Duffy, Hayworth, Renacci, Hurt, Dold, Schweikert, Grimm, Canseco, Stivers, Fincher, Frank, Waters, Maloney, Gutierrez, Velazquez, Capuano, Hinojosa, Baca, Scott, Green, Cleaver, Carson, and Carney.

Chairman BACHUS. This hearing of the Financial Services Committee will come to order.

Without objection, all members' opening statements will be made a part of the record.

And the Chair recognizes himself for an opening statement.

The HOME Investment Partnership Program is the Federal Government's largest housing construction program for the poor. Administered by the Department of Housing and Urban Development, it is intended to make decent, affordable housing available to low-income Americans. The Washington Post reports the program is "dysfunctional, and hundreds of millions of taxpayer dollars have been squandered due to mismanagement, waste, and fraud."

The purpose of today's hearing is to provide HUD with an opportunity to respond to these allegations and to explain how taxpayers' money is being protected.

I will point out that the allegations are of programs and failures that go back at least two or three Administrations. So it is not a matter from this Administration or even the prior Administration; most of it has been in years past. Assistant Secretary Marquez, who will testify before us today, started in 2009; is that correct?

According to the Washington Post report, HOME delivers billions of dollars to local housing agencies with what they say are few rules or safeguards in place and no reliable way to track how money is spent on various projects. We want to hear what HUD is doing to ensure program participants are being held accountable, and whether new legislative authority is needed to strengthen HUD's ability to manage the HOME Program.

The HUD Office of Inspector General has likewise reported serious problems with HOME. Over the past 5 years, the IG's audits uncovered failures with HUD's administration of HOME formula

block grants and identified numerous other deficiencies in HUD's management of the program. The committee will want to hear from HUD what changes have resulted from the IG audit, particularly what, if anything, is being done to recover funds if the project is not completed or does not meet the program requirements. And I can tell you that just from conversations with Members, they obviously want every path pursued to recover money that can be recovered legally.

Unfortunately, the HOME Program has been exploited by schemers and crooks. Between 2004 and 2011, dozens have been convicted or indicted for criminal misuse of HOME funds, including elected officials, directors of housing authorities and nonprofit organizations, developers, landlords, and tenants. Our witnesses at today's hearing will be asked to explain what is being done to prevent this kind of malfeasance as the program continues.

These problems, as I said, span multiple Administrations, and I have been encouraged in all my conversations with Secretary Donovan and others at HUD—including our witnesses today—that there is a determination at the agency to correct these problems.

Let me mention three steps that must be taken, and I think we will hear testimony from Assistant Secretary Marquez that this will be pursued: first, that the contracts require repayment for failed projects or misspent funds; second, that those who defraud the government are pursued vigorously; and third, that eligibility requirements for developers are substantially tightened.

HUD must ensure that every dollar dedicated to affordable housing is used responsibly, and any misused and misappropriated funds are promptly repaid. I look forward to hearing from the Assistant Secretary and Assistant Inspector General about the steps the Department is taking to ensure taxpayers are adequately protected from waste, fraud, and abuse.

In my last 24 seconds, let me say, I know there has been an emphasis that the Federal Government has recovered their funds from the participating jurisdictions, and I know Prince George's County was described in the paper, but that, I think, does not excuse the agency or the Congress from—because that is taxpayer money that taxpayers in Prince George's County or others lost. So I think it is our ultimate responsibility in any Federal program not to just have the money reimbursed, but to see that it is not misappropriated.

So, with that, I recognize Mrs. Maloney for 2 minutes.

Mrs. MALONEY. I thank the chairman for recognizing me and for holding this important hearing, and I welcome the panelists today.

And I would say that HUD's HOME Program is incredibly important to the City of New York, which I am honored to represent. As you stated, Mr. Chairman, it is a block grant program to local communities, and local communities have used that money to leverage it with the private sector to build affordable housing. In New York City, over 16,000 units have been renovated under the program since it began in 1992, and I have examples of how it has helped in neighborhoods across the city that I represent. It is an important program to the families who are benefiting from these 16,000 units, and it also creates jobs to rehab, to build, to design, and these are real jobs for real people. It benefits localities, both directly and in-

directly, and it represents an example of public-private partnership, leveraging dollars to build affordable housing.

I share the chairman's concern that any mismanagement should be taken care of, or any malfeasance, but it is a good program that should continue. And I agree with the words from the New York City HPD Commissioner, who wrote back to the Washington Post, and he said, "Many more successes are directly attributable to the HOME affordable housing program than there are failed projects."

So I believe our challenge is to make sure this program continues and continues while rehabbing affordable housing, leveraging dollars into our communities, and helping with our economic development. I certainly hope that this does not turn into an attempt by my good friends on the other side of the aisle to terminate a very worthy program, like they did the FHA program and the HAMP program, because this is successful. It is working.

My time is up. Thank you.

Chairman BACHUS. I thank the gentlelady.

Mrs. Biggert is recognized for a minute-and-a-half.

Mrs. BIGGERT. Thank you, Chairman Bachus, and thank you for scheduling this hearing.

Today, we are investigating HUD's administration of the HOME Program, the government's largest affordable housing and construction program. Recent press articles point to mismanagement of HOME, citing waste, fraud, and abuse of possibly billions of taxpayer dollars. I think it is incredible to think that billions in taxpayer dollars have been handed out with little or no accountability and may have failed to help hundreds of thousands of families seeking shelter.

Meanwhile, our over \$14 trillion national debt continues to grow. And who has HOME money, how much, for what purpose was it used? I think the taxpayer dollars have to be accounted for. If funds have been misused, or there are unspent dollars, there must be recovery, and HUD needs clear benchmarks and real-time data to track the progress of HOME funds and projects.

What scares me is, is this the only HUD program that fails to account for taxpayer dollars, and how much CDBG money is accounted for? And is HOME just the tip of the iceberg?

With that, I look forward to hearing from today's witnesses and holding future hearings on other questionable components of the HUD budget.

I yield back.

Chairman BACHUS. Thank you.

Mr. Gutierrez, for 3 minutes.

Mr. GUTIERREZ. Thank you very much, Mr. Chairman.

I instruct my staff to carefully read the Washington Post each and every day and to make sure they take out all of the articles and see the new standard here is the Washington Post. I am happy. I like the Washington Post. It just seems that my friends on the other side of the aisle are always saying, "the Washington Post, that liberal bastion of Washington, D.C." But I guess when it is convenient, the Washington Post is okay, as it is today.

I also find it curious, since my friends on the other side have always talked about local government; Washington, D.C., has this one-size-fits-all, and that we should let local governments, where

people truly know how to serve the people out in the counties and the cities and the villages of America—we shouldn't let what? That is what this program is, and in each and every instance, as reported in this newspaper article, in each and every instance that HOME dollars are used, they are used to leverage what municipalities and villages and counties and those that my friends on the other side of the aisle are always expressing should be the expression of democracy out in the country. Well, they are.

Look, \$400 million is \$400 million, but let us put it in the context of \$30 billion and what has been spent on this program, and the hundreds of thousands of American families who have benefited from this program before—so that we have some balance, I think. I think what is important, Mr. Chairman, is to put balance, not simply to pick up a Washington Post article and say, boy, that really fits my political point of view; let me go use that and rail against, without understanding the impact that the program and the criticisms can have, without putting in balance the article.

Because this program was started in 1990, under the George Bush Administration when our economy was not in such a good place as it is today, and in 20 years, the HOME Program has completed over 1 million units throughout this country, and I think we should take that into consideration.

And let me just paint a picture for everybody so that we know as we look at this program, which we certainly should reform, retrofit, improve, make sure that there is more vigilance of the dollars certainly, but I hope that people aren't saying that we need to eliminate a wonderful program like this.

The majority of people who are receiving assistance, who get a unit, whether it is a rehab unit or a senior citizen unit that is fixed up so they can stay there, or a brand new single-family home, the majority of them are families of four, 50 percent area median. So I want you to know much that is. That is \$37,550. Now, of course, Members of Congress make \$175,000 or thereabouts, so it is significantly less than we make as Members of Congress, and I think we should be cognizant of that.

And lastly, maybe we should take a few pictures of all of the houses in which people get great tax credits under our tax credit system for their homes when they file their income tax returns. I think people would shudder. Let us make sure that people who need homes, like janitors and bus drivers and nurses and other people who are out there have a place to live.

Thank you very much, Mr. Chairman.

Chairman BACHUS. Thank you.

Let me say this: I think we all recognized in the past 2 or 3 years that homeownership is not for everyone, that there are numbers of people who simply cannot afford homeownership, and that low-income housing is a great need, and I wouldn't want anything about this hearing to be construed to say that it has not delivered a benefit. This is simply about some of the failures, and I think we have \$33 billion worth of projects, and what is in question is \$400 million or \$500 million. So we are certainly not talking about all the projects or most of the projects or a substantial percentage. But we can always do better, and that is why I think we are all here, both



parties, to do, not to—and I promise the Minority that we won't demagogue if you won't demagogue.

Mr. Royce?

Mr. ROYCE. Thank you, Mr. Chairman.

Listen, we have seen one government boondoggle after another, and whether it is at the Federal level or the local level, somebody has to say at some point that these government interventions in the economy are really heading us down the wrong path. And the revelations surrounding the HOME Program, I think, should trouble every one of us: This program fails at basic accounting, basic recordkeeping. There is no accountability once the government funds are out the door. That is the problem here, and if we don't recognize that failures which appear commonplace throughout the HOME Program would be inconceivable in the private sector, then we don't understand some of what is wrong with these government programs.

I believe we must avoid replicating this flawed model. Many aspects of the Housing Trust Fund created several years back were based precisely on the HOME Program, and according to HUD's proposed rule on the Trust Fund, most of the eligible activities under the Housing Trust Fund and HOME Programs are the same, and many of the requirements are similar, if not identical. The best way to prevent similar fraud and abuse throughout the Housing Trust Fund is simply to eliminate it completely and quit with the schemes on bigger and bigger government boondoggles.

Chairman BACHUS. I thank the gentleman.

Mr. Green will be recognized shortly. As Mr. Green says, "God is good."

Mr. GREEN. All the time, Mr. Chairman, and all the time God is good, and I am honored to have one more day, Mr. Chairman, to try to get it right, and I thank the witnesses for being here. I thank you for your clarity, Mr. Chairman.

I would like to start with some intelligence that I have received indicating that the program has a 100 percent repayment rate where improper expenditures are identified. I will be asking the witnesses about this, but obviously if this is true, then the question becomes not whether we can collect and do collect, but how quickly can we collect, how efficaciously can we collect, and what can we do to make sure that there are no losses.

I have not read where the Washington Post has indicated that the program should be terminated. I don't think that there is a GAO report calling for termination of the program. I can honestly see how there is a need to make some changes and to make sure that we protect the taxpayer dollars. I think that the Chair has made this point, and that I support.

But I also want to emphasize that the program has been of great benefit. It has helped millions of people across the length and breadth of the country, directly or indirectly. About 96 percent of those who receive funds for rental assistance are persons who are, as was indicated, making about \$37,550, which is about 50 percent of the AML. This is significant for persons who are working, trying to make a living, but who are making a low income. It is significant that this program exists for them.

So I am going to close the way I started this, and that is with the comment that I have received intelligence indicating that there is a 100 percent repayment rate where improper expenditures have been identified. Now, if that is true, or if we are near that, then I think that we can do something to improve it, but I don't think we have to end it, and that is where I stand.

Thank you, Mr. Chairman, and I yield back the balance of my time.

Chairman BACHUS. Thank you.

Mrs. Capito, for a minute or a minute-and-a-half?

Mrs. CAPITO. A minute-and-a-half.

Chairman BACHUS. A minute-and-a-half.

Mrs. CAPITO. Thank you.

I would like to thank the chairman for today's hearing, and since the start of this Congress, most of our committee's time and really the entire Congress' time has been used to ensure that valuable taxpayer dollars are being spent in the most effective and efficient manner, and so the efforts today are what this hearing is about.

But the news that was in the Washington Post—and, quite frankly, I am willing to look at anything that shows that we can be more efficient and more effective with our tax dollars—shows a lack of oversight or enforcement in HUD's HOME Program.

To respond to my friend from Texas who says 100 percent repayment rate, I hope today that we get the chance to ask the question, if that is true, and if, in fact, it is true, is the repayment coming from State and local dollars, or is the repayment coming from CDBG money, which is Federal money from HUD? I think that is a good question for us to ask.

So I think what we need to look at is, is HUD engaging in best practices? How can HUD improve the oversight over these funds and expenditure of the funds? Is there waste, fraud, and abuse? We always talk about that as a catchword, but I think this is used as a perfect example to find those areas and to find a way to end those practices and make sure that the allocated funds that are allocated to the local governments and local agencies, that we track that money, not that it has just been drawn down, but it has been spent on a worthy project, and that people are actually living in these facilities, because that is the entire goal of the program.

So I would like to thank both of our witnesses for coming today, and I also would like to thank the chairman for holding this hearing, and I yield back the balance of my time.

Chairman BACHUS. Thank you.

Mr. Neugebauer, for a minute-and-a-half.

Mr. NEUGEBAUER. Thank you, Mr. Chairman.

I was kind of taken aback by the comment my good friend Illinois made about how Republicans believe in local control and local government, and just somehow this is a divergence from that. Absolutely not. But when the Federal Government extorts money from the American people, there is a certain accountability at the Federal level, and basically that is kind of what this hearing is about today.

It is not about whether the HOME Program is an effective program or not; although I don't know how you can address whether this program is all that effective if, in fact, we don't know the sta-

tus of many of these projects. Here is a list of 5,700 projects that have been open for over 120 days, yet they have been fully funded.

Here is another list of projects that—over 1,000 projects. That list had 5,700 projects on it. Here is a list with over 1,000 projects that have been open for over 5 years.

And so, I think what is a pattern here that the Oversight and Investigations Subcommittee has been bringing out is that we passed the Dodd-Frank Act, which was supposed to fill in the gaps. What really happened is we are learning that we didn't necessarily need more regulations. We needed regulators doing their job. And at this particular point in time, where we are borrowing 42 cents for every dollar we spend in this country, it is time that we make sure that there is accountability for the dollars we are spending, because these are dollars that we actually don't have and are borrowing from other countries.

And so, I look forward to this hearing, and, Mr. Chairman, thank you for calling this hearing today.

Chairman BACHUS. Thank you.

Mr. Gutierrez?

Mr. GUTIERREZ. Certainly, as I said, we should look at bettering the program, but I just heard my friend Mr. Royce said we should eliminate the program. I never heard him say we should eliminate the program while his district was getting \$111 million in order to provide affordable housing.

Mr. ROYCE. Will the gentleman yield? I said the Housing Trust Fund.

Mr. GUTIERREZ. I am sure that you have time on your side. I never heard the gentleman raise the issues while his district was getting \$111 million in HOME dollars in order to create homes in his district. As a matter of fact, I never heard the gentleman say anything about it when the State of California was getting \$966 million, almost \$1 billion over the last—bring a complaint and say, this is a terrible program, don't send it to the State of California.

So you can look at statistics, and you can look at numbers, and I just kind of feel that if you want to criticize a program, you don't wait for the Washington Post. You should be monitoring the dollars, the Federal dollars, in your own congressional district, and you don't need the Washington Post to tell you what to do, because the 19th District of Texas received \$32 billion in HOME dollars over the last 20 years, and the State of Texas received \$726 million of HOME dollars in order to prepare.

I am just trying to put this in some context, and that is that people do derive great benefit from this program, so this isn't a Democrat or a Republican thing. This is about people. And I want in the last 2 seconds, this is about a firefighter being able to have a home. This is about a paramedic having a home, a police officer having a home, a nurse having a home. Now, look, admittedly those people make under \$60,000 a year, and when you are a Member of Congress making \$174,000 with great health care coverage, maybe they don't seem that important to you.

I yield back the balance of my time.

Chairman BACHUS. I believe this is a very valuable discussion, and, Mr. Royce, would you like 15 seconds to respond?

Mr. ROYCE. Yes. I think I made it very clear. We are talking about the Housing Trust Fund, and we have a very clear record on these boondoggles, and I will just close by saying if we recall, Mr. Chairman, we are borrowing 42 cents on every dollar we spend here. We are borrowing it from China and the rest of the world in order to continue these boondoggles, and, frankly, I think the Washington Post did us a favor by showing us how some of this actually works.

Thank you.

Chairman BACHUS. Thank you.

I thank both you gentlemen.

Mr. Dold?

Mr. DOLD. Thank you, Mr. Chairman.

I certainly want to thank you for holding this important hearing, and my good friend and colleague from Illinois. This is about trying to make sure that those people and individuals have housing and the millions of dollars—actually the billions of dollars that are being spent, we want to make sure that they are being spent wisely. Certainly if they are being spent wisely and efficiently, that is going to mean better benefits and more homes for those who need them, and I think that really needs to be the goal that we are talking about.

As a small business owner, I know that one thing that is important in any organization—and certainly larger organizations—is that we have systems and controls, checks and balances to make sure that the resources that are being spent are being spent wisely. In this case we have some substantial evidence that we have dollars that are not being followed and, therefore, are not being used properly, and that, to me, I think, is one of the great things that we need to do in terms of oversight.

So this hearing, in my opinion, is not about whether any particular Federal housing program should exist or not, or what funding levels any particular program should receive. Instead, I think today's hearing is an opportunity to evaluate HUD's systems, controls, checks and balances; how is HUD planning, how are they implementing, how are they managing, how are they monitoring to complete these projects.

If HUD isn't getting this right—and I would argue that they are not getting this right at this point in time—then the beneficiaries suffer by not receiving the intended benefits that are being made by generous American taxpayers, and I think that really needs to be the focus of our efforts, because if we spend millions and millions of dollars, and what we have is an empty lot at the end of the day, then we are not providing affordable housing for those firefighters, for those nurses, for those people that my good friend from Illinois has highlighted. And I would argue that, indeed, we want those dollars to go further as opposed to we have sent them down to local control, and all of the sudden we have lost sight of them.

I welcome the opportunity to dig in further, and I look forward to hearing from the witnesses. I thank the chairman again, and I yield back.

Chairman BACHUS. Thank you.

Mr. Canseco?

Mr. CANSECO. Thank you, Mr. Chairman.

We can't lose sight of what it is that we are doing today, as my colleague Mr. Dold just stated, and more importantly, we have to look at the big picture. Yesterday, Moody's issued a warning about the credit rating of the United States after Standard & Poor's had done so earlier this year. Our country is truly in uncharted territory when it comes to our fiscal outlook. Therefore, at a time like this, it is maddening to see taxpayer money squandered so carelessly by HUD's HOME Program.

The Washington Post investigative article and the Inspector General's report have shown that a significant portion of the money allocated towards the HOME Program has not been accounted for, and nobody at HUD seems to care where it is. In the HOME Program, where it was an initiative of the private sector, those involved would be fired. If it were a private-sector project, they would be fired or blacklisted or in jail.

The defenders of the program have allowed them to carry on while taxpayers continue to foot the bill. Why? Because these programs have noble-sounding names and stated purposes. So we turn a blind eye to their glaring defects for fear of demagogic ridicule. This is simply unacceptable, and I hope today's hearing will shine a light on some of the waste, fraud, and abuse perpetuated through the HOME Program at the expense of the American taxpayers.

Thank you very much.

Chairman BACHUS. Thank you.

Is there anyone else who wishes to make an opening statement?

All right. Thank you.

At this time, it is my pleasure to introduce our witnesses. Our first witness is Mercedes Marquez, who is the Assistant Secretary for Community Planning and Development for the Department of Housing and Urban Development. Prior to assuming this position not quite 2 years ago, she headed up the second largest public housing authority. Is that what you would you call it, the Los Angeles—

Ms. MARQUEZ. The Los Angeles Housing Department.

Chairman BACHUS. Thank you.

Other than New York, I guess the second largest. So she is obviously well qualified from a management standpoint. And she has 800 employees, 43 field offices, and she worked in the Clinton Administration and has held positions of authority in the private sector. She is a graduate of Georgetown, with JD and LL.M. degrees, and we look forward to her testimony.

We also have the Assistant Inspector General for Audits at HUD, and he has served in increasingly important, responsible positions at Agriculture, Interior, and Education prior to being at HUD. He is a certified public accountant and Mr.—is it “Heist?”

Mr. HEIST. “Heist.”

Chairman BACHUS. “Heist.” I apologize. Being Southern, I struggle with names. He is a certified public accountant and certified government financial manager.

With that, Secretary Marquez, you are recognized.

**STATEMENT OF THE HONORABLE MERCEDES M. MARQUEZ,  
ASSISTANT SECRETARY, COMMUNITY PLANNING AND DE-  
VELOPMENT, U.S. DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT**

Ms. MARQUEZ. Good morning.

Chairman Bachus, members of the committee, thank you for the opportunity to testify today regarding HUD's oversight of the HOME Investment Partnerships Program and the Program's success over the last 20 years. I would also like to present the actual facts about HOME that the Washington Post omitted in its May 15th article.

As the Assistant Secretary for CPD, I oversee the HOME Program, an anchor of our Nation's affordable housing finance system. HOME is the largest Federal block grant designed exclusively to produce affordable housing for low-income families. Signed into law by the first President Bush, HOME builds and rehabilitates affordable housing, provides downpayment aid to help families become homeowners, and provides rental housing for poor families and for those on the verge of becoming homeless.

HOME has done a good job at that, recently producing its one millionth affordable home and providing tenant-based rental assistance to nearly a quarter million families, while meeting our responsibility as a steward of taxpayer funds. Indeed, the Post picture of the HOME Program is a far cry from the one I have managed since joining the Obama Administration 2 years ago, and during my 5 years running the L.A. Housing Department. In part, that is because it misstated several key facts.

Of the over 28,000 HOME projects under way across the country, the Post reported that over 700 out of a sample of 5,000 were delayed, but HUD's own review found that well more than half of those properties are completed or are progressing towards completion. Of the properties with delays, most were stalled because of the recession. And with data showing that 34 percent of all new housing starts from 2007 to 2010 were delayed at least 3 years, while only 4 percent of the projects in the Post's sample are actually delayed, HOME's success rate during the recession actually outpaced the private market.

Formula block grants are based on the premise that local communities understand their needs better than the Federal Government and provide them with flexibility to design programs based on their needs. In exchange for this flexibility, HOME participating jurisdictions, or PJs, have the responsibility to manage their specific HOME projects, monitor construction by their developers, and take appropriate action when project problems arise.

However, no program, public or private, is without problems. Projects will go awry, and capacity gaps do exist. HUD's charge in managing HOME is to balance this right of home PJs to make funding decisions with our fiduciary responsibility as stewards of taxpayer funds.

A key feature of HOME is its early focus on performance data and accountability, and the transparency created by publicly available performance reports on HUD's Web site, report cards for every home PJ in the United States, some of which have been provided to you.

Our actions have accelerated since 2009. We are better targeting our monitoring efforts through a more rigorous risk-assessment system that identifies the highest-risk grantees for on-site monitoring. In January, we implemented automatic cancellation of projects that have been in our data system for a year with no draws. We have canceled 1,778 projects and freed up \$290 million of HOME funds for more viable projects.

We work in partnership with HUD's Office of Inspector General, referring HOME PJs we consider particularly high risk for in-depth program audits. We strictly enforce the HOME commitment and expenditure deadlines, deobligating nearly \$66 million to date. We aggressively seek repayment when HOME funds are misspent and have collected over \$190 million in repaid or forfeited funds. We withhold HOME grants from PJs that have used HOME funds for ineligible projects or costs.

HUD's role is not limited to oversight and enforcement. HUD's Transformation Initiative has provided critical funding for additional financial controls and system changes to improve performance. We provide technical assistance in the form of training and direct capacity-building assistance to PJs.

In 2009, we began an internal review of HOME Program regulations. The proposed regulation, which will be placed into internal HUD clearance this month, will strengthen the standard to ensure PJs select developers with appropriate capacity and make other oversight and monitoring improvements.

HUD will continue to improve our program oversight through monitoring, reporting, system improvements, enforcement, capacity building, and other actions. And what that oversight has shown is that the vast majority of PJs are doing a good job, meeting spending deadlines and building critically needed housing. And with the IG's continued help, the system is working to find and take action on those few PJs that fail to fulfill their responsibility, including some of those mentioned in the Washington Post article.

Thank you for the opportunity to share with you the true story of HOME.

[The prepared statement of Assistant Secretary Marquez can be found on page 68 of the appendix.]

Chairman BACHUS. Inspector General Heist, you are now recognized.

**STATEMENT OF JAMES A. HEIST, ASSISTANT INSPECTOR GENERAL FOR AUDIT, OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Mr. HEIST. Good morning. I would like to thank the chairman, ranking member, and distinguished members of the committee for the opportunity to testify today regarding oversight of HUD's HOME Program. I am Jim Heist, Assistant Inspector General for Audits at HUD'S Office of Inspector General (OIG), and I am pleased to discuss our audit work regarding HUD's HOME Program.

OIG's mission is to provide independent and objective reporting to the Secretary and to the Congress regarding HUD's programs. The HOME Program is the largest Federal block grant to State and local governments, designed to create affordable housing for low-in-

come households. Because HOME is a formula-based grant, funds are awarded to the participating jurisdiction noncompetitively on an annual basis. The formula is based in part on factors including the age of units, substandard occupied units, number of families below the poverty rate, and population in accordance with census data.

HOME addresses the need for affordable housing in our country, a need that is increasing in the wake of the economic downturn and rising unemployment. However, the Office of Inspector General has expressed concerns about the controls, monitoring, and information systems related to the HOME Program. Over the past 5 years, we have conducted 64 audits of the HOME Program at the grantee level. We initiated at least 12 of these at the request of the Department based on concerns they had expressed to us. Many others were selected based on grantee risk assessments that HUD has done and included informal input from HUD staff.

The most common finding in our audits is a lack of internal controls. This includes subgrantee activities, resale and recapture provisions to enforce HUD's affordability requirements, incorrectly reporting program accomplishments, and incurring ineligible expenses. There is also a repetitive thread of not always meeting the objectives of the program to provide affordable housing or not always meeting local building code requirements.

In our external audits of HOME funds over the past 5 years, we cited a total of \$179 million in questioned costs and \$58 million associated with recommendations that funds be put to better use. HUD agreed with most of these costs, and to date has recovered or realized savings of \$93 million, and resolved another \$66 million by subsequently obtaining documentation from the grantee to support the costs.

HUD focuses its monitoring activities at the grantee level through its field offices. Grantees, in turn, are responsible for monitoring their subgrantees. Our audits have found that, in some instances, little or no monitoring is occurring, particularly at the subgrantee level.

Another concern we have is with the Integrated Disbursement and Information System (IDIS). The system is used by HUD to accumulate and provide data to monitor compliance with home requirements for committing and expending funds. HUD also uses the system to generate reports used within and outside HUD, including the public, participating jurisdictions, and the Congress.

We believe the system cannot produce complete and reconcilable audit trails throughout the entire grant life cycle. Moreover, we have found that the system is not in compliance with Federal financial management system requirements. OIG has expressed its concerns about the data integrity in this system and the impact that it has on HUD's overall financial statements. We believe that with a robust, more up-to-date information system, HUD would be able to better monitor the HOME Program.

OIG believes that HOME is an important program, given the current economic and housing crisis in our country. The need for affordable housing has never been greater than now. There are successful examples of how HOME funds have been used for their intended purposes. Since most of our work, on the other hand, fo-



cuses on high risks in the program, we have highlighted areas where improvements need to be made, particularly in the controls and monitoring of the program by the Department, as well as in the areas of data integrity and systems enhancements.

We look forward to working with the Department and the Congress in assessing ways to improve the effectiveness of the HOME Program. I thank you for the opportunity to speak with you today, and I am happy to answer any questions that the committee may have.

Chairman BACHUS. Thank you very much.

[The prepared statement of Inspector General Heist can be found on page 58 of the appendix.]

Chairman BACHUS. My first question, let me go back to my opening statement, and I mentioned conversations with the agency. One concern is that contracts require repayment for failed projects or misspent funds. And I know that there was some reference in the Washington Post article, and since those articles, that some of the contracts didn't have that legal requirement.

I would like to ask both our witnesses, are we moving to remedy that? I know that participating jurisdictions have a role in that, but how is that—what are you doing to ensure that doesn't happen again?

Ms. MARQUEZ. There are two ways to discuss that. One is, of course, that the regulations in the statute require that if there are ineligible costs, those must be repaid with non-Federal funds. So CDBG funds or any other Federal dollars may not be used. Inevitably, anytime that something must be repaid—in other words, the \$250 million we are talking about—it is repaid with a tax—really tax receipts from the local and State governments. Of course, that pains a local and State government more than anything else, because when you have to use your own dollar to repay a Federal dollar, that is a police officer who is not being hired. It is a library hour that is cut short. It is a firefighter who does not get overtime. And as a result of that, that probably serves as the greatest effort possible to keep them in line.

In this story in the Washington Post, we are really talking about 2.5 percent, 97.5 percent, but this is a great program, but at a local level what you raise, sir, is correct. What we are doing to help the jurisdiction—and I am a firm believer that these decisions about where this money is spent and how it is spent must be made at the local level, and our job is to support them and provide adequate oversight, without question.

Anything can be better, but as a former director of housing myself, I would tell you that there is no way that HUD, anyone in the Federal Government, could tell me where that money should be spent better than in my local community, and so I run the program from that point of view. From a local point of view, how do you ensure that things like that were reported in the Washington Post, like that case in Washington, D.C., is true?

As we move forward with regulations—and you and I—you gave me the pleasure of speaking with me about this—what we are going to do is help them with model language. What they lack is a model agreement, a legal agreement that allows them to put in that agreement how it is that they would go back and enforce those

requirements by law so that they wouldn't be paying back a Federal dollar, but instead the developer or someone else would be paying from their own private funds for anything that didn't happen.

In Los Angeles, I did that, so the second largest jurisdiction, I changed all of the model legal agreements so that all that was in there, because that was never going to happen when I was involved. That is what we are going to be doing to help them. That is the level now of help and capacity building that we must provide to local agencies to allow them to do their work.

Chairman BACHUS. Thank you.

Assistant Secretary, let me tell you, I understand you could make an argument that no HUD money was used or no Federal money or it was reimbursed. Of course, Mrs. Capito mentioned an interesting thing; did it come out of another program? But I think the important thing is that it was taxpayer money. Whether it is Prince George's County, and whether it is 2 percent of the total, and we also acknowledge that a lot of private projects fail. You have given those concerns, but we are simply talking about no matter how many or how few there were, I think the Washington Post article is good, and it sort of gives us an urgency to include that language. There were projects where there was no legal requirement, and I think one thing we agree on is that needs to be in there, because we don't want to replace that with local taxpayer money. We want the people who received the money to pay for it.

The second thing I want to mention is tightening up on the standards for nonprofits and participating jurisdictions. There obviously ought to be—and I think you have mentioned that since the Washington Post. Could you tell me about maybe eligibility standards for developers, whether you are going to propose that be tightened?

Ms. MARQUEZ. The HUD rule has not been revisited since 1996. The development business has changed substantially since then, and, in fact, in that period of time, HOME has become a foundation stone of the affordable housing finance system. As a result of that, what has also happened is that we have gone from a small number of nonprofits in 1990 who did this business to actually a very large business. In Los Angeles, 50 percent of those developers that received HOME money were actually private developers, so it was a very successful program, lots of leverage.

But what is needed—and we agree with you, sir—is tightening of underwriting criteria for developers in general, whether they are for-profit or nonprofit, and as we have gone through the rule, as I said in my testimony, since 2009, I came in with that agenda because it was my job in Los Angeles to do that there. So we have done it before. The Secretary did that in New York. We are very clear on how to do it, and those are the types of issues in this new regulation that we have been working on that has nothing to do with the Washington Post article. It has to do with coming in, that the rule hadn't been redone since 1996. We are working on that now.

Chairman BACHUS. Thank you. This hearing is not abolishing the program, although there may be some who want to do that.

This is not about determining if it—this is just about correcting some of the report.

Mr. Frank, would you like to make an opening statement?

Mr. FRANK. No thanks, Mr. Chairman.

Chairman BACHUS. I recognize you for 5 minutes, or Mrs. Maloney or whomever.

Mr. FRANK. I will do my questions.

Chairman BACHUS. Okay.

Mr. FRANK. I appreciate the courtesy, Mr. Chairman.

I think it is an important hearing, and I want to begin with my agreement with the chairman on the reason you are in front of us; this is not a hearing aimed at abolishing this program. And I note with appreciation the Inspector General's closing comments in which he says that the program ought to continue and be improved, and obviously, we have an obligation to do this.

There is clearly a pattern that exists over maybe, what, three Presidential Administrations, and the problem is in part this, I think, and we do run into this tension. We have decided that it is better to have the Federal Government work cooperatively with State and local governments, particularly local and county entities, rather than do it directly, but there is a tension there. There is a tension where local governments may resist. I will say also there are probably cases, if they went into it, where there was a problem in a local area, and HUD moved to correct it, and a Member of the House or Senate might have said, leave them alone, stop doing that.

Ms. MARQUEZ. On occasion.

Mr. FRANK. Thank you.

I would not be surprised to have that happen, and I don't say that to be critical, in particular because that is partly our job from time to time, because HUD isn't always right either, and the Washington Post isn't always right.

But I am saying there is an inherent tension when we decide not to have the Federal Government do it, but to have State and local governments do it, and that is there. That doesn't excuse things, and we may want to abuse it, but that is clearly problematic.

I do want to say, having noted that, that the local entities overwhelmingly support this program. In fact, I ask, Mr. Chairman, to be able to put into the record a letter addressed to you and to me which is actually critical of the Washington Post, says that it distorts HOME's record by focusing on a very small percentage of HOME developments, and it says that they think that it gives an inaccurate picture beyond the inaccuracies discussed, but the Post failed to report the bigger picture: 381,000 rental units; 428,000 home buyers; 197,000 rehabilitations; and they say HOME funding is a vital piece in financing numerous affordable housing developments. The isolated issues that were the focus of the Post are not representative either of the Administration or the outcome of HOME funds. Again, this goes from the Clinton Administration, through the Bush Administration, and into the Obama Administration.

But I want to note that among the signatories here are the National Association of Counties, the National Association of Housing and Redevelopment Officials, the National Association of Local

Housing Finance Agencies, the National Association of State Mental Health Program Directors, the National Council of State Housing Agencies, and the U.S. Conference of Mayors.

So I am glad that we have put out the consensus that this is a very important program, the great majority of funds have been spent well, but it can be improved.

And I did then want to ask the Inspector General—and I appreciate the very constructive tone of this—when he—I would note, again, that conclusion: OIG believes that HOME is an important program which provides affordable housing to low-income Americans. The need for affordable housing has never been greater. There are many examples of how HOME funds have been used for their intended purpose. The OIG correctly acknowledges it is their job to find wrongdoing, and I appreciate his noting that is not—

Mr. HEIST. That is really just so everybody understands that our findings need to be placed in the proper context.

Mr. FRANK. Thank you. I appreciate you doing that. Not everybody in your line of work does that.

There was one thing that I was particularly pleased to see where you talked about when you found there were problems, and HUD appears over time to have been cooperative with you.

On page 4 you say: Over the past 5 years—again, going back 5 years is about 50–50 with the 2 Administrations, little more in the Bush Administration, but close to even—we cited a total of \$179 million in questioned costs and \$58 million associated with recommendations of funds to be put to better use. That is about, what, \$237 million. HUD agreed with \$221 million of these combined costs. I am encouraged by that, that over the years, rather than be resistant, over the two Administrations, the Bush and Obama Administrations, you made recommendations about \$237 million, and they agreed with you with well over 90 percent of it. Is that a correct number? Have you been able to work with them?

Mr. HEIST. That is a fair characterization. It is actually about 95 percent, and HOME is one program where we—compared to some other programs, quite frankly—actually work better with HUD than—we do have areas where we agree and where we disagree, but I think we each understand our positions, and ultimately, we are hoping to accomplish the same thing.

Mr. FRANK. I am glad you acknowledge we all want to make it work better, but I will say again a decision to do this, led by that man—this program is the brainchild of Henry B. Gonzalez right up here, and he put it through this committee and this House. He made the conscious decision to support it on both sides; not to have this be a Federal top-down program, but to be a cooperative program that introduces an element of friction. That is not a reason for complacency, but it is something we should be aware of in how we deal with it.

Thank you, Mr. Chairman.

Chairman BACHUS. I am told that we will recess now for some votes on the Floor, and the trial of the Washington Post will convene at the end of votes.

[recess]

Mr. NEUGEBAUER. [presiding]. The hearing will come back to order. Mr. Heist, I understand that you are completing—is it 33 years of service?

Mr. HEIST. Thirty-five.

Mr. NEUGEBAUER. Thirty-five, and that you are retiring at the end of this month?

Mr. HEIST. I am.

Mr. NEUGEBAUER. Thanks for your service.

Mr. HEIST. Thank you. I appreciate that. It would explain the smile on my face.

Mr. NEUGEBAUER. I hear you. I noticed you were pretty chipper today so—

I now recognize the gentlewoman from Illinois, Mrs. Biggert, chairman of the Housing Subcommittee.

Mrs. BIGGERT. Thank you, Mr. Chairman.

Ms. MARQUEZ, on page 4 of your written testimony, you mention specific percentages of HOME projects that are considered open. Do you have a dollar figure for open projects?

Ms. MARQUEZ. We are going to check that for you.

Mrs. BIGGERT. Okay. Thank you. And then could you define the meaning of open projects and how does an open project differ from a project that is progressing toward completion, as you describe on page 5 of your testimony?

Ms. MARQUEZ. An open project is the body of projects that the 642 PJs are working on at any given time across the country. Those projects can change. They can cancel them if they think they are not moving toward completion, they can be completed.

So that is actually the body of work that is open at any given time, but I would also say to you that we were concerned when we arrived that there were too much laxity in what that was and have moved with strong management to make sure that we get a smaller universe so that we can see what that actually is, so that since December of 2009, that list of open projects has shrunk, the closed projects, by 48 percent.

Mrs. BIGGERT. Is there a difference then from progressing towards completion?

Ms. MARQUEZ. Progressing—as I said, open is the universe, so progressing towards completion is a subset of where that universe of project is.

Mrs. BIGGERT. Okay. Let's say that a project started in the mid-to late 1990s. Could such a project still be open today?

Ms. MARQUEZ. It could be, and I have some concerns about that.

Mrs. BIGGERT. Isn't everything supposed to be completed in 5 years?

Ms. MARQUEZ. Thank you for asking that question. This is where we get to when you want a program that has a relationship with the private sector and you want a program, as we do, as you do I know, that leverages dollars. The HOME Program as a whole leverages nearly \$4 for every HOME dollar that is invested. So that means that in a project, if it is following the national average, the HOME dollars don't make up more than 20 percent of it.

What that means is that when you have a project and 80 percent of the project is financed through a private bank, through bonds, through tax credits, through other things, the HOME dollars can

actually be spent but the project is not completed because it is only a portion, usually acquisition. And that is what happens when you are doing business in the private sector. It is not a situation like a public housing dollar where the public housing is paying the full percentage of that unit. Here, this is a public-private partnership.

Mrs. BIGGERT. So does that completed project—does that simply mean that all the funds for that project have been spent? So does that mean the private dollars and/or just the—

Ms. MARQUEZ. Yes, it does.

Mrs. BIGGERT. And the Federal. Okay. So does it mean that people are actually occupying units?

Ms. MARQUEZ. When something is complete in the system, it means that the construction is done, all the money has been drawn down, and it is occupied.

Mrs. BIGGERT. Okay. I looked at some of the recent appropriations for the HOME Program, and I have to say we all know—we all think that this program has been very beneficial. What we want to make sure is that it is efficient and that we have the correct data.

And I think with Fiscal Year 2008, we had \$1.7 billion; in 2009, \$1.825 billion, and another \$2.2 billion of funding in 2009 from the stimulus bill; \$1.825 billion in 2010; and then another \$1.61 billion in this year's CR. So that is about \$10 billion for 4 years, and has HUD had to recoup any of these funds or has each dollar been accounted for?

Ms. MARQUEZ. That is a broad question, so I will try to take it in turn. It is possible that of all of those dollars, particularly the older dollars, that money has been recaptured if there was an ineligible activity or anything like that found.

Mrs. BIGGERT. Okay. If the dollars have been recouped, are they returned to the Treasury, the General Fund or are they recycled and handed out to other PJs?

Ms. MARQUEZ. It depends on how it is recaptured. The statute actually calls for the money, when it is something, for instance, that is not about fraud, so we are not talking about criminality, but when it is a project that was canceled, that money must be repaid, when it is ineligible, the money must be repaid with non-Federal funds, but the dollar amounts go back to that local jurisdiction in their HOME Program per the statute.

When there is—and it is rare but when it has occurred that there would be something that you would call fraud, then we have another set of options, but usually what we would do there is terminate the participation of the jurisdiction. HUD itself, the PCPD itself, does not have the authority to send something for criminal prosecution. However, we do have the authority to send it to our enforcement center and we do, and we also have the authority and we do work with our Office of General Counsel to debar someone. So from us, it is not HUD that prosecutes you. We could send it to the U.S. Attorney and we have done that, but we could debar you and put you out of business, and we have also done that on occasion.

Mrs. BIGGERT. Thank you. I think my time has expired.

Mr. NEUGEBAUER. Thank you. And now the gentleman from Illinois.

Mr. GUTIERREZ. Thank you so much. I want to just say for the record that Congressman Barney Frank is meeting with the EU International Coordinator, Michelle Barnett, and that is why he is not continuing here with us.

I would like to just follow up with Mr. Heist. In the Washington Post article, in the second paragraph, it says, "Nationwide, nearly 700 projects awarded \$400 million have been idling for years under the HOME Program."

You testified that there were \$178 million that you felt were questionably used and \$58 million that could have a better use, of which \$93 million you subsequently found that they responded affirmatively for a better use of—I am sorry—to resolve the misuse and that \$66 million of the \$58 million.

Is that true? Could you explain that to us?

Mr. HEIST. The statistics you cite refer to our body of audit work for the last 5 years and has no relationship with the numbers that the Post cited.

Mr. GUTIERREZ. But I guess I just want to figure out who is—because you said in the last 5 years, you have found about 95 percent of everything you have challenged HUD with; is that correct?

Mr. HEIST. No, what I said was we issue audit findings and we are just making recommendations. It was up to the HUD program manager to resolve those. I am saying they agree with us 95 percent of the time.

Mr. GUTIERREZ. They agree with you 95 percent of the time, and when you said \$179 million, \$93 million you found that they corrected?

Mr. HEIST. Correct.

Mr. GUTIERREZ. Okay. And \$58 million, under better use, you found that a large percentage of that they put better use to that money?

Mr. HEIST. Part of it we will look at a grantee and they just don't have the records to support the expenditure.

Mr. GUTIERREZ. Okay. But do you have a good relationship with HUD?

Mr. HEIST. With respect to the HOME Program, I would characterize it as very good.

Mr. GUTIERREZ. Okay. So you have a very good relationship and you have found that they have been very responsive when you challenge them from the Inspector General point of view.

So would you agree with the statement then 700 projects have been stalled, \$400 million.

Mr. HEIST. I don't have a body of work that would substantiate that claim.

Mr. GUTIERREZ. But your body of work then is the one you initially testified to was \$179 million, \$93 million they fixed and \$58 million better use, and they fixed most of that, that is your body of work?

Mr. HEIST. That is correct.

Mr. GUTIERREZ. And you have been doing this for how long?

Mr. HEIST. I have been in my current position for 10 years.

Mr. GUTIERREZ. You have been in your current position for 10 years, and you have been in the Inspector General's office for how long?

Mr. HEIST. I have been in the Inspector General community for 35 years.

Mr. GUTIERREZ. For 35 years. So I think we could establish you as a professional witness, right? I am not a lawyer, but I have been watching too many lawyer movies—Perry Mason; he is an expert on the matter.

I would like to go now to Secretary Marquez, thank you. Number one, you too, for your many years of service to people, whether it is here at the Federal or at the City level back in L.A. I just want to understand this.

The program is a block grant program. Would it be correct that if we appropriate \$1.6 billion, there is then a mathematical equation used to distribute that money throughout the country?

Ms. MARQUEZ. Yes.

Mr. GUTIERREZ. And you don't have anything to do with that. It was there, you use it, and that is what you go by?

Ms. MARQUEZ. Yes.

Mr. GUTIERREZ. So the Congress of the United States states this \$1.6 billion, and then you as an institution, HUD, distributes that money to localities and then they choose the programs?

Ms. MARQUEZ. Correct.

Mr. GUTIERREZ. Now, there have been \$32 billion so far allocated to the program over the last 20 years; is that correct?

Ms. MARQUEZ. Yes.

Mr. GUTIERREZ. Since there is a ratio of four to one, would it be fair then to say that there is approximately \$120 billion that doesn't come from the Federal Government that was used in coordination with these \$32 billion?

Ms. MARQUEZ. The ratio of almost \$4 to \$1 is based on dollars actually spent, right, so it is about \$80 billion right now.

Mr. GUTIERREZ. So when the Washington Post reports or someone reads in the Washington Post, they might be misguided by thinking that a project that you, under HOME dollars, put \$150 million in—I am sorry \$150,000 in, that was the complete amount of the project?

Ms. MARQUEZ. That would almost certainly be incorrect.

Mr. GUTIERREZ. Because you appropriate approximately—you contribute approximately 20 percent of the dollars?

Ms. MARQUEZ. Correct.

Mr. GUTIERREZ. So if a project truly has failed, a bank or a private institution, somebody with private money, lost the other 80 percent of the money?

Ms. MARQUEZ. That is one of the reasons why there are so few losses in the program. When you have various levels and layers of funding, you also have various layers of review. In the last 5 years, about 50 percent of the units that have been built, rental units that have been built with the HOME contribution are also associated with tax credits. Tax credits usually make up 40 to 50 percent of the capital in an affordable housing deal. There is a rigorous underwriting review that goes on with tax credits. So not only are they underwritten for HOME, they are underwritten for tax credits, they are underwritten for bonds, they are underwritten for private financing. So that is why these projects overwhelmingly are sound.



Mr. GUTIERREZ. The equation is basically four to one. If I have a \$100 million project, you guys are going to put about 20 percent of that money, the other 80 percent comes from other, but you allow local municipalities, villages, commissions, counties to select the programs in which they are going to use the HOME dollars in; you send it to them?

Ms. MARQUEZ. I don't have the authority to allow them. The statute gives them the authority.

Mr. GUTIERREZ. Let me—because I am going over my time—I just want to, could you tell me because we want to make sure that even though we are actually gaining hundreds of millions of dollars, indeed, over \$100 billion that we—from the private sector that we have been able to leverage, could you tell me two things you are doing to make sure we get the money back because the Washington Post says you can't get the money back?

Ms. MARQUEZ. I would say we have been—actually there are several things we have done. One of the most important things I think is auto cancelation now on a monthly basis.

Mr. NEUGEBAUER. Be quick here.

Ms. MARQUEZ. On a monthly basis, we cancel anything that has not been drawn in over a year. So we have canceled now 1,778 projects for \$290 million just since January.

Mr. GUTIERREZ. Thank you very much.

Mr. NEUGEBAUER. I now recognize myself for 5 minutes.

Ms. Marquez, are you familiar with the Kairos project that was featured in the Washington Post article?

Ms. MARQUEZ. I am to the degree that I am the Assistant Secretary and it has been brought to my attention.

Mr. NEUGEBAUER. Over the last few years, we have looked over hundreds of documents, and we found something interesting. We found that in March 2010, the Kairos project was on HUD's books, but when we went back and we looked at the November 2010 report, that project had vanished, it was not on the report.

Can you explain why that happened?

Ms. MARQUEZ. I cannot specifically tell you why that is. The report—I can tell you that the Kairos project has gone through monitoring by HUD, but it is not unknown to HUD and that we have requested repayment. I can tell you that.

Mr. NEUGEBAUER. Have you received the payment?

Ms. MARQUEZ. Not yet, but I can also tell you that we have sanctioned the county on their CHDO operations. It is no longer permitted to use the funds. I can tell you that.

Mr. NEUGEBAUER. So when did you make a request for them to return the money?

Ms. MARQUEZ. We made the request at the end of May. This was learned of—this deal was learned of, I believe, from the Washington Post and we acted on it immediately.

Mr. NEUGEBAUER. So after it was brought to your attention by the Washington Post, then you went back to review this project, I guess put it back on the books now and are monitoring it; is that correct?

Ms. MARQUEZ. The monitoring—what we found—they had already been through in-depth auditing in 2005 and 2008. There are several—

Mr. NEUGEBAUER. Just for me, could you furnish me records showing that you are monitoring that project and letters and correspondence of what was going on?

Ms. MARQUEZ. Absolutely.

Mr. NEUGEBAUER. About a week or two after the Post notified you, you took action to return this money. I think the point that has been made here today, and I think—I don't want to say some people are missing the point. The point is that both of you have testified that once you discover that the money has not been used appropriately or properly that you go and get the money back.

Here is the problem. You are not discovering that the projects—how many projects do we know that are out there that aren't performing? And the Inspector General says that you have very poor internal controls and that we have 5,700 open projects here that are open for more than 120 days and then we have projects, as you said, we have 5 years, 1,000 projects. There is a project in Baltimore, Maryland, that was opened—the last disbursement was July 2, 1997, for \$4 million. Do you know the status of that project?

Ms. MARQUEZ. I will get that to you on Baltimore, but if I could respond to your first question, we are talking at any given time 20,000 open activities for a multi-billion dollar project. We are also discussing, as our friend the IG has told you, that initially we were looking at 108 delayed projects, 108 out of a million units. We have closed all of those.

Now, in time, we continue to work, right, projects continue. At the moment there are 277—just 277 out of thousands and thousands and thousands.

Mr. NEUGEBAUER. My time is limited. So basically, when we look at this picture, we have a project that was closed in November. We find out that now maybe it shouldn't have been closed, it is back open and so forth, for \$750,000 the taxpayers got back, and that is unacceptable. Now, I think one of the things that—when I read the testimony and look at all of the research that we have done is that basically you say, these are local projects, I get that. But again, you have a fiduciary responsibility to make sure that these billions of dollars are spent as they were designed by Congress to do, and I do not believe that within the organization that you have demonstrated that you have the ability.

Do you know how the Washington Post discovered that some of these projects were vacant? Google. And so, the fact that you don't know the status of a lot of these projects is alarming. You say, we are relying on the local governments. Obviously not all—and I am not trying to categorize all local governments—but some local governments aren't using those moneys properly or they are not administering it appropriately.

And you mentioned the private sector. I want to be clear. I came from the private sector, and trust me, when I was doing projects, building houses and projects, when I asked for money, somebody came out and made sure that what I was asking money for, that was actually there. I couldn't just call the bank and say, send me some money.

I just want to go back to one thing because my time is about over, maybe it is over. We are talking about the IDIS system. Here is a quote from the Inspector General's report. Grantees and sub-

grantees are able to update, change, cancel, reopen, increase or decrease project funding without any review by HUD. Grantees and subgrantees also self-report the number of family house by the projects without comprehensive review by HUD.

Now, does that sound like that you are doing the job that you are supposed to be doing?

Ms. MARQUEZ. I would actually say that I disagree with that a bit.

Mr. NEUGEBAUER. I would, too, if it was said about me, but the Inspector General believes it is true.

Ms. MARQUEZ. I would respectfully disagree with that. The IDIS system is a system that all grantees must use to do business. We have to—everyone has to know what they are doing. It has to be able to change. Now, every drawdown can be and is tracked by grants. We monitor. In fact, in the last 2 fiscal years, HUD has monitored 34.5 percent of the jurisdictions; that is 222. We have made over 600 findings. That is HUD. That is not the Inspector General. So, we are actually quite active with them.

I would say to you, sir, that I completely agree with you that HUD has a fiduciary responsibility, but I would also say that the Washington Post report is incorrect in many measures, including the reliance on Google. Google tells us that those photographs are often 3 years old. They drew on them without knowing. We know that well over half of those projects that were cited by the Washington Post are either occupied or well on their way to being occupied. So they are just flat wrong.

Mr. NEUGEBAUER. I think the question here is not whether Google is—pictures were old or new, but some of these projects are open—have been open for over 15 years, and so I would think those photos are relevant. I think what is relevant here is that HUD does not have the appropriate internal control and the systems to appropriately monitor this program or we wouldn't have discovered these particular issues.

I see my time has expired, and so I now recognize Ms. Velazquez, the gentlewoman from New York.

Ms. VELAZQUEZ. Thank you, Mr. Chairman. Mr. Heist, as originally conceived, the HOME Program was intended to provide affordable housing for low-income Americans, an issue that you yourself in your testimony describe as vital given the housing crisis in this country. My question to you is, should the problem or problems identified by your recent audit overshadow the success of the program at achieving its original goals?

Mr. HEIST. I can only—I would address that by just suggesting that anyone needs to take our findings into context. The systems issues that we have reported, we believe, are significant but their impact is constrained somewhat. In no way is it endemic of the entire program, and some of the issues with respect to what the system does and enables jurisdictions to do is a function of the program structure itself.

Ms. VELAZQUEZ. Okay. Fair enough. Assistant Secretary Marquez, even before the Post investigation appeared, problems in the HOME Program had been identified by internal reviews at HUD and remedial actions were taken.

Do you believe your agency has the ability to identify and remedy problems in the program on its own?

Ms. MARQUEZ. Absolutely. I think that the evidence in the program, 1 million units provided, 250 million tenants assisted, with some absolutely stunning buildings, shows that. I also think that this issue is not just—it is not about what the Washington Post found or didn't find. It is our job to monitor every day and we do.

Ms. VELAZQUEZ. But someone might want to craft legislation to terminate the program based on the finding of the Washington Post.

But I have a question for Mr. Heist. In your audit, you made a number of recommendations for HUD to improve data collection and make information enhancement. Presumably, some of those changes will entail the acquisition of new IT, new training for employees, and a transition of existing data to the new system.

What is a reasonable amount of time for HUD management to turn around these recommendations and have adequate systems in place?

Mr. HEIST. A lot of that is dependent upon getting the necessary funding. I do know that for a number of years, HUD has been trying to get funding for this system in particular, and only in Fiscal Year 2010 I think there is an expectation that certainly within the next year, we would start seeing some improvements because now they do have that funding and are able to address some of the issues, apart from what we have reported on other issues as well, but some of them are specifically directed towards our recommendations that we have made over the past couple of years. Accounting for program income is a good example.

Ms. VELAZQUEZ. Madam Secretary, would you care to comment?

Ms. MARQUEZ. HUD has been requesting funding to improve the IDIS system since 1999 and was denied. In 2010, because of the transformational issue, it has been approved, it is designed. We are, in fact, taking into account, as the OIG said, many of their recommendations. We agree with them. In fact, we agree there is a housing crisis in the United States. We can't waste a single dollar, and one of our tools is oversight and enforcement and we take it very seriously.

Ms. VELAZQUEZ. Thank you. Ms. Marquez, both the Post and your IG have been critical of your agency's record of enforcement actions and civil penalties for bad actors in the HOME Program.

Does your agency have adequate resources and expertise to address this need to pursue these measures? And when I ask the question, how long it will take for you to implement the recommendations made by the IG, what will be the price tag to that and would you please give us a timeline?

Ms. MARQUEZ. That could be answered in many ways. I will try to be right to the point on this.

There are, as Mr. Bachus had raised, at the local level the ability of the local players to pursue in court civilly. Repayment of funds has to be done through capacity building and model documents. The rule that we are working on now that will be released internally within 1 month addresses those issues, and so within 1 year, we will help them with model documentation so that they can take folks to courts themselves.

Ms. VELAZQUEZ. The HOME Program has always operated as a block grant with funds being disbursed through intermediaries at the local level.

Would the program be better served if HOME funds were administered directly by HUD instead of by participating jurisdictions?

Ms. MARQUEZ. I couldn't imagine such a thing. Everybody has a separate market, separate conditions. In most communities, there are submarkets. You can never make that decision for a local government or for other players. You just can't.

Mr. NEUGEBAUER. I thank the gentlewoman.

Ms. VELAZQUEZ. Thank you.

Mr. NEUGEBAUER. The gentleman from Texas, Mr. Canseco.

Mr. CANSECO. Thank you very much, Mr. Chairman.

Ms. VELAZQUEZ. Mr. Chairman, would you yield for a second?

I just would like to ask unanimous consent to enter into the record some letters of support from different organizations.

Mr. NEUGEBAUER. Without objection, it is so ordered.

Mr. CANSECO. Thank you, Mr. Chairman. Ms. Marquez, the Administration proposed an increase in HUD's budget for Fiscal Year 2012 of \$747 million more than HUD's 2010 budget. Did you know that? Is that correct?

Ms. MARQUEZ. Yes.

Mr. CANSECO. Was this money requested in order to better police the HOME Program?

Ms. MARQUEZ. No. I fully believe that the HOME Program is one of the best programs in the Federal Government, and we can always do better, but it is a fine program, and most of what we need to do is being done through systems changes. This is a time of great need in the country. This is not the time to be creating more bureaucracy. It is the time to use what we have better.

Mr. CANSECO. So the increase in budget for 2012 was not to help the HOME Program?

Ms. MARQUEZ. It is not that some of it isn't to help the HOME Program, but it is capital dollars to go to jurisdictions, not to stay at HUD.

Mr. CANSECO. Do you think from a taxpayer perspective, it would be appropriate for HUD to get the HOME Program under control before its budget is ever increased, from a taxpayer program?

Ms. MARQUEZ. With great respect, the HOME Program is a great program now.

Mr. CANSECO. Did the HOME Program receive any money from President Obama's 2009 stimulus bill?

Ms. MARQUEZ. I don't believe HOME dollars, specifically no. There was something else called TCAP through the stimulus that came in specially to help with tax credit projects because the private tax credit market lost great value, value tax credits, and many deals were endangered and so what is called TCAP came in and went directly to State housing finance agencies through HUD to save many deals, but it is not HOME funding at all.

Mr. CANSECO. How is that TCAP fund used?

Ms. MARQUEZ. The TCAP money went to State finance agencies with HUD, they competed, and what ended up happening in a very good way is that they went forward and actually saved deals that

were on the brink of failing because the tax credit market fell through in value as with the rest of the real estate market.

Mr. CANSECO. And did any of that money go to the HOME Program?

Ms. MARQUEZ. They are not HOME dollars, no.

Mr. CANSECO. They are not HOME dollars. So HOME didn't get anything from the Obama 2009 stimulus nor from TCAP?

Ms. MARQUEZ. Yes, they are not HOME dollars.

Mr. CANSECO. Now, I understand that HUD contacted a number of participating jurisdictions that had been investigated by the Washington Post to inquire about the status of the HOME project. Does HUD usually contact this many jurisdictions in such a short period of time?

Ms. MARQUEZ. Absolutely. One of the things that the Post failed completely to mention is that the HOME employees throughout the country in local jurisdictions, it is their job to have relationships with these jurisdictions. They talk to them all of the time. So, yes, absolutely we are speaking to them daily.

Mr. CANSECO. So you contact them on a normal course of business?

Ms. MARQUEZ. Absolutely.

Mr. CANSECO. So is it fair to say that the Washington Post article was or was not a catalyst for HUD to actually go out and contact these jurisdictions and HUD would not have contacted them otherwise or would have normally contacted them?

Ms. MARQUEZ. This is what I would say. For Washington, D.C., which had a number of projects, we had already referred Washington, D.C., to the IG 2 years earlier for an audit. With Prince George's County, because we had monitored them twice and we were very concerned and as you probably know, their executive has been arrested for fraud, we would be—we were concerned as well for criminal fraud. And so would I call the—would I call a jurisdiction when I read anything that would alarm me, yes, and that is absolutely what they must do. But this is something in the normal course of business, it would be called a CPD representative calls these jurisdictions, their assigned jurisdictions. Every CPD rep has their list of jurisdictions that they do business with.

Mr. CANSECO. Now, when you contact these jurisdictions and they give HUD an answer as to what the status is on certain properties, is there any follow-up or examination by HUD to make sure that what the jurisdiction told you is actually correct?

Ms. MARQUEZ. There absolutely is. So for instance, when we requested at the end of May, that in PG County, they repay \$1 million, before we did that, we went in to audit them. Everyone has the right to due process and we went in to look at their books and look at everything.

Mr. CANSECO. Thank you. My time is almost up, but let me ask you this follow-up question to what my colleague Mrs. Biggert asked.

She asked in cases of fraud—and you answered that you have other options to investigate fraud for enforcement purposes, but you did not say what those options are. Do you mind telling us what those options are or what happens to the money with regards to that enforcement?

Ms. MARQUEZ. We have several options. One is to refer it to the State Attorney General or to the Department of Justice, and we have done that on occasion. Another is if we are seeking repayment and someone, for instance, who would not want to repay, we would go to our enforcement center, and we have done that on occasion and have always been paid. We would also go to the Office of General Counsel and seek debarment, which would essentially take someone out of being able to do business with HUD completely if they were found to be in violation. We do that as well. We would also, and often do, do a joint referral so we could do many of these things and immediately bring the Office of Inspector General in immediately to look at those things, and you have heard them testify. It is a good relationship.

Mr. CANSECO. So the HOME Program does have an enforcement center?

Ms. MARQUEZ. HUD has an enforcement center.

Mr. CANSECO. So you go to the HUD enforcement center?

Ms. MARQUEZ. Yes.

Mr. CANSECO. Thank you very much. My time is up.

Mr. NEUGEBAUER. I thank the gentleman. The ranking member of the Oversight and Investigations Subcommittee, the gentleman from Massachusetts, Mr. Capuano.

Mr. CAPUANO. Thank you, Mr. Chairman. Mr. Heist, did you read the Washington Post story?

Mr. HEIST. Yes, I did.

Mr. CAPUANO. And what was your general opinion of it?

Mr. HEIST. My observation was that they brought out some examples of mispending and certain projects that were consistent with some work that we have done at the local level. We reported in the past that HUD data systems have evidence—indicators of stalled projects. Actually, CPD has apparently adopted our definition in trying to highlight those cases. I can't speak to their overall conclusions.

Mr. CAPUANO. Did you find anything in the article that was shocking or unknown to you?

Mr. HEIST. I wouldn't say shocking, no. Certainly unknown. I wasn't familiar with many of the examples.

Mr. CAPUANO. The specific examples, but the general concepts you were familiar with?

Mr. HEIST. Correct.

Mr. CAPUANO. You have been the IG at HUD for 10 years, if I remember?

Mr. HEIST. Inspector General for Audit for 10 years.

Mr. CAPUANO. In that 10 years, this is not the only program that you audited?

Mr. HEIST. Correct.

Mr. CAPUANO. How does this program stack up against other programs?

Mr. HEIST. One thing I would say about the HOME Program is that it does have some specific rules and very specific criteria for types of activities that are allowed. So in comparison with other programs, it is more straightforward to audit. You can point to specific rules, and I think that is part of why we get a relatively high

amount of support on our recommendations because there are clear-cut rules.

Mr. CAPUANO. That is why I was able to get, at the request of the chairman of the subcommittee, mountains of information in a relatively short period of time.

Mr. HEIST. With respect to our audits?

Mr. CAPUANO. Yes.

Mr. HEIST. Yes, we have done quite a number of them over the years.

Mr. CAPUANO. In the 10 years you have been doing this, do you think the program is getting better or worse or pretty much the same?

Mr. HEIST. I can't make an overall assessment because we have not looked at the program in that light. Our primary focus is to identify areas of risk and offer recommendations as to what the Department can do to address those risks. And we have to audit against the program structure the way it is, which is a program that devolves much of the decision-making authority to the local level, and that is what we are auditing against and that is the constraint that we operate under.

And in any kind of program where you rely on intermediaries to carry out—

Mr. CAPUANO. But you don't have a general opinion that over the last 10 years, it has gotten worse?

Mr. HEIST. No.

Mr. CAPUANO. Or what about getting better? Have they been more responsive to your suggestions?

Mr. HEIST. They have been very responsive in the last couple of years. We issued a report a couple of years ago that sort of talked about some of the systems issues, concerns that we had, and I was quite heartened to see that they have implemented a number of our recommendations. The notice, for example, that was put out to start canceling activities that had not received any activity for a year after the funds were committed, they made specific reference to our audit work in telling the participating jurisdictions this is why we are doing this.

Mr. CAPUANO. In some situations, IGs and the agencies they oversee don't necessarily have a positive working relationship. Would you say that is not the case here?

Mr. HEIST. With the HOME Program, I would characterize it as generally positive.

Mr. CAPUANO. I know that there is one significant disagreement—

Mr. HEIST. There are disagreements.

Mr. CAPUANO. —that you point out. That is fine. The FIFA one, in particular. It is a pretty straightforward accounting difference of opinion.

Mr. HEIST. Yes.

Mr. CAPUANO. Even when you disagree. Because to me—here is how I look at it. No program can be perfect. I don't care what the program is. I don't care who is running it. No program can be perfect. That is why we need IGs to help keep it on the straight and narrow.



The question is, what do you do about things you find? What you just told me is that they are relatively cooperative and that they do have some disagreements. But your next question is, on the disagreements that you have, specifically the FIFA one, have they at least handled the disagreement in a professional manner?

Mr. HEIST. Certainly, absolutely.

Mr. CAPUANO. So it is not that they are just ignoring you; they are just saying, we respectfully disagree?

Mr. HEIST. That is absolutely true.

Mr. CAPUANO. So what I am hearing is, it is a program—and I think this hearing is fine. The article raised some serious questions. I read the article as well. It is reasonable and fair for us to ask about these things. It is reasonable and fair to get your answers, but from what I am hearing from you, other than the ordinary course of events, and again, there are always some bumps and some improvements, I don't walk away from this at the end of my time shocked. I actually feel pretty good that the program seems to be working as intended; that you have been overseeing it reasonably well; and that when you find differences of opinion, they tend to react in a positive manner, and that when you have disagreements, they are professional about it. So to me, it sounds like the system is working.

And my time is up. So, therefore, I say thank you.

Mr. NEUGEBAUER. I thank the gentleman, and now the gentleman from Texas, the vice chairman of the full committee, Mr. Hensarling.

Mr. HENSARLING. Thank you, Mr. Chairman. Ms. Marquez, I was at another commitment, so I missed your earlier testimony. We may be going over some old ground here. I thought I heard you say that in your opinion, the HOME Program is one of the most important programs or one of the most effective programs of the Federal Government. Did I hear you say that?

Ms. MARQUEZ. Yes, you did, sir.

Mr. HENSARLING. Okay. HUD administers what, roughly 90 programs; is that a good ballpark figure?

Ms. MARQUEZ. I don't administer them all, so I couldn't say that, but sure.

Mr. HENSARLING. Okay. I received information from I believe the Government Accountability Office. By some measurements, there are over 10,000 Federal programs. I believe HUD administers 90, more or less. So it is an important claim to make that this is one of the most important programs that the Federal Government has. As I understand the program, what you measure is the amount of money that goes out the door and measure whether it went out in 5 years. Now, is there something else that you are measuring here because if there is, and I did read the testimony, I am missing it. So my question is, if that is true, how do you know? How do you make the claim that this is one of the most important programs that the Federal Government has to offer if your only metric is how much money went out the door and did it go out in 5 years?

Ms. MARQUEZ. The most important metric is one million families served through this program and—

Mr. HENSARLING. And so what does that mean, served? Did they receive money?

Ms. MARQUEZ. What it means is that of the one million units I am speaking about, those have actually been built, homes rehabbed, homeowners in homes.

Mr. HENSARLING. Okay. How do you track that information?

Ms. MARQUEZ. That is tracked in all of the different reporting systems that we have shown. It is also tracked through the IG. It is tracked through any reporting measure that the government has. It is in there. We have several.

Mr. HENSARLING. This is reporting by the grantees; is that correct?

Ms. MARQUEZ. Yes, this is a block grant. So what the Congress decided under President Bush was that you would trust local government, local decision-makers to use their dollars responsibly, that they knew what their needs were, that they knew best how to work with private developers and for-profits.

Mr. HENSARLING. That is not the question, Ms. Marquez. I am not trying to assess blame here. But what I am trying to understand is what is the accountability system, your fault, my fault, no one's fault. I am trying to understand. Maybe it was Congress' wisdom to do this, but frankly, we are in a slightly different era as the Nation is going broke as we are borrowing 40 cents on the dollar, much of it from the Chinese, sending the bill to our children and grandchildren. Maybe the bar that was set 10 years ago needs to be re-examined. So, again, maybe a program that made great sense 10 years ago, maybe has to face a little higher hurdle rate. Maybe there is a design flaw here, or maybe there isn't. Again, as I am looking at the tracking system, what I am seeing is that you have to account for money out the door, getting it out in 5 years, and then reports come back that I don't—and please correct me if I am wrong—that are not independently verified from these grantees of the good that they have done, and if there was more independent verification, I don't think the Washington Post would have written the article, and the Washington Post is not exactly known as a bastion of conservative thought. It wasn't Fox News. It was the Washington Post.

Ms. MARQUEZ. I guess that is interesting in this position, isn't it, because the HOME Program is one that empowers local government, and so from that point of view, perhaps the Washington Post would rather that we had a one-size-fits-all as the Federal Government for this money. HUD does not agree. We agree that this is locally controlled, locally driven. I would say to you that HUD monitors every grantee. In the last 2 years, we have monitored 34.5 percent of the—

Mr. HENSARLING. Okay. What does it mean to monitor? How do you monitor?

Ms. MARQUEZ. It means this—we actually go to the place, we go to their office, we have a risk assessment. Every year, there is a risk assessment. The IG has actually approved the risk assessment tool. We take a look at a number of items having to do with risk, their performance. You name it, and it is looked at. From that point of view, we then prioritize what it is that should be monitored. High-risk grantees come first.

Mr. HENSARLING. How many of these sites are you actually going to?

Ms. MARQUEZ. We are going to—when I say monitoring, I mean our job is to monitor the grantee, the jurisdiction. So we actually go to the jurisdiction. Now, it is also true that often within a monitoring visit, you might be there a week looking at all of their documents, a sampling of files, making sure that they have everything they are supposed to have.

Mr. HENSARLING. Aren't there 25,000 open projects?

Ms. MARQUEZ. There are approximately right now 20,000 open activities, but as I have said, we are talking about billions of dollars and 642 jurisdictions. So 20,000 activities is the business of HOME captured in a system so that everyone can look at it. It is actually quite transparent, which is why we were able to afford in such a quick turnaround all of your requests for data because it is actually in the system. It is also why the IG says that the system is straightforward to audit because the information is in there and it is accessible.

Mr. HENSARLING. I see my time has expired. Thank you, Mr. Chairman.

Mr. NEUGEBAUER. I thank the gentleman, and now Mr. Hinojosa.

Mr. HINOJOSA. Thank you, Mr. Chairman. I would like to first stress that the title of today's hearing is, in fact, "Oversight of HUD's HOME Program" and not what some have contended is an investigation into the Affordable Housing Program or the deficit or debt of the United States. It is obvious to me that during the last 10 years that we have been at war in Iraq and Afghanistan and focused most of our money to the wars and neglected many of the domestic programs such as housing. I think that there is smoke and mirrors that I am hearing and seeing here in this hearing.

The title is, "Oversight of HUD's HOME Program" and unless that title is changed, the members contending that it is something else are sadly mistaken. HUD's Assistant Inspector General just told members of this committee that he supports the program but has had a difference of opinion with the Office of General Counsel. They have not called for the program to be eliminated.

In my congressional district, I have seen the investment and the improvements that were made in spite of cutting down the funding for this program. Just the City of Harlingen, in the last period from 2009 through 2011, has received \$1,173,000. The City of McAllen has received \$2 million. The whole county, which is 750,000 in population, has received \$8½ million. That is not a lot when you think of 750,000 people in that county.

For those of you unfamiliar with a colonia, because we have a very large number of those in my area, it is an unincorporated area outside of city limits in which American citizens reside. Those citizens have no running water, no sewage treatment, very little electricity, no paved roads, nothing at all that most of us take for granted. They are much worse than what we know to be ghettos. The HOME Program is helping to turn around some of these colonias, areas that would be decimated if the program were eliminated.

I hear the other members of the committee asking hard questions, but I think that there was—that in the investigation and the program examined by HUD in July of 2010 was not found in violation of the overall HOME objectives.

Ms. Marquez, I want to ask you a question. Are you familiar with the colonias?

Ms. MARQUEZ. Yes, I am.

Mr. HINOJOSA. If that is the case, then you have been down there, evidently. I want to ask you, can you talk about how the HOME funds are being used to help the colonias and also add to the answer to my question, how is HOME assisting in the disaster recovery across the country?

Ms. MARQUEZ. Okay. As it relates to the colonias, in this year, the Secretary honored my request that oversight of colonias come to my office. I have been to pretty much all four States and have traveled there. The HOME Program is of enormous help to colonias because it is able to leverage other resources. You are right, it is at a State level that colonias receive money. So the State of Texas receives their HOME allocation, and then the colonias and local governments apply to the State for HOME dollars. Because it is not a lot of money, it is absolutely essential in colonias that they leverage other dollars, whether it is the CDBG set-aside for colonias, it is money from Rural Development or anything else. So without leverage, colonias cannot go forward.

Mr. HINOJOSA. If you would yield, there is a number here for the whole State of Texas. Our State program received \$126 million, of which I said that a small amount came to Hidalgo County of 8½ million. So continue.

Ms. MARQUEZ. As I said, you absolutely in a colonia must leverage. There is no other way to move forward there. And so, the HOME Program plays an overwhelming help there because virtually everyone who lives in a colonia qualifies for HOME dollars.

Mr. HINOJOSA. My time has expired, but I wanted to conclude by saying that the HOME Program is supported by many organizations that I know of and have met with, such as Habitat for Humanity, the Housing Assistance Council, the National AIDS Coalition, and the National Alliance to End Homelessness.

With that, I yield back.

Mr. NEUGEBAUER. I thank the gentleman, and now recognize the gentleman from New Mexico, Mr. Pearce.

Mr. PEARCE. Thank you, Mr. Chairman. I thank both of you for being here.

Secretary Marquez, I notice your document showing the inaccuracies of the Washington Post, and frankly, coming from my side of the aisle, I don't need much encouragement to believe that the newspapers might get it wrong occasionally. I would be interested if you have a document that is similar about Mr. Heist's presentation. In other words, the fact that you don't have an audit program, he says you are unable to produce reports that would facilitate timely identification of fraud, waste, and abuse in the programs. Is that inaccurate, totally inaccurate?

Ms. MARQUEZ. I guess I would say that on most things, I tend to agree with my colleagues at the OIG, but there are some times—

Mr. PEARCE. So this is inaccurate, that you do, in fact—

Ms. MARQUEZ. I believe that the systems we have for oversight and reporting adequately cover it. However, I would agree with them that this is a split. There are things in the IDIS system that

need improvement, and that is why since 1999, CPD has been requesting funding, and in 2010, has now received funding.

Mr. PEARCE. You mentioned the in-depth study on the Kairos project. It is mentioned somewhere in here, 2005 and 2008. So if you did an in-depth study, why didn't it reach some level to where somebody finally blew the whistle? The whistle was blown. You obviously blew the whistle now that the report came out in the newspaper. But if the systems are so straightforward—I have heard both of you say that you have straightforward systems. Why didn't the whistle get blown on that?

Ms. MARQUEZ. We have looked at all their files and I have offered to make them all available in terms of our monitoring. They had entered information. There was information in the system. It was incorrect. I would note that it is not just on the CPD side that this wasn't caught. The IG didn't catch it either. So you can't catch everything in a system that is about a million units.

Mr. PEARCE. How many people—you said you have helped a million people and you have that breakdown here and I appreciate that. How many people nationwide, would you guess from your experience, need help? If you have helped a million, is it 10 million, 20 million, 30 million?

Ms. MARQUEZ. There is a worst-case housing needs study that was released in February by HUD that indicated how severe the need for affordable housing is, and it certainly shows that there has been an increase of 20 percent in worst-case housing needs for renters between 2007 and 2009, which is why no dollar can be wasted.

Mr. PEARCE. But my question is, how many people nationwide would you recommend or would you guess fall in the category of needing your help, your services?

Ms. MARQUEZ. What it says in the report is that in 2007, there were 5.91 million households who fit within a worst-case housing need, and that that has now gone up significantly.

Mr. PEARCE. Okay. So let's say it doubled from 5.9 million; let's just say it went to 10 million households. That makes the math much easier. Just to put it in perspective, in order to serve the 1 million people that you served, it has taken not only your \$32 billion, but then according to your report, another \$80 billion from outside private sources. So that is basically \$112 billion to take care of 1 million people. So when we multiply \$112 billion times 10, we are actually going to need about \$1 trillion to handle those 10 million people. And so when I hear the discussions about how effective a program is, I just need to put it into context for myself that we need \$1 trillion on this path of 112,000 average per person that you help. And I do note that rental units, the average per person is \$31,000, according to your figures that you have distributed, and then I assume that is then amplified by the \$80 billion.

Mr. Heist's report also talks about District of Columbia; there is a significant problem here. He is talking about \$6.5 million costs charged to the program. Then he talks later about the mobile. He says, the City failed to detect or prevent the housing board use of \$1.1 million. Are these all things that you said you have a really nice tight system, these are things you have applied for and you have gotten reimbursement for those; is that correct?

Ms. MARQUEZ. In this case, in Washington, D.C., it was actually HUD that requested the audit by the IG before there was a Washington Post story. So it was actually HUD that caught it and asked the IG to review, having nothing to do with the Washington Post.

On the 1 million number, it is not people, it is units, and those have affordability periods anywhere from 5—in California, it is up to 55 years. So when you are talking about an investment, you are not talking about people. You are talking about units over many, many years. So who would benefit? Multiples of millions of people would benefit from that number.

Mr. PEARCE. Okay. Mr. Chairman, I see I am over, if I could make one closing comment. I notice in the IG report that it says, “43 investigations have been run by the IG, several of which were referred to us by HUD” which means several were not referred by HUD. So as I am hearing a nice tight process and a straight-forward audit, I still have a lot of questions. Thank you, Mr. Chairman, for your indulgence.

Mr. NEUGEBAUER. I thank the gentleman and now another great Texan, the gentleman from the Houston area, Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman, and I thank the ranking member for allowing me to proceed as well. I also thank the witnesses for appearing.

I would like to start with the notion that these really are people who are being helped. While we do have units, I think the units benefit people, and I have some intelligence that indicates that we have preschool teachers who are helped, some of them making \$28,840, paramedics, firefighters, plumbers, bookkeepers, accountants, mail carriers, lab technicians, highway maintenance workers, elementary school teachers, mental health counselors, automotive technicians, electricians, and secondary school teachers. So we are not just helping people who are down and out without jobs. These HOME dollars benefit people who are working hard every day, trying to make ends meet but are also finding it difficult to acquire affordable housing in the areas where they live and they are making 80 percent or less of AMI or in some cases 50 percent, below 50 percent of AMI.

The program has been a benefit to people in 642 States or local participating jurisdictions. Am I to interpret from this that nearly every State receives some of these dollars?

Ms. MARQUEZ. Every State.

Mr. GREEN. Every State. That would mean that every Member has constituents who are benefiting from these dollars. It is not something that is partisan. I don't have just Democrats in the State receiving dollars and we don't have just the Republicans in the State receiving the dollars. Every State with all of our constituents receiving some of these dollars. And it is very difficult to paint a picture of what life would be like in the absence of a program, but is it safe to say that if we didn't have the programs that are developed where the low-income tax credits that are leveraged with dollars at a rate of about four to one that teachers, firefighters, plumbers, some of these persons that I have called to your attention, many of them might not have the housing that they have currently surely, but also some of them might find themselves home-

less? We can't say to what extent, but some could. Is that a fair statement, ma'am?

Ms. MARQUEZ. It is fair to say that HOME dollars work and leverage not only with private dollars but with other dollars, Section 8 project-based certificates, to create enormous numbers of units for the chronically homeless and others facing homelessness. So it is one of HOME's purposes, leverages that, and as you said, it also overwhelmingly, though, provides housing for working people.

Mr. GREEN. And do people move through these units? Do we have some people who will actually find that the unit is of benefit to them at their current salary level and then they move on to purchase a home? Is this transitional housing for some people?

Ms. MARQUEZ. Yes, not in the sense that we would talk about someone who is receiving a subsidy, but yes, because it stabilizes a family. If you no longer have to make a decision between your rent and buying a new winter coat for your child or food or medicine for a senior citizen, it tends to stabilize your family and allows you to move forward and it allows you to make more money and move out.

What is important here is the affordability period, that HOME requires 5 to 20 years just the home statute of affordability. So it is not just there for one family; it is there for many families.

Mr. GREEN. Mr.—is it "Heist" or "Heist," which do you prefer?

Mr. HEIST. "Heist."

Mr. GREEN. Mr. Heist, one quick question because my time is about to expire. Would you tell us the last time that you audited a perfect program, please?

Mr. HEIST. It is hard. Perfection is hard for anybody to achieve. We do have no-finding reports on occasion.

Mr. GREEN. I see. Have you—do you peruse the newspaper with some degree of regularity, sir?

Mr. HEIST. I am sorry?

Mr. GREEN. Do you read the newspaper with some degree of regularity?

Mr. HEIST. Certainly.

Mr. GREEN. Do you find that police departments from time to time will have fraud within them?

Mr. HEIST. Will have what?

Mr. GREEN. Let me just make a statement. Police departments have fraud. We prosecute criminals. There would be fraud in programs, and criminals ought to be prosecuted. But we ought not let criminals prevent us from serving people who are in need of the program. Just as we don't in police departments when we catch fraud, find it, we shouldn't end this program.

Thank you very much. I yield back.

Mr. NEUGEBAUER. I thank the gentleman, and now the gentleman from Missouri, Mr. Luetkemeyer.

Mr. LUETKEMEYER. Thank you, Mr. Chairman. Mr. Heist, just some quick questions with regard to oversight.

In your testimony, you say that some of the audits found that there was no—in some instance, no monitoring occurred at all particularly in the subgrantee level. What have you found there and have there been some changes in processes or procedures to rectify the situation?

Mr. HEIST. I would say one common area that we see is the recipient being responsible for monitoring the subgrantees that it passes funds through, particularly local nonprofit groups—

Mr. LUETKEMEYER. Okay. So what you are saying is that there are not enough procedures in place, policies in place to track the subgrantee stuff?

Mr. HEIST. Largely, the policies are in place. It is a question of whether the jurisdiction is following them the way HUD expects them to follow.

Mr. LUETKEMEYER. Okay. You make a comment also about the nonprofits. I notice—I think it was in your testimony or some of the other things you had here where we may have some problems with nonprofits from the standpoint that they may not have the expertise that other developers have to be able to utilize those dollars. Did you find that in your findings, that it was more of a problem with the nonprofits than it was the other folks?

Mr. HEIST. That is something that we find in a number of our audits. The nonprofits lack the capacity to deal sometimes, not always, but in some cases.

Mr. LUETKEMEYER. What do you think would be a solution to that problem? Do you think we need to have more oversight, more rules, more regulations, more restrictions? How do we solve that problem, because I'm not necessarily against the program here, but obviously, we have—we are here today because there is a perceived problem with oversight, with tracking of this, and we need to find a way to come up with some solutions. What kind of solutions do you see there that would work?

Mr. HEIST. Certainly training, helping capacity building. The statute contains a provision that 15 percent of the funds be allocated to community-based nonprofits. So there is a recognition within the statute that they do play a role, and it is a question of how do those groups, what training do they receive. I think it is a very important function and role that HUD would play when providing technical assistance.

Mr. LUETKEMEYER. But we do have to have some sort of additional tracking or some sort of oversight here obviously if we have a bigger problem there, wouldn't you agree?

Mr. HEIST. The nature of the program is that it is the jurisdiction's responsibility to oversee those nonprofits.

Mr. LUETKEMEYER. What happens when a jurisdiction is found to be noncompliant or do you see a lot of HUD action taken against these folks? Do they restrict the number of projects that they allow because there is lack of oversight or lack of cooperation? Do they start to provide more oversight over these people then to continue to find ways to watch what is going on a little closer?

Mr. HEIST. Overall, I would characterize the audit resolution for this program as higher than others as far as agreeing and recovering the funds.

Mr. LUETKEMEYER. That certainly gives me great pause for the rest of the programs then if we have some problems here we are looking at today and not providing oversight over those.

Mr. HEIST. We don't always agree, I can tell you. We probably disagree more on other programs than we do on this particular one.



Mr. LUETKEMEYER. Obviously, some of the testimony here and some of the responses from the HUD officials, they agree on some of the findings that you had here. And so, what about the tracking of what goes on here? I know there are a lot of questions with regards to tracking of watching how these things occur, whether we are getting the right information, whether we are in contact enough to provide the oversight. What would your findings show?

Mr. HEIST. Our findings show that some of the systems issues impede the ability to monitor, to track the flow of funds, the proper matching of disbursements with the original obligation that set up the project. Those are issues that we believe need to be addressed on a continuum to improve the oversight.

Mr. LUETKEMEYER. When you see this going as a result of this hearing, do you see continued improvement of oversight? Do you have a list of suggestions? Do you have a report that you are going to put out? Do you have a working group that is in place? Where do you see and where do you think this is going to go as a result of this?

Mr. HEIST. This is something that we look at annually when we audit HUD's financial statements. And we have looked at it more in depth over the last couple of years because of some issues that we developed and I think the trend is towards the positive, largely. Again, there are areas where we disagree, but it is something that we will be looking at closely as we proceed with that effort.

Mr. LUETKEMEYER. Thank you very much. I see my time is up. Thank you very much, Mr. Chairman.

Mr. NEUGEBAUER. I thank the gentleman. And now the gentleman from California, Ms. Waters.

Ms. WATERS. Thank you very much. I would like to welcome our witnesses here today, particularly Ms. Marquez. I am so pleased you are at HUD. I am from Los Angeles, and you are from Los Angeles where you ran our Housing Department's HOME Program. You have a great reputation. As a matter of fact, you are known as being a tough enforcer of the rules and the laws, and I have a great appreciation for that. So I am very pleased that you are here and I think you are a wonderful addition to HUD.

Let me see if I can put this in its proper perspective. What is the size of the HOME Program in terms of funding now? How much money are we talking about?

Ms. MARQUEZ. In 2011, we are talking about \$1.6 billion.

Ms. WATERS. And the audit was for what period of time?

Ms. MARQUEZ. Well—

Ms. WATERS. The information that has been shared with us through the—

Ms. MARQUEZ. Through the Post article?

Ms. WATERS. Yes, the Post article. I am sorry.

Ms. MARQUEZ. That took a snapshot in time. It took a snapshot in time, looking at open activities at a snapshot in time. Here we are talking about a 20-year program that over time has had 760,000 open activities in 20 years.

Ms. WATERS. So what percentage of the dollars that have been spent on the program, I guess in the snapshot, could be identified as problematic?

Ms. MARQUEZ. They incorrectly identified what turns out to be about 2.5 percent, but it wasn't accurate.

Ms. WATERS. What is the accurate—

Ms. MARQUEZ. I would say that as we took a look at it—actually, the Washington Post declined to give us their actual data. We asked for it and they declined. So we did what we could do to mimic it. And as we went through, we found that instead of having 700 stalled projects, that well over half are either completed and occupied or well on their way to being occupied and that a small percentage are stalled and mainly due to the recession.

So it is just incorrect.

Ms. WATERS. I was a little bit late coming in today. I had a Judiciary Committee hearing that is going on. So I don't know if you have been able to explain this to the other members who may have had questions so that they can understand the small percentage of problems that this program may have had. Have you been asked these questions by either side of the aisle?

Ms. MARQUEZ. I think I have.

Ms. WATERS. I see. And have you attempted to correct the Washington Post on their misinformation?

Ms. MARQUEZ. I think that we have overall. When you have produced 1 million units with large affordability periods all over the country when the IG sitting next to me who we speak to all the time testifies that we have a very solid working relationship and that we regularly refer matters because we also don't tolerate fraud, waste, and abuse, I think we have debunked what the Washington Post had to say.

Ms. WATERS. Mr. Heist, if I may, what other programs do you have the responsibility for other than the HOME Program?

Mr. HEIST. There are many. We have responsibility over all HUD programs. Single family mortgages, Section 8 rental assistance, and the Community Development Block Grant Program are some of the more significant. We also have a significant workload in Recovery Act funds that were provided to the Department of Housing and Urban Development.

Ms. WATERS. It is a big operation over there, and I am sure that we will find that there are problems from time to time in various operations of HUD. How does this HOME Program compare with other programs you have reviewed?

Mr. HEIST. As far as the Administration, probably better than most, I think in large part because the criteria are a little bit more structured and straightforward. You have specific activities and criteria that these jurisdictions can spend funds on, which makes it more straightforward to us to audit and kind of easier, with fewer grey areas, I think where we have a lot of our disagreements is where we differ on our interpretations of what the statutes says they are allowed to do or not allowed to do. And we just don't have as much of that. Then, there is a program where we have a reasonably good working relationship at the staff level both in headquarters and the field.

Ms. WATERS. Again, as I said, I was a little bit late coming in. Have you had an opportunity to say what you just said to me to the other members of this committee and your testimony on questioning here today, letting them know that this is not—there are

no big issues here with this program and that you work well together and that it is structured well? Have you had an opportunity say that today?

Mr. HEIST. Yes, I have.

Ms. WATERS. Mr. Chairman, I always appreciate efforts that are put forth in this committee to find out information, but I certainly wish that we could spend this time on some really troubled areas. About the same time the story about the HOME Program broke in the Washington Post, reports were surfacing about a HUD Inspector General audit of the 5 largest mortgage services. This audit reportedly concluded that the servicers had been defrauding the government by filing for FHA insurance payments to cover losses on foreclosed homes, using defective and faulty documents. I would hope that we can get to some really serious issues like this and not kind of use up our time on something like this where the Post article is just incorrect and perhaps we should dig a little deeper before we take everybody's time to—

Mr. NEUGEBAUER. I thank the gentlewoman. I do want to point out that the Inspector General does not have good things to say about your follow-up in your accounting. When you look at that report, that is not a glowing report and you can certainly have a professional relationship. But, Ms. Marquez, I think it is disingenuous to tell us that you don't have any problems when in fact the Inspector General has pointed out problems and in fact we have seen through the Washington Post article that there were problems. So I think—and I don't know that you actually know how many projects are open or closed or in compliance because if you have inadequate internal controls, that would lead people to believe that you don't actually have accurate information. And so—

Ms. WATERS. Will the gentleman yield?

Mr. NEUGEBAUER. Let me be clear that—

Ms. WATERS. Will the gentleman yield? I don't know whose time we are on. My time was up a long time ago.

Mr. NEUGEBAUER. I was going to recognize the gentleman from New York, Mr. Grimm.

Mr. GRIMM. And I yield back to you for whatever amount of time you need.

Mr. NEUGEBAUER. That is all right. I just made a little sideline comment there. You are recognized for 5 minutes.

Mr. GRIMM. Thank you. First of all—

Ms. WATERS. Will the gentleman yield? I am sorry.

Mr. GRIMM. Yes, ma'am. I will yield.

Ms. WATERS. Thank you very much, and I won't take much time. After my comments, the chairman took more time to raise some serious questions of Ms. Marquez and I am wondering if the Chair will allow her to respond prior to your taking your time.

Mr. NEUGEBAUER. It is the gentleman's time.

Ms. WATERS. Before his time, you took time to raise questions that were not responded to.

Mr. GRIMM. I will—Ms. Marquez, if you would like, please take 30 seconds to respond.

Ms. MARQUEZ. I would respectfully disagree. I think that our reporting systems can always be improved, but they are quite solid. A system that shows that \$30 billion over 20 years where 97.5 per-

cent showed good shape, where the IG is on the record here testifying just like me that this is a good program that is straightforward and it is easy to monitor speaks to that.

I would finally say, thank you, Congresswoman. You know me well. "Disingenuous" would never be the word I would use to describe me.

Mr. GRIMM. If I could, Mr. Heist, I do believe that I heard your testimony earlier today that although you are not obligated to get rid of this program and I don't think this is what this is about today, but there were definitely some concerns that you had and you outlined them in your report, is that not true?

Mr. HEIST. That is correct.

Mr. GRIMM. Okay. Ms. Marquez, you mentioned before that the investigation by your agency was started prior to the actual Post story being printed. Is that correct?

Ms. MARQUEZ. What I believe I said, sir, is that there are several instances here and as it relates to both the Washington Post story to Washington, D.C., and as it relates to Prince George's County. In the Washington, D.C., instance, we had actually requested the IG to go and do an audit way before the Washington Post story.

Mr. GRIMM. And here is my question. Prior to being printed but prior to the inquiries because the reporters were looking—

Ms. MARQUEZ. Completely unrelated. It is our business to monitor. And so we were doing our business. And in the course of doing business, we referred to the IG.

Mr. GRIMM. Thank you. One of the things I just want to emphasize, and maybe it is because I am a fresh set of eyes, being new here as a Member of Congress, I think there is a couple of things that can get lost. One of the things that was striking to me today was, Mr. Heist, you mentioned that you were not shocked, it wasn't shocking what you read in the Post. And as someone who has served in the Federal Government for 16 years, I completely understand why you wouldn't be shocked because I believe—this is just my opinion. I don't speak for my colleagues. One of the problems we have in the Federal Government and local governments throughout this country is we have become immune to mismanagement, to waste, to fraud, to abuse at—even though as a percentage of the whole it may be small, it should always be shocking. And the reason it should be shocking is because we have heard a lot of testimony and some very good statements on the other side of the aisle that I agree with, how important programs are for those that need low-income housing and people are struggling and needing a place to live.

I don't disagree. But we also have to remember all those who are struggling to pay their mortgages who are working two and three jobs to pay for these programs. These programs are paid for by other hardworking Americans and to think that some of their tax dollars, any amount of their tax dollars will be wasted or will be abused has to be shocking for all of us because if they stop paying those taxes and they stop providing these safety nets, then the indigent, the poor, the needy, where do they get it from? They don't get it from us here in Congress. We appropriate, we allocate, we write laws, but we are not paying that money. It is every hard-

working American, every hardworking citizen who is paying their taxes.

So I want to emphasize again that I think it is just systemic, and I am guilty as anyone else to not realize that we should always be shocked by any amount of waste and fraud or abuse or anything and we have to remember that when it is not our money, it is easy to say, it is a small percentage, it is not so bad.

So I just want to keep that in context and remind everyone that there are a lot of hardworking people struggling out there and those are the people who really provide these safety nets and I think we always need to be respectful of that.

Mrs. BIGGERT. [presiding]. The time of the gentleman has expired. The gentleman from Missouri, Mr. Cleaver, is recognized for 5 minutes.

Mr. CLEAVER. Thank you, Madam Chairwoman. I agree with the gentleman's comments. The Congress is funding airplanes that the Air Force doesn't want and we are also giving tax cuts to corporations whose quarterly profits are above \$14 billion. So I agree, we all ought to be upset when dollars are wasted. Thank you for being here, Madam Secretary. And I can speak experientially, I think, in support of what Ms. Waters just said. I have sat in the room when you have spoken very straight to my city with housing problems, created since I left the mayor's office, I may add. But one of the things I think that is important here that we can't overlook, these are block grants and it is one of the things that I think Republicans and Democrats both agree on, that block grants are good. If you talk to any man, Republican or Democrat or Governor, we like that and the main reason is it is self-determination, the communities make the decision on how block grants are spent. And I want to ask the question, what happens when HUD comes across fraud and waste? What is the process?

Ms. MARQUEZ. At HUD, our Secretary and myself—and, yes, I have traveled with you and you have seen some hard talk about real solutions—have a zero tolerance for fraud, waste, and abuse. So one of the reasons why in the last 2 years, the number of referrals to the IG have gone up, is in reflection of that. We don't want that to happen. And like Mr. Grimm, I am shocked. That is just not okay. We have huge needs in this country and we can't waste dollars. So we refer to the IG, we go to our enforcement center, we will send it to the Department of Justice if that is what is required, we can go to the State attorney general's office and we can move to debar someone, remove them from being able to do business if we are talking about fraud. Overwhelmingly, though, we are not talking about fraud. We are talking about more in the realm of what I think Mr. Pearce was talking about in terms of capacity with nonprofits and others. And there our responsibility—if you want to ensure that money is well spent, it is not just about enforcing on the backside—and I respect that that is the job of the IG and it is part of my job. I see us as two wings of the same hawk in that response. But it is also my job to help them get it right. And that is about capacity building. HUD has completely revamped its capacity building business in the last 2 years. At CPD it is called the one CPD. We are now focused on place-based, market-based solutions. We need it to join our grantees where they are

working in the real world with leverage to understand how to better do business. We are also entering into brand new training programs with CHDOs and nonprofits because we recognize weaknesses over the years and there is, as the IG said, a 15 percent set-aside for CHDOs. We have to help them use it well. And so it is not just about enforcement and oversight, incredibly important and we take it seriously, no tolerance, but it also about helping people get it right in the first place, making sure that the first invested dollar is well spent and well leveraged so that you don't take it back because when you take back a dollar, it is not invested as well. So you want to get your biggest bang for the buck the first time.

I come from that place, right? It is my job to make sure they do it well, not to make the decision for them, but to be supportive as well as taking my role of oversight seriously, and I can tell you in Los Angeles it was me who put the poor commissioner in default. And it appeared on the front pages of the L.A. Times and I said to my staff and I believe I had this discussion with Congresswoman Waters, this is a test of the emergency broadcast system. Are people going to let me get it done? I prosecuted him because in my city, I had those documents in my contracts, right, the way we want to help them do it now, that allowed me to take them to court. I got back every penny, including interest. I did not forgive one cent and it came right back to the program out of his money, not city money, his personal funds, and we invested it back in affordable housing. So that is how I look at this.

Mr. CLEAVER. I think that is—the New York Times used—and I quote—the term “bungled deal.” And I think people misunderstand that and there is a difference between bungled deal and improper expenditure. And I think my time has run out. But at some point I wish that the committee understood the difference between bungled deals and improper expenditure.

Mrs. BIGGERT. The gentleman's time has expired. The gentlelady from New York, Dr. Hayworth, is recognized for 5 minutes.

Dr. HAYWORTH. Thank you, Madam Chairwoman. And I thank you, Ms. Marquez, for your comments regarding market-based solutions. I think that makes sense. Whether a bungled deal is through the best of intentions or whether or not something has actually—whether precious taxpayer dollars have been wasted, we do have to make the case that the more dollars that are left in a market-based solution, the better off we are, which argues indeed for us to look very carefully at how best to mobilize the power of our marketplace to assure that opportunity for jobs which actually enable people to pay for their housing of course in the marketplace in that the incentivized and motivated and energetic marketplace takes place and it is—I was just doing a quick calculation and it is going to be striking for all of us. But \$30 billion in funds over I think 20 years, Ms. Marquez?

Ms. MARQUEZ. Yes.

Dr. HAYWORTH. 2.5 percent managed not optimally for whatever reason unfortunately is gone. But that is actually \$750 million of taxpayer funding. And at \$100,000 apiece, that would be 7.5 million jobs. So it just points out to all of us who care about these issues that we do need to think about how we take from our tax-

payers and allocate funds. And that is what—we all want the same things for the people who need it most. And my goal as a member of this conference is to make sure that we are providing the opportunities that people need. So 7½ million jobs is an awful lot of jobs.

I appreciate everything we can do to work together to bring the marketplace ever more to bear on this problem so that we don't have to have an enormous taxpayer expenditure that probably we could eventually work our way out of.

And I thank you. I yield back my time.

Mrs. BIGGERT. The gentlelady yields back. The gentleman from Delaware, Mr. Carney, is recognized for 5 minutes.

Mr. CARNEY. Thank you, Madam Chairwoman. And thank you to the two of you for coming to our hearing today to shed some greater light on the subject. When you get down to this end of the podium here, a lot has been said, and a lot of questions have been asked. But it is difficult for me as a new Member to separate fact from fiction. Although I think we have had an opportunity to do that, put the program in some perspective, it has been a very successful program in my home State of Delaware, certainly an essential component of our overall affordable housing plan. And I have heard a lot of talk on both sides of the aisle about how important it is to help folks. You talked about the need that you are meeting and you talked a little bit about the unmet need and there is a tremendous unmet need out there.

Could you characterize this program in terms of meeting that need? The thing that worries me the most about incidents of fraud and abuse is that it gives fuel to the fire of those who want to eliminate these programs and we have heard that from the other side, at least one member who said we ought to eliminate this program. So that upsets me as well as the misuse of taxpayer dollars.

Could you talk to me, though, about how important this program is in terms of meeting that unmet need and the math of that since we are only meeting about 10 percent I think is the math I heard?

Ms. MARQUEZ. I would think that the best way to understand the HOME Program within the current marketplace and the way that we do work is that the HOME Program is an anchor of the Nation's affordable housing finance system. Without the capital that is provided through HOME, you would have really very little with which to leverage tax credits. So all of these private dollars would have no avenue into investment—

Mr. CARNEY. These projects combine tax credits with HOME money, with private money. There have been numbers thrown around. What is the amount of private money that is leveraged by HOME money?

Ms. MARQUEZ. It is a combination—I can tell you this—of the dollars that have been spent in the HOME Program over the 20 years, they have leveraged nearly \$4 to \$1 of about \$80 billion spent.

Mr. CARNEY. That is a pretty good investment by—

Ms. MARQUEZ. By any measure, it is great leverage. Of that, in any rental deal, in any new rental affordable housing that is being built, tax credits generally play somewhere in the area providing 40 to 50 percent of the capital but the HOME dollars are the gap.

Mr. CARNEY. Right, the gap funding. So this is an essential part. I understand—

Ms. MARQUEZ. No gap, no project.

Mr. CARNEY. No gap, no project, no units, unmet needs get greater and all the rest of it. So it kind of takes us down to the standard that we have, takes me down to the standard that we have—what I am going to call the error rate, the fraud and abuse rate, which could be bungled deals, as Mr. Cleaver mentioned, or kind of inappropriate expenditures and there is a big difference there. We have bungled deals in the private sector. Most of these are privately run projects, right?

Ms. MARQUEZ. They are a combination. But at this point, it is a more even mix between nonprofits and for-profits.

Mr. CARNEY. But that partnership, the local partnership with the private industry, with the Fed is an important component of this program?

Ms. MARQUEZ. Absolutely.

Mr. CARNEY. As our ranking member said, it does create tensions and potential problems with the subgrantees and the grantees. And I would ask Mr. Heist if he could indicate where those biggest risks are. You talked about risk assessment with the subgrantees, with the private contractors. Where do you see the biggest problems, the biggest waste or misuse of funds?

Mr. HEIST. I would say in the area of the capacity of subgrantees that have to actually oversee the projects. So the oversight over the time—

Mr. CARNEY. So subgrantees are not local housing authorities, right?

Mr. HEIST. They are not housing authorities. They are city governments typically.

Mr. CARNEY. City governments. I think it is the State housing authority in my State.

Ms. MARQUEZ. And Delaware—

Mr. CARNEY. We are very small. So it is the subgrantees, right? So they are private businesses for nonprofit organizations, correct?

Mr. HEIST. Nonprofits.

Mr. CARNEY. So that gets to something that I heard for the first time in the last answer, the 15 percent set-aside to what are these nonprofits. Is that a problem? Is that an issue that we should look at? I understand the importance of those entities, but if they don't have the capacity, we have to be really careful about wasting money there frankly.

Ms. MARQUEZ. We agree. It is not wasting money. What has happened, I believe, over the last—I don't know—15 years, regardless of party, is that as we decided that all decision making should be made at the local level. We also misunderstood that local decision making and authority is not the same thing as local expertise. And we have to help; part of what the Federal Government can do is oversight and help.

Mr. CARNEY. My time is up. So your capacity building initiative is really, really important?

Ms. MARQUEZ. Absolutely.

Mr. CARNEY. I want to thank you for the work that you do for a need that is tremendous out there.



Mrs. BIGGERT. The gentleman's time has expired.

The gentleman from Ohio, Mr. Stivers, is recognized for 5 minutes.

Mr. STIVERS. Thank you, Madam Chairwoman. I appreciate the witnesses coming here today to talk about the HOME Program. And it seems that there is some overlap in our Federal housing programs. Ms. Marquez, can you address the ways that the HOME and CDBG funds address housing needs that are not addressed by any other Federal programs?

Ms. MARQUEZ. The HOME funds are very specific in their ability to be used. They can do rental, new construction or rehab, you can do homeownership assistance, helping people buy a new home, you can do rehab for owners in homes so they already own their home and then you help them rehab to stay there. You can also provide rental assistance to renters, and over the 20 years, about 250,000 renters have been helped. CDBG has many, many more uses, but also restrictions as it relates to housing so that you cannot acquire land with CDBG for housing. You can't do acquisition, which is, of course, the important thing that you need to do to do affordable housing, is you have to be able to acquire land. So the HOME Program does that. The other difference is having to do with affordability and restrictions. The HOME Program has very clear affordability housing restrictions and a different set of eligibility. It is stringent in the way that the IG responded, that is very straightforward.

CDBG is used for a wide variety of things. Interestingly, a State CDBG program—for instance, overwhelmingly State governments use their CDBG for infrastructure.

Mr. STIVERS. Right. And I am familiar with the CDBG program. But I guess I will get back to my more basic point which I don't think you have answered. Have you inventoried the programs for housing to look at overlap between all of the housing programs that you administer to ensure that we don't have multiple programs doing the same thing? Frankly, it would be easier to administer fewer programs that—if you have two programs doing the same thing, why don't you combine them into one? Have you done any kind of inventory like that of your programs?

Ms. MARQUEZ. Actually, we have looked a little bit. In the 2012 budget, there is an example of it, for instance. And that is where we have asked that the SHOP program that has some overlap with the HOME Program actually should be collapsed into HOME because you can use HOME funds for it. So in a time when tough decisions have to be made, that is one we made and one we corrected.

Mr. STIVERS. Thank you for that. And I will ask Mr.—is it "Heist?" Is that how you say your name? I don't want to say it wrong. With regard to the HOME Program, are there internal controls lacking in the HOME Program? And if so, are there—what are the consequences and is there a plan inside to modify those internal controls because frankly, especially if we are going to collapse other programs into HOME, as I was just told, that is really important that we have the proper internal controls.

Mr. HEIST. There are internal control issues with respect to the manner in which funds are tracked as far as the obligations and

then following through with the commitments and disbursements and the ability to more timely identify projects which are lagging. We issued a report about 2 years ago that looked at this in some depth. And CPD has been taking a number of steps to improve the way they use the system. There are still limitations that need to be addressed that are going to require—as was stated earlier—availability of funding. One, for example, the controls over making sure that the grantee—if they have program income they are supposed to use that first before they draw down funds from Treasury. HUD did not have a good way of monitoring that and tracking that. That is a recommendation we made about a year or so ago, and it is dependent upon systems funding which they received in fiscal year 2010 and are working towards those system improvements. There are other areas where we think they can go further.

Mr. STIVERS. Great. I am going to ask one last question of Ms. Marquez, and I hope you will take those internal control issues very seriously. It sounds like you have, and I appreciate it, Mr. Heist.

The final thing I wanted to ask about is after the Washington Post article, you guys created a document called, “Setting the Record Straight” in which you talked about that only 2.5 percent of the funds are used inappropriately. And I am just curious if you think there is an acceptable level of loss or leakage or failure with a program like this? And clearly, we all understand it may not be zero.

Ms. MARQUEZ. I guess I would say that our goal, while it is unattainable, is to be perfect. So we have a zero tolerance policy. I am working towards eliminating any problem wherever I can and that is my job to do, to strive for. I know I won’t reach it. But that is my job to do.

Mr. STIVERS. Thank you. My time has expired.

Mrs. BIGGERT. The gentleman’s time has expired. The gentlelady from New York, Mrs. Maloney, is recognized for 5 minutes.

Mrs. MALONEY. Thank you very much. And I thank both of the panelists. I would like to ask Assistant Secretary Marquez, I understand that there was a Washington Post article and I read it and everybody is talking about it, and the New York City HPD looked at the 44 projects—and I am talking about New York City’s HPD—that the article identified as stalled. And the New York City HPD determined that actually only three projects were truly stalled. And apparently, the Post had counted projects as stalled where the developer had started digging the foundation and then found something wrong when they went into the ground or they received a stop work order from the buildings department. All of these things are outside of the control of the developer.

So my question to you, Ms. Marquez, is do you believe the article was accurate in the portrayal of projects that it deemed to be stalled? And can you describe HUD’s oversight process for stalled projects?

Ms. MARQUEZ. I do not believe that the Washington Post article was accurate. In fact, I am certain that it was not. We have done many, many things as it relates to stalled projects. We are also concerned about it. The most important thing is you have to understand where you are. In development, we are talking about the real

world, we are talking about really hard to place issues here. It is more difficult to do affordable housing development than it is to do marketplace development.

In my written testimony, I provided a chart that went through all the different steps of what developers go through. To do affordable housing development, you have some special things. You have more environmental issues that have to be looked at, you have Section 3 issues on employment that have to be looked at. There are Davis-Bacon wages that have to be met. There is affirmative refurthuring housing requirements that have to be met. In the end, it takes about a year longer. We have gone a long way to ensure and, as I have testified earlier, we are ready to release a rule within about a month that strengthens our oversight, that makes both—at different levels. One at a grantee level, what we would require more of them on their underwriting. At a project level, different levels of reporting so that we will know more. And also, at a systems level, so that we are making fixes all the way through.

The HUD rule has not been amended since 1996, and there has been a cry in the industry for a very long time for it. When I arrived, having come from Los Angeles, I understood what these weaknesses were and I came in and within one month asked the staff to please begin the review. Now, we are toward the end of it. And within a month, it will be released internally.

Mrs. MALONEY. As you well know, rents in New York City are extremely high and the HOME Program has rehabbed over 16,000 units in the City I am honored to represent since it started in 1990 under George Bush number one. Can you talk a bit about the benefits from HOME, what it means to the families? What are the income limits for families living in the HOME units? What are the housing needs? What is the typical rent burden for HOME eligible families and HOME assistance versus unassisted units? Give us a sense of what it means to working people.

Ms. MARQUEZ. The statute limits eligibility at 80 percent of the area median income. However, a review of the 20-year program shows that well over half of the dollars are actually focused in on folks at 50 percent or below a median income. So this is a program that overwhelmingly targets working class people, not folks who are on some other form of assistance. These are working people. These folks have to make choices. In a city like New York, where rents are so high and if you are not lucky enough to have been in a rent-controlled unit for a very long time, you can find yourself living way out of the center. Homes that are built by HOME, whether they are rental or homeownership, allow folks to be close to the center for transit. We know if folks can live closer to their jobs, they pay less of their dollars on these other types of expenses, and as a result, end up helping their families more, and this is what is important about the HOME Program.

Mrs. MALONEY. And I understand from my local housing agency that in New York City, \$1 of HOME funding leverages \$3.11 and other private and public sources of funding. And in your opinion, would there be such significant private investment to develop affordable housing without the HOME funding that serves as a leverage?

Ms. MARQUEZ. We would be in grave danger, I believe. It forms the basis of our affordable housing finance system in this country.

Mrs. MALONEY. And very, very briefly. My time is up. How many jobs do you think this country would lose, or maybe you could put it in the record because my time is up, if this program is abolished?

Ms. MARQUEZ. There are many types of jobs that would be lost, along the real estate industry, in construction, in banks. All over. I would have—I don't want to make a guess at this. It is a national program. That would be inappropriate of me. But we would be happy to enter something into the record later.

Mrs. MALONEY. Thank you. My time has expired. Thank you, Madam Chairwoman.

Mrs. BIGGERT. Thank you. I think that we will try and do a quick second round if people would be willing to be brief. And I recognize myself for 5 minutes.

Ms. Marquez, we just put up on the screen over here, which is the—if you can see it, it is the HUD's homes for sale listing. I think there are 18,000 homes that are listed. It is not something you have to read. It looks like the Multiple Realtors Listing. Why can't CPD track the projects and process if you can do the HUD homes for sale?

Ms. MARQUEZ. I am sorry. One more time?

Mrs. BIGGERT. Why can't CPD track the projects in progress just like you can track the multiple listings, the homes that HUD has for sale?

Ms. MARQUEZ. This gets right back to what a block grant is. This listing is an FHA listing. This is actually housing that is controlled by HUD. In a block grant program, the statute invests authority and decision-making at the local level. I again would say to you that I feel that we do track them. We can do better.

Mrs. BIGGERT. I have this, which is your tracking and it is the delayed activities and you have some—just home buyer, home buyer, activities in the city. Sometimes it says unknown, the State, and then the commitment date, the total amount committed and amount disbursed and the percentage disbursed by the date and then the last disbursement, which is fine. But it just seems like there should be—can't the locals provide you with this kind of thing that makes it—there is more data, there are more benchmarks. Wouldn't that be easier than to be able to track all of the properties that are involved?

Ms. MARQUEZ. The HOME Program is involved in active real estate development as opposed to a listing of a home that was owned by someone else and now is built and has to be sold as a single family home. This is actually real estate development. Deals are assessed, we decide—a jurisdiction decides that they don't want to go forward, they take them out. So we are talking apples and oranges here.

Mrs. BIGGERT. Every project that the HOME has and every project that HUD—with FHA. Why can't you show something like that and have the real end of it? In fact, we have these pictures where 5 years later, there is still a hole in the ground where a project was said to have been in progress. And it just seems like we would have a much better idea of what is going on and there

wouldn't be these projects that go on for years that haven't reached completion.

Ms. MARQUEZ. There are always projects as we spoke about. There is no perfection.

Mrs. BIGGERT. There are always houses for sale, too.

Ms. MARQUEZ. Yes, but we own those. We are talking about local government, local decision-making. We are not talking about the Federal Government taking over the HOME Program and deciding for a local government what to invest in.

Mrs. BIGGERT. How hard is it to take a picture and post it and—other HUD programs do it and DOJ does it.

Ms. MARQUEZ. These are foreclosed homes.

Mrs. BIGGERT. I know what they are. I am just asking, why can't there be more data with your program?

Ms. MARQUEZ. I think there is lots of data with our program. If there is something in particular, ma'am, that you would like me to consider, I am happy to do that but there is lots of data.

Mrs. BIGGERT. For example, can't you post online from a scale of 1 to 5 the progress on a program? In other words, as you are moving ahead and—

Ms. MARQUEZ. We do.

Mrs. BIGGERT. I don't see it on here.

Ms. MARQUEZ. We actually have many reports that are online. There are progress reports on the HOME Web site that are tracked that provide reports every month. As a result of those reports that come out every month, we actually deobligate dollars every month.

Mrs. BIGGERT. Is there a report something like this that the DOJ does?

Ms. MARQUEZ. Here we have on page 7 and 8 of my testimony, I list 8 different reports that are published either monthly or quarterly that make clear the progress that deals are making. And as I had said earlier, we also feel that we can do better. So that as we go forward with the new rule, we are going to tighten at the jurisdiction level, at the project level, and at the assistance level.

Mrs. BIGGERT. Are you reporting building progress or funds spent?

Ms. MARQUEZ. Both, actually. In this report here, the snapshot, it actually not only talks about the jurisdiction, but it also talks about their different projects. We are tracking. But again, it is the power in HOME is actually invested at the local level.

Mrs. BIGGERT. And I agree with that. But it just seems that your data stops when it gets there and then we don't have any idea how the project develops. Local control is great, but it would seem that they would account to you where they are in the scheme of things and transparency that people can see that.

Ms. MARQUEZ. In essence, they do. When your staff has an opportunity to spend a little bit more time with this, they will look at these sheets and they will tell you—

Mrs. BIGGERT. Those aren't transparent, are they? We got those from you.

Ms. MARQUEZ. They are online. They are on our Web site. Everyone can look at them.

Mrs. BIGGERT. Okay. I think we need something more transparent. I guess we will just disagree.

The gentlelady from California?

Ms. WATERS. Thank you very much, Madam Chairwoman. In terms of reporting, I am looking at page 7 and I see that you have the HOME performance snapshot report, the dashboard report, the open activities report, the vacant units report, the expiring funds report, the PJ analysis report, the auto cancelation final draw report. You have a lot of reports here. You are reporting on everything. I don't know if—do you have this information of all the reports that are identified here on page 7? I just went through them. It may be instructive to take a look at these reports.

Mrs. BIGGERT. Will the gentlelady yield? I am looking at the snapshot report and it has program progress and the number of funds committed but it doesn't give any—it is just numbers. It doesn't—who does it apply to?

Ms. WATERS. Let me just take a look at what this snapshot report does.

Ms. BIGGERT. I yield back.

Ms. WATERS. This quarterly report tracks the progress of individuals, participating jurisdictions and ranks them against others for eight performance factors. It is an important tool in helping to evaluate the performance of participating jurisdictions by ranking them and providing a context for accomplishments. It includes a special red flags report indicating particularly poor performance in any of the five areas related to HOME assistance rental or production. And then they talk about Attachment 2.

So I think the report does what it is supposed to do. Maybe what you are looking for is in another one of the reports.

Mrs. BIGGERT. If the gentlelady will yield, what I am looking for is each project. This gives us a percentage of what is happening, but it is not each project, like the picture of the building that they are building or something that ties it to.

Ms. WATERS. So what you are looking for is a State-by-State report—

Mrs. BIGGERT. State-by-State, project-by-project—

Ms. WATERS. A funded project and its progress? I am sure that information is available. That would be quite a—

Ms. MARQUEZ. Actually in the open activities report, that is also listed on page 7, it is on our Web site. And that actually gives you a track of progress of individual HOME projects.

Mrs. BIGGERT. As identifying with address or—

Ms. MARQUEZ. Probably, because otherwise—that is how they would have to enter in later all of the beneficiary data. So it is there. I am sorry. I misspoke. On privacy for individuals, I am not allowed. But it has a marker. You could call the jurisdiction and know—you could ask us and know. I guess what is important is that this is on our Web site for everyone to look at that tracks progress by project.

Ms. WATERS. Reclaiming my time if I may. This is an open activities report that you are referring to now?

Ms. MARQUEZ. Yes, ma'am.

Ms. WATERS. Thank you. Let me just move to another little area that I wanted to clear up. First of all, I am sorry that Mr. Grimm is not here because I wanted to engage in a little bit about whether or not he should be shocked when we read something in the Wash-

ington Post. And Mr. Heist, I don't want you to feel bad about not being shocked. I am shocked by what the Washington Post does not report on like the Kaplan schools that they own that are causing so much pain in communities like mine where people are using their Pell grants and other dollars that are provided by the Federal Government to be educated only to find out that the institution is not capable of doing that.

Having said that, Ms. Marquez, the Washington Post article that motivated the committee to have this hearing noted that even when HUD learns of a botched deal, Federal law does not give the agency the authority to demand repayment. The agency can only ask agencies to voluntarily return money.

Could you explain to me what they are talking about?

Ms. MARQUEZ. That is just another instance of being incorrect. I have been asked, I think, a number of times. There are many things that HUD can do and that HUD does do. We have a 100 percent record of having money returned. We have the option of going to our enforcement center. We have the option of going to the Attorney General. We have the option of going to the Justice Department. We can debar people and we have done all of those things. We have also terminated—we have stopped their grants completely. We have just in the last—since 2003, there are 8 jurisdictions that we terminated their involvement because of their performance.

So, we have taken many actions. Many actions are available to us.

Ms. WATERS. Let me just be clear. The representation in the Washington Post that says Federal law does not give the agency the authority to demand repayment, you have just described any number of ways—

Ms. MARQUEZ. That is correct.

Ms. WATERS. —that you can deal with any problems that occur in these agencies and you have the tools that you need to get money back; is that correct?

Ms. MARQUEZ. I believe that we do.

Ms. WATERS. Thank you. I yield back.

Mrs. BIGGERT. The gentlelady yields back.

The gentleman from Texas, Mr. Canseco, is recognized for 5 minutes.

Mr. CANSECO. Thank you, Madam Chairwoman. Just very briefly, Ms. Marquez. HUD—just to clarify here, your program has block grants to municipalities or to cities and then they do their work according to certain plans set out by HUD; is that correct?

Ms. MARQUEZ. They do their work according to plans that they have drawn up and submitted and there are regulations and there is—

Mr. CANSECO. Plans that your Department has approved?

Ms. MARQUEZ. Correct.

Mr. CANSECO. Do you follow the progress of those plans?

Ms. MARQUEZ. Yes, we do. In fact, there is an annual report called the CAPR where they enforce. This is call the consolidated plan where they report what they want to do as a community, their HOME dollars, their CDBG dollars, their ESG dollars. A whole bunch of things are reported through there.

Mr. CANSECO. In other words—I don't want to put words in your mouth. So if you allocate \$1 million for 100 families, homes or habitats, you follow that progress; is that correct?

Ms. MARQUEZ. When HOME dollars fund a program, not a project, right? So they receive the dollars and are—they decide how to use them, but they also have the right under the law to change their mind. So they often amend their plan and we follow as we monitor; we take a look at everything they have said they are going to do.

Mr. CANSECO. Understandably. If at the end of the day, it was intended for 100 families and only 25 families get fitted into that home or move in, do you monitor that?

Ms. MARQUEZ. Do you mean if they said they were going to find 100 homes for—private homes for a family, do we monitor? Essentially, you would be asking in the CONPLAN did you do it and they report every year on their activities and one of these reports actually keeps you up to date on it.

Mr. CANSECO. So the report does not come in where they completed their project, where they said they were going to house 100 families and they in effect only housed 25 families, the report would come in weak. And do you ask for that money back? Do you get that money back? Or what happens to that money?

Ms. MARQUEZ. As I said, we fund a program, not projects. So a project of 100 homes is a project, not a program. They have the right to reprogram that dollar. For instance, if they were facing just a massive recession like the one that we have just gone through and it no longer makes sense to do homeownership because of things like the list of foreclosures, and instead they decided because there are many more renters in the country, we need to move the money now to renting, that would be appropriate and okay for them to do.

Mr. CANSECO. So in other words, once those dollars go out the door from your office, they can do with it what they want?

Ms. MARQUEZ. They cannot do with it what they want. They have to meet the regulations and the uses of the HOME Program, and as the IG has said, they are very straightforward uses, and we monitor against them.

Mr. CANSECO. If there are any funds that were not used, how do you monitor the use of those funds, to ask for funds back?

Ms. MARQUEZ. There are two requirements. One is in the statute, a 2-year requirement that they obligate those funds, and then by regulation—actually, the statute was silent on this, we added it—there is a 5-year requirement on expenditure. We have reports in the IDIS system that actually track where they are cumulatively on their appropriation of their program on the 2-year and 5-year basis.

Mr. CANSECO. And is it a written report or is it also a site inspection report? Or how do you monitor this other than by reading the written report that you get from them?

Ms. MARQUEZ. The expenditure of funds is actually, if you haven't expended it, there is nothing to go look at. You haven't expended it. So that comes through a formula accounting program in the system, but we do monitor the grantees, and as I said, in the last 2 years, we have monitored 34.5 percent of them. We actually



go to the jurisdiction's office. We have an assessment tool that we do yearly that is actually something that is approved by the IG, that they agree with. We go through that monitoring. They actually use the risk assessment, too. We go through that. We take a look at a sample of files, and it is very usual that in an in-place monitoring, they would actually do a site visit to a project.

Mr. CANSECO. Are there times when you don't do site visit follow-up?

Ms. MARQUEZ. I am sure there are. If we don't feel that one is necessary, I am sure they may not, but it is—what I understand is it is more usual than not that as part of the monitoring of a jurisdiction, there would be a site visit to a project.

Mr. CANSECO. Thank you very much. I yield back.

Mrs. BIGGERT. Thank you. Mr. Stivers, do you have any questions?

Mr. STIVERS. Yes.

Mrs. BIGGERT. The gentleman is recognized for 5 minutes.

Mr. STIVERS. Thank you, Madam Chairwoman, and I want to follow up on some questions that the gentleman from Texas was asking. How do you choose who you go and inspect with the onsite visits? Is it based on the snapshot report, so that they report and they look good on the five factors, then you don't go see them or is it based on some other criteria? Is it random?

Ms. MARQUEZ. It is not random.

Mr. STIVERS. Okay.

Ms. MARQUEZ. The risk assessment tool takes into account the grant size, the complexity of activities, what we think about the CHDO capacity in the area, the adequacy of oversight, is this a CHDO, a place that has a lot of failures or not, the staff capacity, their ability to underwrite, and project process. So all of these things and other factors go into a risk assessment.

Mr. STIVERS. Great, and what goes into the decision to do a physical on-site visit of a project or not?

Ms. MARQUEZ. There—what we are looking at there is when they go on and do a sample of files, when they look at them, if there is something in that that they don't feel is right they will go look, similar to what the IG does. When they go and poke around, if they think something is wrong, they dig in a little deeper. So do we.

Mr. STIVERS. So you visited about a third of your grantees last year, and there were two-thirds that you didn't visit on a rotating basis of every 3 years. Am I to assume that you will visit everyone or you will continue to use this snapshot and visit the same people year after year?

Ms. MARQUEZ. We make it a point to make sure that within 3 years, we are continually monitoring—that you get a monitoring visit onsite, at least one every 3 years, but as I said much earlier, maybe even this morning, what we did—what we do there is that we have—most of our staff works and lives in the field, not in Washington, D.C. Each CPD representative is responsible for a number of grantees. They have a personal business relationship with them. They are constantly talking to them. So it is not just that you see them once every 3 years, when they go onsite to do the formal monitoring. Someone else has said, and I think this is

true, often it is HUD employees who catch the problem early, before it is a problem and help them address it and fix it.

Mr. STIVERS. Great, and just a minute ago, you talked about reprogramming money. Is there some report that comes back to you when someone wants to reprogram money or is there some—obviously, you said as long as it meets the guidelines, they really don't have to request it, they can just do it, but is there some way you know when someone reprograms money?

Ms. MARQUEZ. With this thing called the consolidated plan, with all of the money in it that they do this report to us, if they are going to substantially change an activity, so if they said we are going to do homeownership and they decided that because of the economy, that wasn't a good idea, and they should now do rental, they would actually have to file a plan amendment with HUD and we would review it. You cannot just decide. You have committed.

Mr. STIVERS. Mr. Heist, do you know of any issues or problems with the reprogramming of money?

Mr. HEIST. That is not something that we have looked at, no.

Mr. STIVERS. Okay. Thank you. A minute ago, you were talking about Davis-Bacon. So every project that is done under the HOME mantra is a Davis-Bacon program and pays essentially a higher amount than market wages that pays what is legislatively called prevailing wage although it is not really the prevailing wage in the marketplace?

Ms. MARQUEZ. It actually depends on how many units it is. So if it is 11 units or more, Davis-Bacon applies.

Mr. STIVERS. Thank you. And then lastly, earlier you said that you had a zero tolerance for failed projects, but there are a little over 4,200 projects that have taken their final draw but still are open that are on your—what report do you call that—your final draw report. So how many of those will be closed—they are at least 120 days beyond taking their final draw, but their program is not—everything is not done, and I understand occasionally you will take your final draw before you finish the project, but what is the oldest project on that list as we sit here today?

Ms. MARQUEZ. Actually, I couldn't answer that question. I would be happy to—

Mr. STIVERS. I would love to know. Would you have a guess? Would it be no older than 2 years? Would it be no older than 5 years?

Ms. MARQUEZ. I would be wrong to take a guess, but I can tell you within the last 4 months, we have reduced that list of final draw projects by 25 percent.

Mr. STIVERS. And your goal is to get it to what number?

Ms. MARQUEZ. That I couldn't say. These are real things and real final draw. As I said, this is actually real estate that is being built, and we are facing the worst real estate crisis in my life, and so this is something that is real about delays. And as I said earlier, in the private market they were facing a 34 percent delay in the last 3 years, where the HOME Program faced a 4 percent delay. So by all standards, that is not bad.

Mr. STIVERS. Thank you. My time is up.

Mrs. BIGGERT. The gentleman's time has expired. Just one quick question. Mr. Heist, have you asked the Comptroller General for a

legal opinion on the accounting issue of the numbers of yours that remain open?

Mr. HEIST. Yes, we have.

Mrs. BIGGERT. When do you expect to receive that opinion?

Mr. HEIST. We just sent it to them a couple of weeks ago. We have met with them over the past couple of years informally, so they understand the issue and we helped—they have actually provided assistance to us to help frame the issue better so they could give us a good answer.

Mrs. BIGGERT. Could you briefly describe exactly what you are asking for?

Mr. HEIST. It is an issue of the level at which HUD is required to track the obligation, then commitment, then disbursement of funds. We are essentially—and that is the heart of the disagreement that we have with HUD—that we believe it should be tracked at the fund year level, every year you get an allocation of HOME funds. HUD uses a cumulative method where they compare all the expenditures against the obligations since the inception of the program. That is what we disagree with, the application of that method, and I would—in fact, we are meeting with GAO probably within the next week or two, and then they will meet with HUD, they will meet with HUD General Counsel, HUD CFO's office, and I would—I hate to say how long. I think it will be matter of months, I am sure.

Mrs. BIGGERT. Why is this important?

Mr. HEIST. Because I think—it is why we believe that the system is not in compliance with financial management standards, and it has a potential impact on the statement of their outstanding obligations on their financial statements, and depending on how you interpret the statute, it could affect the amount of money that comes back to Treasury as these projects are canceled, as the funding lapses.

Several years ago, the funding for this program was switched from a no year indefinite appropriation period to a 3-year, and with that comes the consequence of after 5 years of the funds being available, they are automatically canceled by Treasury and swept back. This would potentially impact the amounts that would be subject to cancellation.

Mrs. BIGGERT. Thank you. And with that, let me just say I think this has been a really important hearing and I thank the witnesses. It is important because I think the role of this committee is to provide oversight and protect taxpayers' investments, and it is also important to ensure that the taxpayer dollars are being used for their intended purposes. And while we may disagree on some of the conclusions and findings, I think that we can all agree that this is an important program, that there is room for improvement with the Administration and the accounting. So this hearing is part of the process of identifying what should happen, and what changes.

With that, the Chair notes that some members may have additional questions for this panel which they may wish to submit in writing, and so, without objection, the hearing record will remain open for 30 days for members to submit written questions to these witnesses and to place their responses in the record.

And again, I thank the witnesses, and it has been a really, I think, good hearing and I thank you for the time that you have spent with us, and with that, this hearing is adjourned.  
[Whereupon, at 12:55 p.m., the hearing was adjourned.]

# **A P P E N D I X**

June 3, 2011

Testimony before the U.S. House of Representatives  
Committee on Financial Services

**“Oversight of HUD’s HOME Program”**



Testimony of  
James A. Heist  
Assistant Inspector General for Audit  
Office of Inspector General, U.S. Department of Housing and Urban Development

June 3, 2011  
9:30 AM  
Room 2128 Rayburn House Office Building

Good morning Chairman Bachus, Ranking Member Frank, and distinguished Members of the Committee. I am James Heist, Assistant Inspector General for Audit at the U.S. Department of Housing and Urban Development's (HUD) Office of Inspector General (OIG). I thank you for the opportunity to discuss oversight of HUD's HOME program. Today, I will discuss this issue from the perspective of an audit manager with 35 years of audit experience, including over ten years as HUD OIG's Assistant Inspector General for Audit.

### **Background**

OIG's mission is independent and objective reporting to the Secretary and the Congress for the purpose of bringing about positive change in the integrity, efficiency, and effectiveness of HUD programs. HOME is the largest federal block grant dispersed to state and local governments designed to create affordable housing for low-income households. Each year it allocates approximately \$2 billion among the states and hundreds of localities nationwide based on formula grants. The program was designed to reinforce several important held values and principles of community development:

- HOME's flexibility enables people and communities to design and implement strategies tailored to their own needs and priorities.
- HOME's emphasis on consolidated planning expands and strengthens partnerships among all levels of government and the private sector in the development of affordable housing.
- HOME's technical assistance activities and set-aside for qualified community-based nonprofit housing groups builds the capacity of these partners.

The HOME program is authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended. Program regulations are found at 24 CFR Part 92. HOME provides formula grants to states and localities that communities often use, in partnership with local nonprofit groups, to fund a wide range of projects that build, buy, and rehabilitate affordable housing for rent or homeownership, or to provide direct rental assistance to low-income people. HOME funds are allocated by formula to Participating Jurisdictions ("PJ"). PJs are state and local governments (including consortia) that receive funds to operate the program. After set-asides for technical assistance and insular areas are subtracted from the total appropriation from Congress, 40 percent of each annual appropriation is allocated by formula to states and 60 percent to local governments. The formula is based, in part, on factors including age of units, substandard occupied units, number of families below the poverty rate, and population in accordance with the most recent Census data.

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The HOME program statute states that the PJs lose rights to HOME funds that are not committed<sup>1</sup> within 24 months or reserved to community housing development organizations (CHDOs) within 24 months. HUD has no authority to permit PJs to keep these funds and HUD must deobligate them after 24 months. The HOME program regulations also contain a requirement to expend HOME funds within five-year years after the last day of the month in which HUD notifies the PJ of HUD's execution of the HOME Investment Partnerships Agreement. In rare cases, the five-year expenditure regulatory requirement may be waived.

To determine compliance with the commitment and expenditure requirements, field office staff must compare the PJ's cumulative allocations from program inception through the deadline requirement year, minus any deobligations, to its cumulative commitments to HOME activities and cumulative HOME expenditures from program inception through its deadline. A PJ meets the requirements if its cumulative commitments or expenditures through its deadline are equal to or greater than its cumulative allocations minus any deobligations through the deadline year.

If it is determined that a deobligation is necessary, HUD, in conjunction with the respective field office, will determine the source year(s) of any remaining available funds. In most cases, funds will be deobligated from the most recent year's (or next previous year's) obligated grant. This allows the deobligated funds to be reallocated in the next HOME formula, and prevents loss of funds to Treasury. If it is a non-CHDO entity, then next year's appropriations are reallocated to all PJ's, even the one that had the funding reduction.

The OIG has expressed its disagreement with this "cumulative" approach for measuring compliance, as well as the process of recapturing current or future funds due to non-compliance. The cumulative technique enables PJs to offset older year commitment and expenditure requirements with commitments and expenditures that actually pertained to more recent years' activities. As a result, HUD effectively allowed the PJs more time to complete activities than the five-year expenditure requirement. Furthermore, because PJs can commit more than their grant award for a particular year, the cumulative approach also balances years that were over-committed with years that were under-committed. In addition, by deobligating funds from the most recent years' allocation(s), the funding from the years in which the grantee was non-compliant remains available for disbursement and augments the current or future allocation. This approach breaks the link between source and use of funding.

In fiscal year 2002, HOME funds became subject to the National Defense Authorization Act of 1991<sup>2</sup> expenditure requirements which states that appropriation accounts available for definite

<sup>1</sup> Regulations at 24 CFR 92.2(1) define commitment as an executed legally binding agreement to use a specific amount of HOME funds to produce affordable housing or provide tenant-based rental assistance, an executed written agreement reserving a specific amount of funds to an organization, or having met the requirements to commit funds to a specific local activity.

<sup>2</sup> The National Defense Authorization Act of 1991(Public Law 101-510, November 5, 1990) established rules governing the availability of appropriations for expenditure. This law mandates that on September 30th of the fifth fiscal year after the period of availability for obligation of a fixed appropriation account ends, the account shall be closed and any remaining balance in the account shall be canceled.

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periods are only available for disbursing for a period of five years from the last date of availability. Starting in 2002, HOME funding changed from an indefinite period to a fixed three-year period of availability. Based upon this change, at the end of fiscal year 2009, and for each subsequent fiscal year, any remaining funding from the fixed-term appropriation is cancelled and remitted to Treasury. This expenditure requirement is not unique to the HOME program and is based upon the actual liquidations from a single Treasury account, related to a single grant year. For example, the fiscal year 2003 HOME appropriation was no longer available after September 30, 2010 and the 2004 appropriation will not be available after September 30, 2011. This is different from the HOME Program's five-year expenditure deadline requirement which is regulatory and calculated cumulatively, taking into consideration expenditures from all HOME grants awarded to the participating jurisdiction.

HOME addresses a need for affordable housing in our country; a need that is increasing in the wake of the economic downturn and rise in unemployment. However, OIG has expressed concerns about the controls, monitoring and information systems related to the HOME program. Over the past five years, the OIG has conducted 64 external audits of HUD's HOME program. At least twelve of these audits were requested by the Department to address concerns that they had. Many others were selected based on grantee risk assessments that included informal input from HUD staff.

The Committee asked in meetings that we provide an assessment of our work to highlight reoccurring findings and to total costs associated with those. The most common finding throughout our audit reports is the lack of adequate controls, including: subrecipient activities, recapture provisions, over-reporting program accomplishments, and ineligible activities. There is also a repetitive thread of not meeting the HOME objective to provide affordable housing or not meeting local building code requirements for housing rehabilitation work. In our external audits of HOME funds over the past five years, we cited a total of \$179 million in questioned costs and \$58 million associated with recommendations that funds be put to better use. HUD agreed with \$221 million of those combined costs; disagreed with \$14 million of those costs; recovered or realized savings of \$93 million of those costs; and resolved another \$66 million by subsequently obtaining documentation from the grantee to support eligibility of previously unsupported costs or determining that cost savings were not realized.

### **Monitoring**

For the past three years, there were approximately 650 PJs receiving HOME funds. Those participating jurisdictions distributed the HOME funds to many thousands of sub-grantees. HUD focuses its monitoring at the grantee level through its 42 local field offices which is a large responsibility. Grantees in turn are responsible for monitoring their sub-grantees. Our audits have found that, in some instances, no monitoring is occurring, particularly at the sub-grantee level.

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### Information System Issues

The Integrated Disbursement and Information System (IDIS) is used by more than 1,200 HUD grantees, including urban counties and states, to plan projects and activities, draw down program funds, and report on accomplishments. IDIS has more than 15,000 individual grantee users, as well as several hundred HUD headquarters and field office users. HUD employs the real-time mainframe-based computer application to accumulate and provide data to monitor compliance with HOME requirements for committing and expending funds. HUD also uses the information system to generate reports used within and outside HUD, including the public, participating jurisdictions, and the Congress.

Grantees and sub-grantees are able to update, change, cancel, re-open and increase or decrease project funding without any review by HUD. Grantees and sub-grantees also self-report the number of families housed by their projects without a comprehensive review by HUD.

Through our annual audits of HUD's Financial Statements, we have found that the Department did not ensure that adequate application controls for IDIS were properly placed and operating effectively. HUD OIG noted the following deficiencies: (1) incompatible functions such as system administration and security administration were not adequately separated, and (2) there was no formal user recertification process to ensure that all users were properly recertified. These weaknesses existed because HUD designed IDIS with decentralized security without adequate controls in place to ensure that the overall security of the system remained within the control of HUD staff. By not separating incompatible system administration and security responsibilities, and reviewing the continued appropriateness of access to the financial systems, HUD increased its risk that sensitive financial data could be modified, disclosed, or misused or that erroneous, or fraudulent transactions, could be placed.

We have also found that HUD's design and implementation of IDIS is not in compliance with federal financial management system requirements. The system arbitrarily liquidates obligations on a "first-in-first-out" (FIFO) basis, irrespective of the budget fiscal year funding source. We believe this process is not in compliance with federal financial management system requirements. In addition, we have asked the Government Accountability Office for their opinion on whether HUD is mismanaging grant funds and violating appropriation law as a consequence of using FIFO. Additionally, with the enactment of the Defense Authorization Act of 1991, liquidating the funds on this FIFO basis also intentionally decreases the amounts that HUD would be required to return to the Treasury after fixed-year appropriations cancel, and we believe is in contradiction with congressional intent.

In sum, we believe that HUD's information systems used to administer the HOME program are incapable of producing complete and reconcilable audit trails throughout the entire grant life cycle and are unable to produce reports which would facilitate timely identification of fraud, waste and abuse in the programs. Additionally, we have concerns about HUD's methods for

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assessing compliance with commitment and expenditure deadline recapture requirements and HUD's methodology for addressing non-compliant grantees.

#### **Data Integrity**

HUD OIG has found data integrity issues with the information within IDIS used to monitor compliance with these regulations, such as:

- Entries in IDIS for non-community housing development organization activities in which the participating jurisdiction was unable to produce written agreements.
- Agreements being executed after the 24-month deadline.
- Commitments in IDIS exceeding the contract amounts shown in the agreements.
- IDIS entries for community housing development organization activities in which written agreements did not exist at the time of the entries but were executed before the 24-month deadline.

We also found that the Department did not always ensure that participating jurisdictions complied with HUD's requirements in their use of program income and did not report program income in HUD's system accurately or in a timely fashion.

The OIG has concerns about the data integrity in the IDIS system and the impact that has on HUD's overall financial statements. We believe with a more robust, up to date information system, HUD would be able to better monitor the HOME program.

#### **Highlights from External Audits**

We conducted an audit of the District of Columbia, Washington, DC, and determined that it did not administer its HOME funds in accordance with Federal requirements. Specifically, we found that the grantee; (1) obligated more than \$2.5 million in HOME funds for an activity/project that was significantly delayed and not completed, (2) did not properly manage funds that it drew for down payment assistance and financing of home repairs, (3) committed and disbursed CHDO operating funds for an ineligible CHDO, and (4) did not properly account for program administrative funds. These deficiencies occurred because the grantee did not have and/or implement sufficient procedures to ensure that it complied with program requirements. As a result, it charged more than \$1.6 million in ineligible costs to its HOME program and could not

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support approximately \$6.5 million in costs charged to the program. The grantee also accumulated more than \$1.5 million in funds that it could have used to improve its administration of its HOME program and/or fund additional eligible HOME projects.

We conducted an audit of the Mobile Housing Board, Mobile, AL, and found that the Board used HOME funds for ineligible or unsupported costs for its HOPE VI redevelopment. Specifically, we found that the city did not perform annual monitoring of the Housing Board to ensure that its HOME funds were used in accordance with all program requirements. This condition occurred because the city did not maintain an adequate subrecipient agreement with the Housing Board that provided current and sufficient detail as a sound basis on which to effectively monitor the Housing Board's performance. In addition, the city did not establish procedures for monitoring the Housing Board. As a result, the city failed to detect or prevent the Housing Board's use of more than \$1.1 million for unsupported and ineligible costs for the HOPE VI redevelopment. Cost allocation plans were not developed by the Housing Board to properly allocate or prorate its HOME program costs for several phases of the project. The Housing Board arbitrarily charged more than \$1 million to certain phases. This condition occurred because the Housing Board expended the funds to meet program expenditure deadlines without regard to HOME regulations. As a result, the Housing Board disbursed \$839,713 in unsupported costs on both phases. The Housing Board used \$339,657 of its HOME funds to pay for ineligible costs in all four phases of its HOPE VI redevelopment project. This condition occurred because (1) the Housing Board's controls and procedures to separate its public housing agency operations from its administration of CPD programs were ineffective in preventing and detecting ineligible costs and (2) the City did not monitor the Housing Board. As a result, \$339,657 in HOME funds was not used as intended under the HOME program.

We conducted two audits of The Puerto Rico Department of Housing and found that it failed to properly manage its HOME Investment Partnerships Program. Specifically, we found that the Department did not reimburse the HOME program more than \$2 million for three activities that were terminated and did not meet HOME objectives or generate the intended benefits. In addition, it failed to reprogram and put to better use more than \$1.84 million in unexpended HOME funds assigned to one of the terminated activities. As a result, HUD had no assurance that funds were used solely for eligible purposes and that HOME objectives were met. In the second audit, we reported that the grantee did not have adequate controls and procedures to ensure that HOME-funded activities met program objectives. It disbursed more than \$4.4 million for ineligible expenditures and activities that failed to meet the HOME program objectives, disbursed more than \$9 million for activities that reflected slow progress without assurance that the activities would generate the intended benefits, and failed to reprogram and put to better use more than \$7.9 million in unexpended HOME funds for activities that were not

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carried out or were terminated. As a result, HUD had no assurance that funds were used solely for eligible purposes and that HOME objectives were met.

#### **Potential Corruption Issues and Criminal Investigations**

Over the past three years, we have opened 43 investigations based on allegations of potential fraud in the HOME program. Several of these cases were referred to us by HUD. Some of the subjects of our investigations have included Executive Directors of Community Development Departments and non-profit entities, elected officials, construction companies, developers, and investment companies.

The Committee also asked us in meetings to relay to them any trends or commonalities we see in our investigative cases. Because of the emphasis on local control of HOME funds, we find that some of the same developers are annual recipients of HOME funds and can be for many years. Having the same players receive HOME funds from year to year is a double-edged sword. On the one hand, the recipients are knowledgeable about how the program works. On the other, they can also exploit and manipulate the program since they may be aware of the weaknesses in the controls and potential limited oversight. Additionally, because the program is entitlement based, recipients know that they will receive funding year after year and may face limited monitoring. In other cases, developers or non-profits lacked the experience and capacity to handle HOME project development. This has caused floundering and failing projects.

Many of our HOME program cases involve fraud schemes associated with embezzlement of funds, bribery, theft, false billing and kickbacks. For example, some of our recent investigative caseload include:

The owner of a construction company, a contractor for the HOME project, was sentenced in U.S. District Court to 39 months incarceration and three years' probation and ordered to pay HUD restitution for his earlier guilty plea to committing mail fraud, obtaining property through fraud, and offering and giving a corrupt thing of value. For a six-year period, the owner paid bribes to an unnamed conspirator in exchange for more than \$652,448 in HOME contracts.

The former director of a Community Development Department was sentenced to 87 months incarceration and 36 months supervised release and ordered to pay restitution for his earlier guilty pleas to committing a conspiracy to extort under color of law, soliciting and accepting corrupt payments, and filing a false Federal income tax return. The former director accepted \$112,500 in bribes from construction and maintenance companies under contract with HOME-funded programs identified above and failed to report the kickbacks on his Federal income tax return.

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The director of a Community Development Department, an organization that receives HOME and other funds, and the owner of a Construction company, were each indicted in U.S. District Court, for allegedly committing bribery and wire fraud, corruptly accepting something of value in connection with a program receiving federal funds, and aiding and abetting in the commission of wire fraud. From April 2009 to March 2010, the owner of the construction company allegedly submitted false information and fraudulent documents associated with the construction of a low-income housing development partially funded with HOME funds, and the director allegedly approved the fraudulent expenses submitted by the construction company and accepted cash payments from the construction company representatives in exchange for his future employment. HUD realized losses of about \$100,000.

### **Project Delays**

Regional areas with especially hard hit housing markets appear to be more likely to sometimes have HOME deals fall apart. HOME funding is usually part of a larger funding package for an affordable housing development, and those other funding sources may be subject to the local credit market for new housing. If one piece of a financing package falls apart, the whole deal may fall apart or be delayed. HUD may want to identify the best practices of high-performing states in order to determine ways to improve low-performing states. Additionally, HUD may want to consider requiring grantees to provide a timeline of beginning and finishing points, along with cost projections, against which they could more directly use to monitor and identify slow and cost overrun projects.

We believe that some of the delays may have been avoided by closer oversight to ensure that projects were moving along in a timely fashion. A number of the troubled projects are in the same PJs. We recommend that HUD focus additional monitoring on these trouble spots. The Department states that they have started sending regular reports on delayed projects to its field offices “so that they can work more aggressively with local agencies to push for completion.” We endorse this and recommend that HUD establish methods to quickly “red flag” these projects and adjust personnel to provide technical assistance and continual monitoring of PJs with stalled or problematic projects. Again, increased oversight and specific policies, procedures, deadlines, and non-compliance remedies could help improve this area of vulnerability. The need for an information system which provides accurate, timely, and reliable data is also imperative for proper oversight.

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### **Enforcement Actions Available to HUD**

In addition to the legal authority to recapture misspent HOME funds, HUD also has the ability to refer program violators to its Departmental Enforcement Center, as well as to the OIG, for possible civil, criminal or administrative sanctions. Some of the possible penalties for misusing HOME funds include the sanctions provided in the False Claims Act and the Program Fraud Civil Remedies Act, suspensions, debarments, and criminal penalties. Our audit and investigative work has shown that we use all of these statutes to address violators. Over the past three years, we have had 16 indictments of individuals involved in fraud in the HOME program and have referred approximately 14 individuals or entities to the Departmental Enforcement Center for administrative action.

### **Conclusion**

OIG believes that HOME is an important program which provides affordable housing to low income Americans. Given the current economic and housing crisis in our country, the need for affordable housing may never have been greater than in these tumultuous times. There are many successful examples of how HOME funds have been used for their intended purpose. Since much of our work focuses on high risks in the program, however, we highlight areas where improvements need to be made particularly in the controls and monitoring of the program by the Department as well as in the areas of data integrity and systems enhancements. We look forward to working with the Department and the Congress in addressing ways to improve the effectiveness of this vital program.

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

Written Testimony of Mercedes Márquez  
Assistant Secretary for Community Planning and Development  
U.S. Department of Housing and Urban Development (HUD)

Hearing before the House Financial Services Committee

on

"Oversight of HUD's HOME Program"

June 3, 2011

Chairman Bachus, Ranking Member Frank and Members of the Committee, thank you for the opportunity to testify today regarding HUD's oversight of the HOME Investment Partnerships Program (HOME) within the Office of Community Planning and Development.

As the Assistant Secretary for the Office of Community Planning and Development (CPD), I have the privilege of overseeing HOME, along with CDBG, Special Needs and Economic Development programs. This CPD portfolio of formula and competitive programs provides the critical resources for homelessness prevention, affordable housing and job creation--the foundation for healthy communities across our country.

I am happy to appear before you today to discuss the HOME program's success over the last twenty years, our oversight and enforcement tools and actions, and to provide you with the facts about the program that the Washington Post omitted in its May 15, 2011 article.

**HOME: 20 Years of Success/Over 1 Million Units**

The HOME Investment Partnerships Program (HOME) is the largest federal block grant to state and local governments designed exclusively to produce affordable housing for low-income families. HOME was authorized in 1990 as Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C 12701 *et seq.*)..."to provide participating jurisdictions, on a coordinated basis, with the various forms of Federal housing assistance, including capital investment, mortgage insurance, rental assistance, and other Federal assistance, needed to expand the supply of decent, safe, sanitary, and affordable housing; to make new construction, rehabilitation, substantial rehabilitation, and acquisition of such housing feasible; and to promote the development of partnerships among the Federal Government, States and units of general local



government, private industry, and nonprofit organizations able to utilize effectively all available resources to provide more of such housing.”

As such, HOME funds may only be used for four primary purposes, production of new single or multi-family housing units, rehabilitation of housing, direct homeownership assistance, or time-limited tenant-based rental assistance (for up to two years with possibility of renewal). HOME provides funding to 642 state and local governments, ‘participating jurisdictions’ (PJs) or ‘grantees.’ For most of these jurisdictions, HOME is the only reliable stream of affordable housing development funds, and their principal tool for the production of rental and for-sale housing for low- to extremely low-income families, including mixed-income housing and housing for persons with special needs (e.g., the homeless and persons with HIV-AIDS).

HOME is an anchor of our nation’s affordable housing finance system. The program provides state and local governments with to the discretion to determine the type of housing product they will invest in, the location of these investments and the segment of their population that will be housed through these investments. Although tax credits can provide 40-50% of the capital, the HOME gap financing influences where affordable housing is built. Since 1992, these PJs have completed over one million affordable housing units, including 428,373 for new homebuyers, 197,780 for owner-occupied rehabilitations, and 381,883 rental units produced. In addition, 242,768 tenants have received direct rental assistance. The program has leveraged \$3.94 dollars of other public and private investment for every dollar of HOME funds expended to date. Over the life of the program, HUD has leveraged more than \$80 billion of other funds for affordable housing. In addition to leveraging other funds, PJs must provide a 25 cent cash or in-kind match for each dollar of HOME funds they expend.

All HOME funds must be used to benefit families and individuals who qualify as low-income, or below 80% of Area Median Income (AMI). The investment of HOME funds in rental projects increases affordability for families at the very lowest income levels by requiring long-term income targeting and affordable rents. Of the tenants occupying HOME units completed during the last five years, 47% were extremely low-income (i.e., income less than 30% of the area median income) and another 38% were very low-income (i.e., income less than 50% of area median income but greater than 30%).

Traditionally, HOME funds have also provided critical gap financing that makes Low-Income Housing Tax Credit (LIHTC) projects feasible. During the same five year period, 147,919 HOME-assisted rental units have been completed. Of that number, 47% or nearly 70,000 units were part of LIHTC projects. In all, HOME gap financing helped complete 132,198 LIHTC units during that period. During the recent economic crisis, when Tax Credits were selling at much reduced prices or not at all, HOME funds provided essential gap financing for LIHTC projects. Moreover, HOME was essential to keeping construction jobs going in communities where market rate housing construction came to a halt.

HOME is also a catalyst for economic development, serving as an anchor to revitalizing communities as can be seen in the following example:

**Trolley Square Project, Cambridge, MA**

The Trolley Square Project in the North Cambridge neighborhood is an excellent example of a sustainable project that has contributed to the area's vitality. The project site was a previously fenced-in unattractive parcel occupied by out-of-service MBTA buses. Today, it is a mixed-use, mixed-tenure 40 unit project. Thirty-two of the 40 are affordable rental units, the remaining eight are homeownership, of which 5 are affordable. It was designed to incorporate green technologies and permit residents to live a high-quality car-free life. It is situated on Massachusetts Avenue, the transit, retail, commercial and services corridor of North Cambridge. The State of MA provided \$2.1 million in HOME funds for the project, which leverage over \$18.4 million in other public and private resources.

*HOME and Disaster Recovery*

While Congress has not made supplemental disaster appropriations for the HOME Program in recent years, regular HOME funds play a significant role in disaster recovery in communities across the country. HOME PJs can reprogram their uncommitted or unexpended HOME funds to provide emergency housing assistance and disaster recovery. HUD has authority to suspend statutory provisions and waive regulations to facilitate the use of HOME funds for disaster recovery. These suspensions can provide additional administrative and planning funds, reduce property standard requirements to facilitate emergency repairs, and provide more flexible income documentation requirements for households whose homes and documentation have been destroyed.

In the past several years, HOME funds have played an important role in recovery efforts for Hurricanes Katrina, Rita, Ike and Wilma in Louisiana, Texas, Mississippi and Florida; tornadoes in Missouri, Tennessee and Alabama; and severe storms and flooding in Washington and Oregon. When Hurricane Katrina displaced thousands of people from New Orleans, communities across the country opted to use HOME tenant-based rental assistance to assist evacuees to settle into new communities. Just last month, within two-days after receiving the State's request, HUD provided statutory suspensions and regulatory waivers to the State of Alabama to help address the urgent need for housing assistance caused by the damage to units and displacement of families caused by severe storms, winds, tornadoes, and flooding.

**HOME: A Formula Program—HUD Oversight/Local Decision Making**

Formula block grants, such as HOME, are based on the premise that local communities understand their needs better than the federal government. As such, state and local governments are provided with the discretion and flexibility to design programs based on their jurisdiction's housing market conditions and needs. In exchange for this flexibility, participating jurisdictions, who are the HUD grantees, have the responsibility for managing the day-to-day operations of their HOME program, ensuring that the funds are invested in accordance with all program requirements and written agreements, tracking and monitoring construction progress by their development partners; and taking appropriate action when project performance issues arise. HUD's charge in managing HOME, and other block grant programs, is to balance this right of state and local governments to make funding decisions with our fiduciary responsibility as stewards of the taxpayers' trust and money. As such, HUD has the ultimate oversight responsibility and has

exercised this responsibility consistently. HUD assesses PJ risk, monitors grantee performance to ensure compliance with program regulations and reporting, and takes enforcement action(s) when necessary.

***Setting the Record the Straight: The Facts the Washington Post Omitted***

On May 15, 2011, the Washington Post published the first in a series of articles focused on the HOME program. After a year-long investigation, the Post concluded, what we have always known: 1) producing affordable housing is hard and has been especially challenging during the worst housing crisis since the Great Depression; and 2) with 642 state and local governments as HUD PJs/grantees, the capacity levels will vary and capacity gaps exist.

The Post article was full of numbers - and misstatements - but lacking in context and balance. Its one-sided nature made it impossible for fair-minded readers to understand what the numbers presented really meant. Its failure to mention the recent recession's ongoing effects on real estate markets and residential construction is confounding. The article, and its conclusions, also displayed a lack of basic understanding of the housing development process itself, and the particular difficulties inherent in developing affordable housing. Typically these projects have many layers of funding - each source with its own set of regulations and deadlines. HOME is one of these layers of funding, providing "gap financing"—the difference between a project's total development cost and the amount the private lenders and investors can reasonably finance. The numerous layers of funding are critical to ensure affordability of these housing units for up to 20 years or more (depending on financing sources and restrictions). When one adds to the financing process, the politics of the local decision making process, even the best of projects can be thwarted. Even in a good economy, it is not uncommon for new multi-family construction projects to take 3-5 years from the initial planning to completion. On average, the construction phase may take up to 24 months for affordable housing developments compared to 18 months for market rate developments (See Attachment 1).

***The Post's Incorrectly Labeled "700 Delayed Projects"***

The Post stated that its analysis found "about 700 troubled projects that were awarded \$400 million." It is our understanding that the Post reached this conclusion by analyzing the 28,000 HOME "open" projects in some state of development process as reported by PJs in the Integrated Disbursement and Information System (IDIS), HUD's electronic reporting/disbursement system, as of November 30, 2010. For context, over 700,000 HOME projects have been undertaken and completed over the years resulting in more than one million HOME units produced. Based on a four-year average, there are over 30,000 open activities at any one time and about 40,000 are completed or closed in the system annually creating over 70,000 HOME funded units per year.

It is also our understanding that the Post eliminated all homeowner rehabilitation activities from the report and only reviewed those with at least a \$50,000 HOME commitment and no draws in 18 months, for a subset of 5,100 activities. Of those, the Post deemed 700 "idling" or "stalled" - 14% of the 5,100 subset and only 2.5 percent of the 28,000 HOME projects underway or "open" at that time.

It is important to note that HUD's Office of the Inspector General (HUD-OIG) has defined a project as "stalled or potentially terminated" if the open activity is more than five years old with less than

50% of the funded amount having been drawn down. In 2010, the HUD-OIG determined that there were 108 projects in this category, all of which have since been completed or terminated. The differences between the Post definition (no funds drawn in the preceding 18 months) and the HUD-OIG's definition reflects the difficulty in assuming a project is "stalled" based on a defined time period as the HUD review of these projects illustrates.

*HUD's Review of the Post's Incorrectly Labeled "700 Delayed Projects"*

When the Post declined to identify the specific 700 projects that they were referring to, HUD applied the Post's criteria to the universe of HOME projects open as of November 30, 2010, and identified 797 projects with \$469 million in HOME commitments. HUD has analyzed these 797 projects and found that the majority of these been completed or are progressing towards completion. Only 214 projects or 27 % actually appear to be delayed, (based on the Post's definition), the majority due to market conditions, such as unavailability of financing or inability to sell completed units due to the collapse of the housing market. Another 44 projects will be canceled by grantees and HUD will require appropriate repayment of funds. Overall, 539 of the 797 are projects HUD are completed or progressing towards completion.

It is also important to note that, often, HOME funds are used upfront for land acquisition or to pay for other pre-development or early-stage project costs. Therefore, it would not be unusual at all for many months to pass without any additional HOME funds being drawn down while the development of the project proceeds.

*Projects in Final Draw*

The Post also mentions 2,800 projects in "final draw" or projects having all or nearly all of the HOME funds committed to them by the participating jurisdictions expended, yet the projects still appear as 'incomplete' or open in IDIS. HUD is not clear how the Post arrived at this number. The HOME regulations require that participating jurisdictions enter projects as "completed" in IDIS within 120 days of the final draw. While there are many reasons for a participating jurisdiction to need additional time beyond the 120 days (e.g., mechanics' liens may not have been cleared, Davis-Bacon violation complaints remain outstanding, pending litigation), there may be projects that are actually completed and appear as incomplete in IDIS. HUD has been working to reduce the number of overdue completion entries in IDIS for several years and in a number of ways – e.g., public disclosure of this information and published ranking of participating jurisdictions for compliance through the HOME Performance SNAPSHOT, and HUD Field Offices directly calling their PJs to ensure timely reporting. We are also aware that our PJs face financial pressures that have resulted in agency consolidations, furloughs and layoffs, and data entry and reporting may not be the first priority. However, since December 2009, HUD has reduced the final draw open activities by 48 percent, from 8,217 to 4,235 as of April 30, 2011.

*HOME in the Real Estate Market*

The fact is that housing development undertaken by the private sector alone or in combination with HOME program assistance is a process that typically stretches over years and regularly encounters problems and delays along the way. Under these circumstances, it would be ill-advised for an oversight body such as HUD to act precipitously or prematurely. Grantees must retain the flexibility to deal with, and have the time and opportunity to correct, problems, before a

regulatory body intervenes. When project delays come to CPD's attention, the first response may be to offer technical assistance to the grantee which is provided by either CPD staff or technical assistance providers that are under contract for this purpose.

Overall, HOME's record of performance under the current market conditions compares very favorably to the private market success rate. According to U.S. Census data, over the 2007-2010 period, 34% of all new housing starts had not been completed within three years of permitting. In comparison, the 216 delayed HOME projects represent only 4% of the projects in the Post's sample of 5,100 HOME projects.

#### **HUD Oversight and Enforcement**

HUD takes its role as steward of taxpayers' money seriously and our oversight of HOME is no exception. The HOME program has a track record of vigilance in attempting to prevent and, when necessary, to remedy the misuse of federal funds. These actions have accelerated since 2009. In early 2009, we conducted an overall assessment of the program and found that a HOME is a solid production program that needed regulatory and system improvements. We requested Transformation Initiative (TI) funds approved in HUD's FY 2010 budget for improvements to IDIS and started working on revisions to the HOME regulations. Moreover, it was clear that we had to improve our technical assistance and capacity building to support our grantees in becoming true placed-based players in the housing market. Based on this assessment, we have improved and will continue to improve our oversight, monitoring, enforcement and our partnership with the HUD Office of the Inspector General.

#### **Oversight**

##### *Risk Assessment and Monitoring by Field Offices*

HUD has taken steps to improve its on-site and remote monitoring ability and, consequently, its oversight of grantees. These include a stricter risk management assessment, improved comprehensive monitoring exhibits and clear procedures for field offices to provide oversight of CPD's programs.

Each year HUD field offices conduct a risk assessment of all formula and competitive grantees based on several factors, including size of formula grant, complexity of activities undertaken, management capacity, and length of time since last monitoring visit. Based on the risk assessment results, field offices target staff resources to monitor grantees that pose the greatest risk of fraud, waste, abuse and mismanagement. This monitoring includes a PJ review to assess policies and procedures governing sub-recipient management, financial management, cost allowability, written agreements, match and beneficiaries data. It also includes a review of specific project files and on-site inspection of selected sample project(s).

In the last two fiscal years (FY 2009-10), field offices monitored 238 of 642 HOME PJs nationally (37 percent), and identified 591 findings related to compliance and/or performance. It must be noted that CPD field staff are responsible for monitoring all CPD programs, including other major programs such as CDBG and Homeless Assistance programs. In addition, considerable field resources were devoted to monitoring the \$3.92 billion HERA-Neighborhood Stabilization

Program to ensure that it operated free from fraud and abuse. In FY 2010, 162 of 307 NSP 1 grantees were monitored.

#### *Reporting*

HUD has developed a range of innovative tools and system improvements over the years to improve HOME oversight and to assist grantees to better manage their programs. These tools help to track program funds, to rate and rank grantee performance, and to identify and lower risk in the HOME program – most are publicly available on HOME's website, <http://www.hud.gov/offices/cpd/affordablehousing/reports/>. These reports include,

- **HOME Performance SNAPSHOT Report** – posted for the first time in 2003. This quarterly report tracks the progress of individual participating jurisdictions and ranks them against others for eight performance factors. It is an important tool in helping to evaluate the performance of participating jurisdictions by ranking them and providing a context for accomplishments. It includes a special “redflags” report indicating particularly poor performance in any of the five areas related to HOME-assisted rental production. Attachment 2 is an example of this report for Jefferson County, AL, a PJ in Chairman Bachus’ district.
- **Dashboard Report** – first posted in 2004. It provides elected officials, department and agency heads with a quick overview of their jurisdiction's performance in delivering affordable housing assistance with their HOME program funds. Using just a few key indicators in easy to understand graphic format, these state and local leaders are able to obtain information on both the cumulative HOME Program performance as well as accomplishments for the most recent quarter. Attachment 3 is an example of this report for Will County, IL, in Chairman Biggert’s district.
- **Open Activities Report**- first posted on the HOME website in 2005. This report permits HOME administrators at the state and local level, and HUD field offices, to more easily identify and track the progress of individual HOME projects.
- **Vacant Units Report**- first posted in 2007. This report helps PJs identify units in HOME projects that are marked “vacant” in IDIS. For vacant units that are occupied in a completed HOME project, the grantee must enter occupancy and beneficiary data for each assisted family (household).
- **Expiring Funds Report**- first posted in 2009. This report’s purpose is to assist participating jurisdictions in identifying expiring funds in IDIS so that they may put these funds, at risk of recapture/deobligation, into productive use.
- **PJ Analysis Report**- first posted in 2009. This report shows the status of a number of key performance and compliance indicators for each PJ within each Field Office. This report is updated quarterly and consolidates the information found on other

HOME and IDIS reports to provide a quick overview of each PJ's HOME performance - highlighting areas of particular concern for each PJ.

- **Auto-Cancellation** - In 2009, HUD started working on a system improvement to ensure the timely execution of projects consistent with the HOME regulation that all project activity begins within 12 months of a funding commitment. HUD notified grantees that an auto-cancellation of commitments in IDIS over 12 months old and no funds disbursed would take effect January 2011 in the June 2010 'HOME FACTS' (the HOME programs newsletter to grantees for reporting and funds management issues). Since this system control was initiated in January, 2011, HUD has cancelled 1,778 activities, freeing up \$290 million of HOME funding for viable projects.
- **Final Draw Report** - Initiated in January, 2011, this report provides Field Offices the monthly list of projects in final draw (all committed funds have been expended but project has not been "completed"/closed out in IDIS) for more than 120 days for follow up with the PJs.

*Enforcement: Deobligations, Repayments, Grant Reductions, and Suspension of Future HOME Funds*

HUD was not "looking the other way", as the Post writes. To the contrary, we are focused on realizing a full return on the taxpayers' investment in affordable housing. HUD has a number of enforcement tools available when PJs do not meet commitment or expenditure timelines, fail to complete a project, or cannot administer their HOME program due to mismanagement/noncompliance issues.

HUD produces monthly "Deadline Compliance" status reports to track compliance with statutory HOME funds commitment and expenditure deadlines which are strictly enforced, as any grantee can attest. PJs have two years to commit funds to a viable project and five years to expend these funds. A total of \$65.8 million has been de-obligated for failure to meet those deadlines. These funds are reallocated as part of the annual formula reallocation. Recent PJ deobligations include, Orange, TX, College Station, TX and the Municipality of Carolina, PR.

HUD always receives repayment of HOME funds that are misspent. Such actions had already been underway with a number of the agencies mentioned in the Post article - i.e., Washington D.C. and East Orange, NJ. Moreover, CPD takes its enforcement role seriously and has collected over \$190.3 million in repayments from PJs for ineligible costs or activities. PJs are required to repay these funds from non-federal funds. HUD permits reduction of a future HOME grant in lieu of repayment from non-federal funds only if the chief elected official of the participating jurisdiction submits a written request along with documentation demonstrating that it is unable to make repayment from non-federal funds. Generally, HUD will only approve such requests if the repayment amount exceeds one-third of the participating jurisdiction's HOME grant amount, and fiscal incapacity is demonstrated. Of the \$190.3 million, only \$19.8 million represent grant reductions. If a PJ refuses to pay, CPD will refer the PJ for HUD enforcement. We have only had to refer 4 PJs for enforcement. If a PJ refuses to pay after it is referred for enforcement, HUD can involuntarily reduce the PJ's grant after notice and an opportunity for a hearing before an Administrative Law Judge or refer the case to the Department of Justice and seek repayment through a civil False

Claims Act case. In the program's 20-year history, HUD has so far never had to pursue either of these actions, because HUD has received 100% of all repayments requested. Overall, HUD has collected over \$255 million in repayments and forfeited funds.

HUD has taken more serious action against participating jurisdictions where there is a pattern of mismanagement or noncompliance with HOME regulations. After providing notice and opportunity to respond, since 2004 HUD has withheld annual HOME fund allocations to seven participating jurisdictions, some for multiple years, to enforce program requirements. For example, as a result of the OIG audit of Mobile, AL, CPD rejected the HOME certification submitted with the City of Mobile's Fiscal Year 2010 Consolidated Plan / Action Plan and withheld the City's FY 2010 HOME grant. Since the City has not completed the required corrective actions, CPD has notified it of our intention to reject the FY 2011 certification and withhold its FY 2011 HOME grant. This year, HUD will consider withholding HOME funds from a number of other jurisdictions.

*Working Collaboratively with the HUD-OIG*

The HUD OIG has been an important partner in our oversight efforts of the HOME Program, both through internal audits of the program's administration at HUD and external audits of the program's implementation at the PJ level. HOME Program staff provides technical assistance to OIG staff across the country as they assess the technical and regulatory components of grantee programs.

HUD refers HOME participating jurisdictions that have evidence of particularly serious management or financial control issues to HUD-OIG for auditing. For example, since 2009 alone, HUD has referred six participating jurisdictions to the OIG for audits of their HOME program or specific HOME-funded activities: Huntsville, AL, Mobile, AL, Washington D.C. (later featured in the Post article), East Orange, NJ, Cleveland, OH, and Montebello, CA.

In the last 5 years, the OIG has performed 66 audits on HOME participating jurisdictions, some at the request of HOME Program staff in Washington and in the Field, as noted above. Forty-four (44) of those 66 audits have been closed and all recommendations implemented. Twenty-three (23) audits have at least one open recommendation, and we are in the process of working with the participating jurisdictions to ensure that the all recommendations are implemented.

The HUD-OIG has performed three internal audits of HUD's HOME Program Office. These audits all completed since 2009, have covered treatment of program income, oversight of resale and recapture provision for homebuyer assistance, and management of compliance with HOME commitments and expenditure deadlines. CPD is working swiftly to address the HUD-OIG findings; the only items that had been delayed are related to improvements to IDIS due to lack of resources. Although first developed in 1995, IDIS had its first major improvement in 2009 when it was converted from the main frame to a web-based format. Since 1999, CPD had requested resources for system control improvements but funds were not made available for this purpose. However, the recently approved Transformation Initiative (TI) provides funding to improve HUD's grants management systems, including upgrades to HOME financial controls that will address the HUD-OIG findings. All management decisions that been agreed to have been implemented or will be implemented by May 2012 when the IDIS improvements are slated for completion. These improvements include:



1. Program Income controls to improve reporting and ensure that PJs are drawing down program income first before drawing program funds from their treasury accounts;
2. Controls to ensure that draws are from committed funds only; and
3. Implement function to assist large grantees to streamline data entry process for sub grants to increase data accuracy.

There is only one major outstanding issue pending, the use of the first-in first-out (FIFO) accounting method. In a 2009 audit, HUD-OIG made three findings related to the timely commitment and expenditure of HOME funds. CPD is in the process of closing-out recommendations agreed to on the first two findings. CPD disagreed with the third finding relating to the use of the first-in first-out (FIFO) accounting method through IDIS for applying payments in formula block grant programs. The HUD-OIG described the use of the FIFO accounting method as out of compliance with the Federal Financial Improvement Act of 1996 (FFMIA) and U.S. Generally Accepted Accounting Principles (GAAP). In response to this finding, CPD agreed to seek an OGC opinion.

The OGC considered and then agreed with CPD's view that use of FIFO accounting for formula block grants was compliant with both FFMIA and GAAP. In addition, the CFO and an independent accountant with extensive system compliance review experience subsequently agreed with CPD's position. A joint memorandum dated June 10, 2010, from General Counsel Kanovsky and Chief Financial Officer Criscitello addressed to then Inspector General Donohue concluded that "CPD's use of cumulative and FIFO accounting in its financial management represents a reasonable interpretation of the statutory duties imposed on the Secretary and addresses the complex administrative challenges inherent in managing the HOME Investment Trust." The independent compliance review by Leon Snead & Company, P.C., requested by CPD, resulted in a letter dated June 30, 2010, in which the auditor found that "the IDIS Online first-in first-out (FIFO) method of applying payments to formula grants complied with the requirements of FFMIA." Both the OGC/CFO memorandum and the compliance review were sent to the CFO on July 14, 2010, in a memorandum concluding that no further action was needed in regard to the reported deficiency (See Attachment 4).

In light of the unanimous opinion from OGC, CFO, and an outside analyst, HUD will continue its use of the accepted FIFO method. Although we disagree with the HUD-OIG on this point, they remain an important partner in our overall oversight efforts.

#### *Technical Assistance/Capacity Building*

One of HUD's key roles as responsible steward of taxpayers' funds is to provide technical assistance to help our grantees build capacity. HUD has developed numerous HOME programmatic and technical training courses to build capacity of PJ staff, including three "HOME certification" courses in Regulations, Administration, and Rental Housing Compliance, after which participants take a two hour exam to obtain certification. In addition, HUD has used HOME technical assistance funds for one-on-one capacity building for PJs and for "troubled project technical assistance" to help PJ staff complete "workouts" on HOME rental projects experiencing financial or physical problems during the compliance period. Most recently, however, CPD, through HUD's Transformation Initiative (TI), has redesigned its technical assistance/capacity

building and is improving its grant reporting systems to ensure that grantees are able to more efficiently manage, design and align their programs to maximize scarce resources.

Traditionally, HUD has delivered compliance-oriented technical assistance, funded through individual program accounts and separately geared toward the rules governing HUD's disparate programs. The TI effort has allowed CPD to combine all of its program technical assistance accounts into one to develop comprehensive technical assistance efforts that will focus on skills needed to improve program outcomes not just reinforcing program compliance rules. Known as OneCPD, this effort allows synergies impossible in a siloed approach. Through OneCPD, PJs will be assisted in a holistic approach with all of their CPD funds. This will not only provide cost savings, but will ensure that a PJ's overall capacity is assessed and that a technical assistance plan is developed to address the PJ's individual capacity needs, not just fix the HOME "problem project" and ignore the underlying skills gap.

#### *Regulatory/System Changes to Improve HOME Oversight and Enforcement*

As stated earlier, CPD's review of needed improvements to ensure program effectiveness is ongoing, both as this relates to program regulations and IDIS improvements. In 2009, we began working on changes to the current HOME regulation to strengthen program oversight and accountability. This proposed rule will be placed into HUD departmental clearance this month. In addition, to the improvements to IDIS mentioned above, system alerts will be added to improve project risk mitigation.

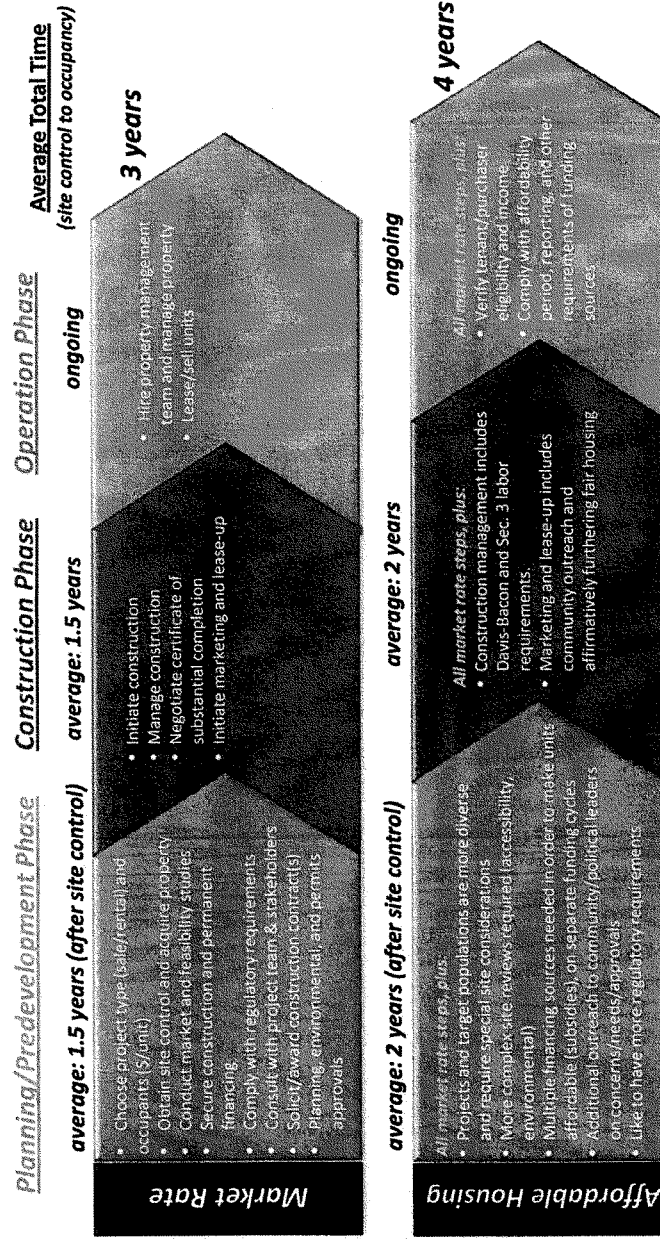
#### **Conclusion**

Thank you for the opportunity to set the record straight as far as the Washington Post article is concerned, and to explain both the active oversight of the HOME program performed by CPD staff and the ongoing efforts to improve that oversight and enforcement.

As I stated earlier, the HOME program gives local communities great flexibility – but, as with any block grant program, that flexibility requires that state and local housing agencies manage this program responsibly and in accordance with the program regulations and requirements. Together, over the past 20 years, state and local governments with their nonprofit and for-profit development partners have produced more than a million affordable units of housing with HOME funds, primarily for very low- and extremely low-income families.

The facts speak for themselves -- HOME has been a catalyst for change in the lives of low-income families and for communities nationwide. Recent HOME Door Knockers Award winners and the HOME is a Catalyst video can be found at <http://www.hometa.info/>

# Attachment 1 - Development Process Comparison Under Favorable Market Conditions



**Extra steps in the process add time to affordable housing development.**

**Attachment 2 - Sample Snapshot Report**

**SNAPSHOT of HOME Program Performance--As of 03/31/11**  
**Local Participating Jurisdictions with Rental Production Activities**

Participating Jurisdiction (PJ): Jefferson County State: AL PJ's Since (FY): 1992

PJ's Total HOME Allocation Received: \$18,239,500 PJ's Size Grouping\*: B


Category	PJ	State Average	State Rank	Nat'l Average	Nat'l Ranking (Percentile)**
			PJ's in State: <u>6</u>		Group   B   Overall
<b>Program Progress:</b>					
% of Funds Committed	100.00 %	98.07 %	1	97.21 %	100
% of Funds Disbursed	88.81 %	91.48 %	3	90.53 %	34
Leveraging Ratio for Rental Activities	0.61	1.95	5	4.97	7
% of Completed Rental Disbursements to All Rental Commitments***	100.00 %	82.29 %	1	85.01 %	100
% of Completed CHDO Disbursements to All CHDO Reservations***	100.00 %	72.77 %	1	73.71 %	99
<b>Low-Income Benefit:</b>					
% of 0-50% AMI Renters to All Renters	88.98 %	81.04 %	4	81.49 %	68
% of 0-30% AMI Renters to All Renters***	53.98 %	47.81 %	2	45.54 %	67
<b>Lease-Up:</b>					
% of Occupied Rental Units to All Completed Rental Units***	100.00 %	95.11 %	1	96.14 %	100
<b>Overall Ranking:</b>					
<b>HOME Cost Per Unit and Number of Completed Units:</b>			In State: <u>1</u> / <u>6</u>	Nationally:	
Rental Unit	\$44,824	\$21,475		\$28,248	193 Units
Homebuyer Unit	\$30,126	\$20,824		\$15,487	288 Units
Homeowner-Rehab Unit	\$89,237	\$18,336		\$0	2 Units
TBRA Unit	\$0	\$4,263		\$3,211	0 Units

\* A = PJ's Annual Allocation is greater than or equal to \$3.5 million (201 PJA)  
 B = PJ's Annual Allocation is less than \$3.5 million and greater than or equal to \$1 million (218 PJA)  
 C = PJ's Annual Allocation is less than \$1 million (207 PJA)  
 \*\* E.g., a percentile rank of 70 means that the performance exceeds that of 70% of PJ's.  
 \*\*\* This category is double-weighted in computing both the State Overall Ranking and the National Overall Ranking of each PJ.  
 Source: Data entered by HOME Participating Jurisdictions into HUD's Integrated Disbursement and Information System (IDIS)

Program and Beneficiary Characteristics for Completed Units									
Participating Jurisdiction (P.J.): Jefferson County		AL		Homebuyer		Homeowner		P.J. National Avg:	
Total Development Costs: (average reported cost per unit in HOME-assisted projects)		P.J. State:** National:**		Rental	Homebuyer	Homeowner	CHDO Operating Expenses: (% of allocation)	R.S. Means Cost Index:	2.7 % 1.2 %
				\$72,328	\$81,315	\$71,737		0.86	
				\$73,352	\$80,535	\$19,578			
				\$101,183	\$78,322	\$24,013			
HOUSEHOLD TYPE:									
Single/Non-Elderly:									
Elderly:									
Related/Single Parent:									
Related/Two Parent:									
Other:									
Rental % Homebuyer % Homeowner % TBRA %									
RACE:									
White:									
Black/African American:									
Asian:									
American Indian/Alaska Native:									
Native Hawaiian/Pacific Islander:									
American Indian/Alaska Native and White:									
Asian and White:									
Black/African American and White:									
American Indian/Alaska Native and Black:									
Other Multi Racial:									
Asian/Pacific Islander:									
ETHNICITY:									
Hispanic:									
HOUSEHOLD SIZE:									
1 Person:									
2 Persons:									
3 Persons:									
4 Persons:									
5 Persons:									
6 Persons:									
7 Persons:									
8 or more Persons:									
* The State average includes all local and the State P.J.s within that state									
** The National average includes all local and State P.J.s, and Insular Areas									
# Section 8 vouchers can be used for First-Time Homebuyer Downpayment Assistance.									
Source: Data entered by HOME Participating Jurisdictions into HUD's Integrated Disbursement and Information System (IDIS)									
HOME Program Performance SNAPSHOT Page 2									

<b>HOME PROGRAM</b> <b>SNAPSHOT WORKSHEET - RED FLAG INDICATORS</b> Local Participating Jurisdictions with Rental Production Activities				
Participating Jurisdiction (PJ):		Jefferson County	State:	AL
State Rank:		1 / 6 PJs	Group Rank:	63
			Overall Rank:	0
Summary: <b>0</b> / Of the 5 Indicators are Red Flags				
FACTOR	DESCRIPTION	THRESHOLD*	PJ RESULTS	RED FLAG
4	% OF COMPLETED RENTAL DISBURSEMENTS TO ALL RENTAL COMMITMENTS	< 76.77%	100	
5	% OF COMPLETED CHDO DISBURSEMENTS TO ALL CHDO RESERVATIONS	< 57.73%	100	
6	% OF RENTERS BELOW 50% OF AREA MEDIAN INCOME	< 70%**	88.96	
8	% OF OCCUPIED RENTAL UNITS TO ALL RENTAL UNITS	< 92.23%	100	
*ALLOCATION-YEARS* NOT DISBURSED***		> 2.200	2.01	

\* This Threshold indicates approximately the lowest 20% of the PJs  
 \*\* This percentage may indicate a problem with meeting the 90% of rental units and TBRA provided to households at 60% AMI requirement  
 \*\*\* Total of undistributed HOME and ADDI funds through FY 2005 / FY2005 HOME and ADDI allocation amount. This is not a SNAPSHOTS indicator, but a good indicator of program progress.  
 Source: Data entered by HOME Participating Jurisdictions into HUD's Integrated Disbursement and Information System (IDIS)


 HOME Program Performance SNAPSHOT  
 Page 3

Attachment 3 - Sample  
Dashboard Report

HOME Investment Partnerships (HOME) Program  
Program Progress Dashboard



Cumulative as of 03/31/11

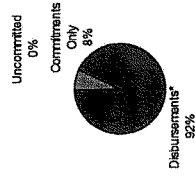
Participating Jurisdiction (PJ)

Will County, IL

PJ Since: 1992

(1) Status of Funds

Total HOME Allocations Received: \$8,818,457



\* Disbursements\* include previously committed funds.

(2) Unit Production - Completions

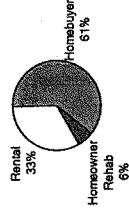
Cumulative Since: 1992

Total: 477

Last Quarter (January 1 - March 31, 2011):

Net Increase: 0

No net increase in reported units.



New Tenant-Based Rental Assistance (TBRA): 2 Households

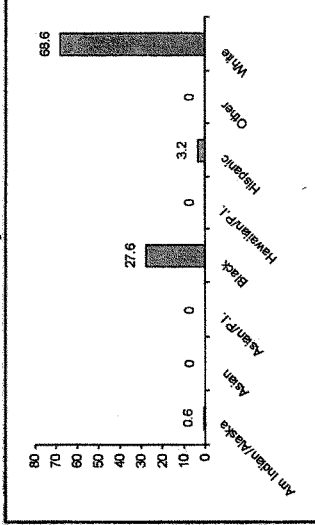
Tenant-Based Rental Assistance (TBRA) Total: 183 Households

Source: Data entered by HOME Participating Jurisdictions into HUD's Integrated Disbursement and Information System (IDIS)

Will County, IL

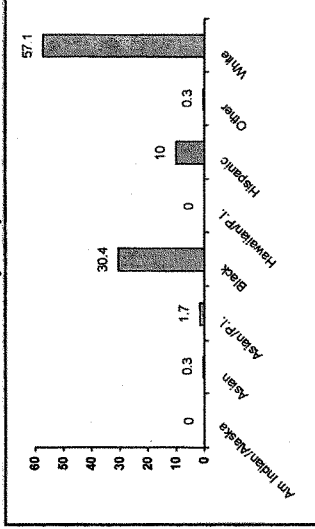
(3) Production Detail  
Racial/Ethnic Breakout

Rental Projects



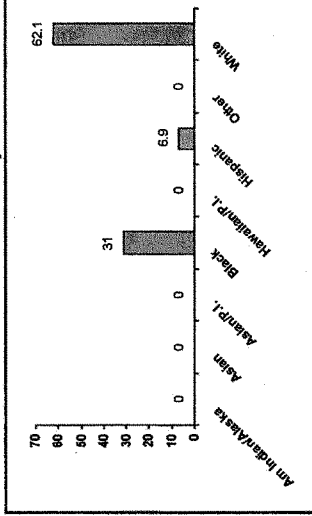
Avg. Total Dev. Cost (TDC)\* Per Unit: **\$75,211**

Homebuyer Projects



Avg. Total Dev. Cost (TDC)\* Per Unit: **\$60,377**

Homeowner Rehabilitation Projects



Avg. Total Dev. Cost (TDC)\* Per Unit: **\$18,481**

\* TDC - Includes all sources of funds  
Source: Data entered by HOME Participating Jurisdictions into HUD's Integrated Disbursement and Information System (DIS)

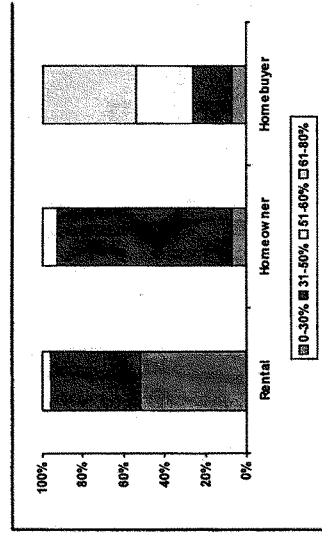


HOME Program DASHBOARD  
Page 2

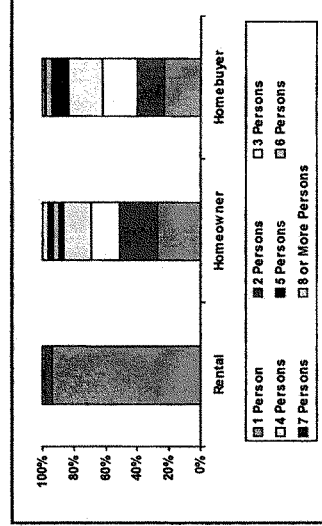


Will County, IL

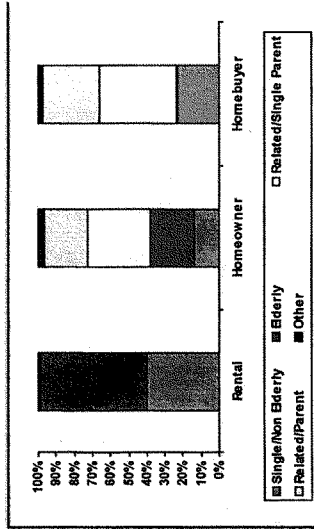
b. Income Range Breakout



c. Family/Size Breakout



d. Household Type Breakout



Source: Data entered by HOME Participating Jurisdictions into HUD's Integrated Disbursement and Information System (IDIS)



Attachment 4 - Memo  
on First in/First OutU.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-0500

GENERAL COUNSEL

JUN 10 2010

MEMORANDUM FOR: Kenneth M. Donohue, Inspector General, G

FROM: *HRK*  
Helen R. Kanovsky, General Counsel, C; Doug Criscitello, Chief  
Financial Officer, F

SUBJECT: Disagreement about Audit Recommendations (2009-AT-0001 issued  
on September 28, 2009)

This correspondence is in response to your March 31, 2010 memorandum regarding the above-captioned audit. In that memorandum, you discussed your disagreement with the Office of Planning and Community Development (CPD) and the Office of General Counsel (OGC) regarding the recapture requirements of the HOME program statute, codified at 42 U.S.C. § 12748, and CPD's use of cumulative accounting and the "first in, first out" (FIFO) method for financial management. Because the primary focus of your memorandum involves specific disagreements with the legal opinion rendered by OGC in this matter, additional information is provided below.

At the outset, we note that the cumulative accounting method at issue has been described in HUD's regulations at 24 CFR § 92.500(d)(1)(B) since 1997 and, along with FIFO, have been a part of the funds control plan that CPD has submitted to the Office of the Chief Financial Officer (OCFO) pursuant to HUD Handbook 1830.2 REV-5, Chapter 4. Given the role of our three respective offices in the clearance process for proposed rules and in ensuring that financial management methods comply with relevant Federal statutory and accounting requirements, we take this matter very seriously and appreciate this opportunity to address the issue.

**I. OGC's Legal Opinion of Regulations Promulgated under 42 U.S.C. § 12748**

**A. *Statutory Authority***

As noted in the March 5, 2010 legal opinion, section 218(g) of the Cranston-Gonzalez National Affordable Housing Act (the "Act"), codified at 42 U.S.C. 12748(g), states that:

If any funds becoming available to a participating jurisdiction are not placed under binding commitment to affordable housing within 24 months after the last day of the month in which such funds are deposited in the jurisdiction's HOME Investment Trust Fund, the jurisdiction's right to draw such funds from the HOME Investment Trust Fund shall expire.

HUD read the statutory requirements of Section 214(g) in conjunction with Section 214(i), codified at 42 U.S.C. 12748(h) and entitled "Administrative provision," which states:

The Secretary shall keep each participating jurisdiction informed of the status of its HOME Investment Trust Fund, including the status of *amounts under various stages of commitment*.

(emphasis added)

Reading the two sections in tandem makes clear Congress' intent for the Secretary to administer the HOME Investment Trust in a manner that equates commitment of "such funds" described in 218(g) with the "amounts under various stages of commitment" described in 218(h). The two sections require that the Department track the *amount* of commitments along a dynamic continuum that recognizes both the fungibility of monies deposited into the HOME Investment Trust and the fact that there are more stages of commitment than merely pre-commitment and commitment stages. For example, a participating jurisdiction that has committed funds prior to the statutory deadline under 218(g) may later be forced to decommit those funds due to actions of a subrecipient or contractor. A reading that only contemplates pre-commitment/commitment stages for funding would only require a one-time assessment of commitments the day prior to the statutory deadline and ignore "such funds" thereafter. Instead, CPD's use of cumulative and FIFO accounting in its financial management represents a reasonable interpretation of the statutory duties imposed on the Secretary and addresses the complex administrative challenges inherent in managing the HOME Investment Trust.

#### B. HUD's Regulatory Requirements

Because the Act does not define the term "commitment," HUD has done so by notice and comment rulemaking. The regulation defines commitment as, *inter alia*, the instance when "[t]he participating jurisdiction has executed a legally binding agreement with a State recipient, a subrecipient or a contractor to use a *specific amount* of HOME funds to produce affordable housing . . . ." 24 CFR § 92.2 (emphasis added). Again, HUD understands its statutory duty under Sections 218(g) and (h) to include tracking commitment amounts rather than tracking a specific dollar transferred at a specific point in time. When HUD codified the requirements of Section 218(g), it included Subpart K, entitled "Program Administration." This Subpart requires the recapture of "any funds in the United States Treasury account that are not committed within 24 months after the last day of the month in which HUD notifies the participating jurisdiction of HUD's execution of the HOME Investment Partnership Agreement." *See*, 24 CFR § 92.500(d)(1)(B); 61 Fed. Reg. 48779. After the proposed final rule was published, HUD made technical amendments to that Subpart by codifying the cumulative accounting method, stating:

For purposes of determining the *amount* by which the HOME Investment Trust Fund will be reduced or recaptured under paragraphs (d)(1)(A), (B) and (C) of this section, HUD will consider the sum of commitments to CHDOs, commitments, or expenditures, as applicable, from the fiscal year allocation being examined and from subsequent allocations. This sum must be equal to or greater than the amount of the fiscal year allocation being examined, or in the case of commitments to CHDOs, 15 percent of that fiscal year allocation.

*See*, 62 Fed. Reg. 28926; 24 CFR § 92.501(d)(-) (emphasis added).

When this cumulative accounting method is combined with FIFO, the resulting financial management system enables CPD to ensure that participating jurisdictions have commitment *amounts* in excess of any fiscal year's allocation that has been held for more than 24 months after the last day of the month in which HUD provided notice of an executed agreement. This method of tracking funds also allows CPD to ensure that funds committed in good faith in a legally binding agreement within the statutory period are not recaptured simply because a subrecipient or project

partner does not follow through on its responsibilities, provided the participating jurisdiction still has commitments in excess of that fiscal year's funding amount. The inclusion of a five-year regulatory deadline for *expenditure* of funds provides a further control to ensure that funds are still utilized in a timely manner. 24 CFR § 92.500(d)(1)(C).

In sum, OGC concludes that the Department's regulations are a reasonable and comprehensive interpretation of the statutory requirements for the financial administration of the HOME program.

## II. OCFO's Financial Analysis

The OCFO reviewed the HOME account in HUD's FY 2010 Appropriations Act and found the following language, which is typical for this account: "For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act [hereinafter "the Authorizing Act"], as amended, \$1,825,000,000, to remain available until September 30, 2012: . . ." With this language, Congress explicitly established the amount and period of availability of HOME funds for FY 2010, and cited the HOME authorizing statute to establish other terms and conditions for this HOME funding, including the purposes for which such funds can be used.

In an effort to reach agreement on proper accounting for obligations and expenditures under this program, it is essential that HUD and OIG reach agreement on the fundamental nature of this program. The General Accountability Office has explained:

A **categorical grant** is a grant to be used only for a specific program or for narrowly defined activities. A categorical grant may be allocated on the basis of a distribution formula prescribed by statute or regulation ("formula grant"), or it may be made for a specific project ("project grant"). A **block grant** is a grant given to a governmental unit, usually a state, to be used for a variety of activities within a broad functional area. Block grants are usually formula grants. Under a block grant, the state is responsible for further distribution of the money. States naturally prefer block grants because they increase the states' spending flexibility and at least in theory reduce federal control...

**Block grants** reduce federal involvement in that they transfer much of the decision-making to the grantee and reduce the number of separate grants that must be administered by the federal government.

The Principles of Federal Appropriations Law, 3d Vol. II at 10-60 to 61, 62 (2006) (emphasis added)

Based on OCFO staff's review and discussions with CPD and OGC, pursuant to the authorizing and appropriation Acts, the HOME program issues formula block grants. See, e.g., §§ 212 and 217 of the Authorizing Act. Pursuant to their broad five-year plans and readily amendable one-year plans devised within the framework of the Authorizing Act, the participating jurisdictions, through flexible grant agreements and procedures, can and do choose and change activities and objectives from year-to-year and within years, applying available funding from the proper fund type

which may contain amounts from more than one fiscal year. Accordingly, with respect to accounting for funds made available under the HOME program, it would seem to contravene the block grant nature of both the Authorizing Act and Appropriations Act to require that amounts from each fiscal year be tracked inflexibly to individual, unchangeable grant activities. The very nature of the HOME program Congress created gives participating jurisdictions the flexibility to mix and match activities and implementation methods, within fund type, and to change such activities and objectives, over the years.

Specifically, in your memo and audit, your office expressed concern about how CPD has implemented the 24-month commitment requirement that is contained in the Authorizing Act at 42 U.S.C. § 12748 and the five-year expenditure requirement contained in HUD's HOME implementing regulation published at 24 CFR § 92.500(d)(1)(C). Based on our review and discussions with CPD and OGC, it is our understanding that obligations and expenditures under the HOME program are accounted for on a FIFO basis by fund type instead of by fiscal year. In addition, it is our understanding that CPD in enforcing the obligation and expenditure requirements looks to total cumulative obligations and expenditures instead of by fiscal year. Based on OCFO's financial analysis, given the origin of these requirements and the fundamental nature of this block grant program, we believe that the FIFO accounting method for obligations and expenditures by fund type is consistent with Federal accounting requirements, and we have no objection to the total cumulative obligations and expenditures methods used for assessing compliance with the 24-month obligation and 5-year expenditure requirements.

Additionally, in your memo, you expressed concern about whether the FIFO accounting method for expenditures is consistent with the expenditure requirement under 31 U.S.C. § 1552, and requested clarification about the relationship between this requirement and the HOME program 5-year expenditure requirement discussed above. First, the OCFO understands the HOME program 5-year expenditure requirement as a program performance measure which begins when the participating jurisdiction receives HOME funds, whereas the 5-year period contemplated under 31 U.S.C. § 1552 begins at the end of the period of availability of the funds. Each requirement operates under its own authority, but both are similarly affected by the fundamental nature of this block grant program and the FIFO accounting method for expenditures. As expressed above, from the OCFO's perspective, given the fundamental nature of this block grant program, we believe that the FIFO accounting method for expenditures is consistent with Federal accounting requirements.

### **III. Authority to Render Legal Opinions of Program Regulations**

In your memorandum, you made the following comment regarding the legal opinion provided by OGC:

As an initial matter, the legal opinion should have been obtained from the Office of the Chief Financial Officer, Appropriations Law Division. Public Law 108-7 vested the Chief Financial Officer of the Department with sole authority to investigate potential violations under the Anti-Deficiency Act and all other statutes and regulations related to the obligation and expenditure of funds made available in Pub. L. 108-7, or any other Act. We therefore ask that the Office of the Chief Financial Officer provide an opinion on this matter.

(emphasis in original).

The legal opinion at issue was properly provided by OGC rather than the Office of the Chief Financial Officer (OCFO). The review of the Department's regulatory enactments of program statutes for legal sufficiency is an OGC function specifically delegated by the Secretary. This authority is explicitly acknowledged in your own findings in the initial audit, where you stated:

We recommend that the Assistant Secretary for Community Planning and Development

- 3A. Obtain a formal legal opinion from the Office of General Counsel on whether HUD's cumulative technique for assessing compliance with commitment deadlines is consistent with and is an allowable alternative to the 24-month commitment requirements stipulated at Title II of the Cranston-Gonzalez National Affordable Housing Act.
- 3B. Obtain a formal legal opinion from the Office of General Counsel on whether HUD's first-in first-out method for assessing compliance with HOME expenditure requirements is consistent with and is an allowable alternative to the eight-year recapture deadline pursuant to Public Law 101-510.

Your prior understanding of the proper source for a legal opinion is supported by clear statutory authority. The Department of Housing and Urban Development Act, codified at 42 U.S.C. 3531 *et. seq.* (the "HUD Act"), provides that "[t]he Department shall be administered under the supervision and direction of the Secretary." HUD Act § 3(a). In addition the HUD Act states that "[t]here shall be in the Department . . . a general counsel, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions, powers and duties as the Secretary shall prescribe from time to time." HUD Act § 4(a). Finally, the HUD Act provides that "the Secretary may delegate any of his functions, powers, and duties to such officers and employees of the Department as he may designate . . . and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties." HUD Act § 7(d).

Pursuant to this statute, the Secretary has delegated to the General Counsel the power "[t]o interpret the authority of the Secretary and to determine whether the issuance of any rule, regulation, statement of policy or standard promulgated by HUD is consistent with that authority." 229 Fed. Reg. 62802 (Tuesday, December 1, 2009). This authority to determine if a HUD program regulation is consistent with a statute, is not shared with the OCFO as a result of Public Law 108-7.

Notwithstanding the emphasis in your quotation, Public Law 108-7, passed on February 20, 2003 as HUD's FY2003 Appropriation, was never designed to vest sole authority to the OCFO on any or all matters related to the obligation and expenditure of funds. The sweep of your assertion is much broader than any reasonable statutory construction would allow, and would essentially transfer most of the delegated functions of OGC described above to the OCFO. The full relevant quotation from Public Law 108-7 states:

the Secretary shall, within 30 days of enactment of this Act, permanently transfer no fewer

than four appropriations law attorneys from the Legislative Division of the Office of Legislation and Regulations, Office of General Counsel to the OCFO: *Provided further*, That personnel transferred pursuant to the previous proviso shall report directly to the Chief Financial Officer: *Provided further*, That, notwithstanding any other provision of law, hereafter, the Chief Financial Officer of the Department of Housing and Urban Development shall, in consultation with the Budget Officer, have sole authority to investigate potential or actual violations under the Anti-Deficiency Act (31 U.S.C. 1341 et seq.) and all other statutes and regulations related to the obligation and expenditure of funds made available in this, or any other Act; shall determine whether violations exist;

(underlining added). Pub. L. 108-7 at 489.

Public Law 108-7 transferred appropriations attorneys to OCFO to function as part of a unit that investigates potential or actual violations of the Anti-Deficiency Act and other relevant appropriations statutes. This authority is distinct from making a legal determination on behalf of the Department about whether a program regulation properly interprets a statutory requirement.

In support of this interpretation, we note that on August 12, 2003, The Office of the Legal Counsel at the Department of Justice provided a legal opinion to OMB's General Counsel concluding that the applicable provisions of Public Law 108-7 do not even assign exclusive responsibility for *appropriations law* matters to the OCFO. The relevant paragraph states:

We find no basis in the text of these provisions . . . to support the broader contention that the CFO was given sole authority, exclusive of the HUD General Counsel and his Office, to provide advice, counsel or analysis for the Secretary or other HUD components on *all matters and issues of appropriations law*. The extensive *investigative* authority, respecting actual or potential violations of law, that was indisputably granted to the CFO simply cannot be equated with the exclusive authority to interpret, analyze and provide advice respecting the federal appropriations laws for HUD and its components.

(emphasis added).

Based upon the discussion above, we find that absent an investigation respecting actual or potential violations of appropriations law, there is no authority for your request that the OCFO provide a legal opinion on this matter that supplants the proffered OGC opinion.

If you have any additional questions, please contact Damon Smith at (202) 402-5099 or Mike Moran at (202) 402-5150

cc: Mercedes M. Marquez, Assistant Secretary for Community Planning and Development, D



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

OFFICE OF COMMUNITY PLANNING  
AND DEVELOPMENT

JUL 14 2010

MEMORANDUM FOR: Jerome A. Vaiana, Acting Chief Financial Officer  
for Financial Management, FM

Larry E. McGhee, Director of Audit Liaison Division  
for Financial Management, FMA

FROM: *William H. Eargle, Jr.*  
William H. Eargle, Jr., Deputy Assistant Secretary  
for Operations, DO

SUBJECT: Resolution of FY 2009 Financial Statement Audit Finding

On November 16, 2009, the HUD Office of Inspector General (OIG) issued audit report no. 2010-FO-0003 entitled "Additional Details to Supplement Our Audit Report on HUD's Fiscal Years 2009 and 2008 Financial Statements." The report included the finding "Significant Deficiency: HUD Financial Management Systems Need to Comply with Federal Financial Management System Requirements."

Paramount in the finding discussion was the reported failure of the system that supports CPD formula programs to comply with Federal financial management system requirements. The system is the Integrated Disbursement and Information System (IDIS). It was stated that the IDIS system is not compliant with the Federal Financial Management Improvement Act of 1996 (FMFIA) and OMB A-127 reporting requirements due to system design which uses the first-in, first-out (FIFO) methodology for processing accounting transactions.

CPD disagreed with the significant deficiency and in response to the HUD OIG noted that the IDIS system had been reviewed over many years by both internal and external entities, and in all cases found to be in substantial compliance with FMFIA/A-127. To gain further insight into the matter, CPD issued a contract to Leon Snead & Company, P.C., a firm steeped in system compliance review experience, to assess and determine if the IDIS FIFO methodology was compliant with requirements. If found not in compliance, they were to recommend what needed to be done to bring the system into compliance.

On June 30, 2010, Leon Snead and Company issued a final report (copy attached) on their assessment of whether the FIFO methodology of processing formula grant disbursement transactions was in compliance with FMFIA requirements. They concluded for reasons cited in their report that the FIFO method employed by IDIS was compliant with FMFIA.



In addition, on June 10, 2010, the HUD General Counsel (GC) and Chief Financial Officer (CFO) sent a joint memorandum to the HUD Inspector General (copy attached) that addressed a disagreement about audit recommendations included in a HOME audit issued by the HUD OIG. At issue was CPD's use of cumulative accounting and the FIFO method for financial management; the same matter addressed in the Leon Snead and Company IDIS FIFO compliance review. Although the memo addressed elements of the HOME program, the conclusions reached apply to all of CPD's block grant programs including our largest, the Community Development Block Grant program. Supporting narrative and conclusions reached by the GC and CFO fully support the use of FIFO for processing accounting transactions.

Based on (1) the results of the Leon Snead and Company compliance review and (2) the June 10, 2010, legal decision, we conclude that no further action is needed in regard to this reported deficiency. Therefore we will be closing Recommendation 4.a. from the above referenced report

Attachments

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**Final Report**

**U.S. DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

**Office of Community Planning and Development**

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**COMPLIANCE REVIEW ON IDIS FIFO METHODOLOGY**

**Submitted By**

**Leon Snead & Company, P.C.**  
*Certified Public Accountants & Management Consultants*



**LEON SNEAD  
& COMPANY, P.C.**

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June 30, 2010

Mr. William H. Eargle, Jr.  
Deputy Assistant Secretary for Operations  
U.S. Department of Housing and Urban Development  
Office of Community Planning and Development  
451 7<sup>th</sup> Street, SW, Room 7128  
Washington, DC 20410

Dear Mr. Eargle:

In response to your request, Leon Snead & Company completed an assessment to determine whether the first-in first-out method by which the Integrated Disbursement and Information System (IDIS) Online system processes formula grant transactions complies with the requirements of the Federal Financial Management Improvement Act (FFMIA) of 1996.

Based on our assessment, we found that the IDIS Online first-in first-out (FIFO) method of applying payments to formula grants complied with the requirements of FFMIA. Presented later in this report are the details of our analysis of each of the requirements of FFMIA, as implemented by Office of Management and Budget (OMB) Circular A-127, *Financial Management Systems*, and the supplemental guidance in OMB Memorandum 09-06, *Implementation Guidance for the Federal Financial Management Improvement Act*.

**BACKGROUND**

On November 16, 2009, the Office of Inspector General (OIG) of the Department of Housing and Urban Development (HUD) issued an audit report, Audit Case Number 2010-FO-003, *Additional Details to Supplement Our Report on HUD's Fiscal Years 2009 and 2008 Financial Statements*. That report included a significant deficiency titled *HUD Financial Management Systems Need to Comply with Federal Financial Management System Requirements*. The deficiency criticized the method by which HUD's Office of Community Planning and Development (CPD) systems applied disbursement transactions to the oldest grant obligations available. The deficiency was based in part on a finding in an audit report issued on September 28, 2009, by the OIG Atlanta regional office (2009-AT-001). The Atlanta report stated:

HUD's first-in first-out method resulted in incorrect classification and reporting of HOME expenditures and their related unliquidated obligations. HUD's guidance to participating jurisdictions provides an explanation of the first-in first-out method. It states that HUD's

information system uses the method for both committing funds to activities and for recording disbursements made to participating jurisdictions. Under this method, funds are first committed and disbursed from the "oldest" available funds. When a commitment or disbursement request is entered in the information system, the system searches for the "oldest" funds first by grant program, then by source year of funds, recipient of funds, and type of funds. In this way, HOME funds are committed and disbursed to the participating jurisdictions from the oldest grant year to the newest grant year by recipient and fund type...

The first-in first-out method, as described in HUD guidance, prevents the direct association that should exist between fixed-year appropriations, expenditures, and unliquidated obligations (difference between obligated amounts and expenditures). The technique distorts reporting of expenditures against fixed appropriations and could make it erroneously appear that HUD was in compliance with Public Law 101-510's eight-year recapture deadline and thus mask funds that should be recaptured by the United States Treasury.

The Atlanta report also included Appendix D, which stated:

The first-in first-out technique for HOME expenditures may affect the accuracy of HUD's accounting for HOME program activity based on requirements in Office of Management and Budget Circular A-127, Financial Management Systems, and other related standards for federal agency financial management systems and reporting requirements. These requirements include but are not limited to compliance with the U.S. Government Standard General Ledger. HUD officials stated that they used the technique for all community planning and development programs. Thus, the technique could impact HUD's financial statement for all community planning and development programs...

HUD disagreed with the significant deficiency cited in the financial statement audit report and contended that CPD's formula grant reporting process in the Integrated Disbursement and Information System (IDIS) Online system is substantially compliant with FFMIA requirements. As part of the justification for its position, HUD management cited the lack of deficiencies in prior year audit reports and a history of independent assessments that concluded that IDIS was "substantially compliant" with OMB Circular A-127, the guidance that implements the FFMIA. The OIG disagreed with HUD's position. CPD management issued a contract to Leon Snead & Company, P.C. to determine if the method by which IDIS processes formula grant transactions complies with FFMIA requirements.

#### **OBJECTIVE**

The objective of the project was to determine whether the first-in, first-out (FIFO) method that the IDIS Online system uses for drawing grant payments from available obligations complies with the requirements of FFMIA.

#### **SCOPE**

The scope of our assessment was limited to determining whether the FIFO method of applying payments to obligations complied with the requirements of FFMIA. Our analysis did not extend to compliance related to other aspects of the IDIS Online system or to the system taken as a whole, nor did it cover the FFMIA compliance of any other financial or mixed systems in HUD,

except to the extent that the FIFO method could directly affect compliance with FFMIA in another system.

## METHODOLOGY

We interviewed knowledgeable officials in HUD and contractor personnel who maintained or used IDIS Online and were familiar with the operation of the system and its interfaces with other HUD financial systems. We also interviewed OIG audit personnel who were most directly involved in and knowledgeable about the issues raised in the pertinent OIG reports. We walked through the processes for grantee commitments of funds to projects and activities and drawdowns of funds for specific activities and observed each step that occurred in each of those processes. We reviewed descriptions of the interfaces between IDIS Online and the Line of Credit Control System (LOCCS) and the specific data elements that are fed to and from IDIS Online and LOCCS. We conducted a walk-through of a payment request transaction from IDIS Online, observed how that transaction flowed through the financial management system, and assessed whether it was posted in the core financial system in a manner consistent with the USSGL at the transaction level.

We also reviewed pertinent government-wide policies, including but not limited to, Office of Management and Budget (OMB) Circular A-127, *Financial Management Systems*; OMB Memorandum M-09-06, *Implementation Guidance for the Financial Management Improvement Act*; *Core Financial System Requirements*, promulgated by the Chief Financial Officer's (CFO) Council<sup>1</sup>; OMB Circular A-11, *Preparation, Submission, and Execution of the Budget*; Statement of Federal Financial Accounting Standards No. 7, *Accounting for Revenue and Other Concepts for Reconciling Budgetary and Financial Accounting*; *Principles of Federal Appropriations Law*, Third Edition, promulgated by the Government Accountability Office; and the *U.S. Government Standard General Ledger, Supplement No. S2 Treasury Financial Manual, S2 09-02 August 2009, Revised by I TFM Bulletin No. 2010-04 (December 4, 2009)*.

## RESULTS

FFMIA Section 803(a) contains three components: Federal financial management systems requirements, Federal accounting standards, and the application of the USSGL at the transaction level. We analyzed the FIFO method versus each of the three components using the guidance in OMB Memorandum 09-06 to determine compliance. The OMB guidance defines core financial systems, financial management systems, and mixed systems and provides the thresholds each type of system must meet in order to be in compliance with FFMIA.

Based on the definitions in the OMB guidance, we determined that the core financial system in HUD is the Housing and Urban Development's Central Accounting and Program System (HUDCAPS), which provides general ledger and other subsystems. The Line of Credit Control System (LOCCS) is a payment system and would thus meet the definition of a financial system.

<sup>1</sup> The CFO Council assumed the responsibility for the Financial Systems Integration Office (FSIO), which ceased operations effective March 31, 2010. FSIO was the successor organization to the Joint Financial Management Improvement Project (JFMIP), which promulgated the series of Federal Financial Management System Requirements.

The Program Accounting System (PAS) is a grants management system and would also meet the definition of a financial system. The IDIS Online system is primarily a performance management system, which performs the financial activities of allowing grantees to commit funds to projects, subgrants, and activities and to request payments. The IDIS Online system also allocates payment amounts to grants using the FIFO method. The IDIS Online system is thus a mixed system.

Our analysis of whether the FIFO method complies with FFMIA and the OMB requirements for mixed systems is set forth below.

#### **Federal Financial Management Systems Requirements**

Since IDIS Online is not part of the core financial system, the FFMIA requirements do not apply directly to IDIS Online. However, because IDIS Online is the source for the information on formula grant payments that eventually update HUDCAPS (the system to which the FFMIA requirements pertain), we analyzed whether IDIS Online would prevent HUDCAPS from complying with the core financial system requirements.

We performed a detailed review of each of the business process requirements related to obligations and payments, as set forth in the core system requirements. During our review, we noted that IDIS Online does not capture or pass along to LOCCS the dates covered by payment requests (periods of performance). The core financial system requirements include mandatory requirements that the core financial system validate the invoice period of performance<sup>2</sup> and the invoice delivery/performance dates<sup>3</sup>.

In a legal opinion dated June 10, 2010, the HUD Office of General Counsel (OGC) stated:

Based on OCFO staff's review and discussions with CPD and OGC, pursuant to the authorizing and appropriation Acts, the HOME program issues formula block grants.... Pursuant to their broad five-year plans and readily amendable one-year plans devised within the framework of the Authorizing Act, the participating jurisdictions, through flexible grant agreements and procedures, can and do choose and change activities and objectives from year-to-year and within years, applying available funding from the proper fund type which may contain amounts from more than one fiscal year. Accordingly, with respect to accounting for funds made available under the HOME program, it would seem to contravene the block grant nature of both the Authorizing and Appropriations Act to require that amounts from each fiscal year be tracked inflexibly to individual, unchangeable grant activities. The very nature of the HOME program Congress created gives participating jurisdictions the flexibility to mix and match activities and implementation methods, within fund type, and to change such activities and objectives over the years.

<sup>2</sup> Business process PMC-10 defines the requirement as validating that invoice dates that products were delivered or services performed are within the period of performance dates on the referenced obligation.

<sup>3</sup> Business process PMC-11 defines the requirement as validating that the invoice dates that products were delivered or services performed are dates for which the products services have been received and accepted. The system must also prevent the processing of invoices with unmatched dates and the duplicate processing of invoices with matched dates.

The CFO Council's core financial system requirements document states that its guidance "...exempts agencies from meeting individual system requirements relating to business processes they do not perform." Based on the HUD OGC opinion, the business processes defined at PMC-10 and PMC-11 apparently do not need to be performed for the HOME formula block grant program. The other programs to which the FIFO method is applied are also formula block grant programs that HUD administers in a manner similar to the HOME program for committing and disbursing funds. Therefore, we believe the two mandatory business process requirements would not be applicable to other formula block grant programs.

As a result of our analysis, we found no instances in which the FIFO method employed by IDIS Online system would cause the core financial system to be in noncompliance with the core financial system requirements.

#### **Federal Accounting Standards**

We performed extensive reviews of criteria promulgated by the OMB, Treasury, and GAO and found no guidance that specifically prohibited the use of the FIFO method for liquidating obligations. We found the FIFO method of applying payments to obligations complied with the accounting standards we reviewed.

#### **USSGL at the Transaction Level**

Since IDIS Online is not part of the core financial system, the requirements to apply the USSGL at the transaction level do not apply directly to IDIS Online. We conducted a walk-through of a transaction from IDIS Online and observed how that transaction flowed into LOCCS, then PAS, then HUDCAPS. As discussed under the requirements for mixed systems below, we found that the transaction was posted to HUDCAPS consistent with the USSGL at the transaction level.

#### **OMB Requirements for Mixed Systems**

OMB Memorandum 09-06 specifies two requirements that mixed systems must meet.

1. The financial portion of the mixed systems must transmit data such that:
  - a. data transferred to the core financial system can be traced to the original financial event(s) in the mixed system(s); and
  - b. data transferred adheres to the data exchange format required by the core financial system.
2. A data exchange or interface program must ensure that data transferred from the mixed systems is properly posted using the appropriate USSGL accounting entries and recorded in accordance with applicable standards from the Federal Accounting Standards Advisory Board (FASAB) in the core financial system.

We conducted a walk-through of a transaction from IDIS Online and observed how that transaction flowed into LOCCS, then PAS, then HUDCAPS. We noted that the transaction posted in a manner consistent with a combination of transaction codes B107, B110 and B134 as

defined in the Account Transactions section of the USSGL supplement to the *Treasury Financial Manual*. IDIS Online feeds the grant number and grantee tax identification number (TIN) to LOCCS, which uses that information to apply an accounting strip to each transaction. The accounting strip contains data concerning the appropriation, FY indicator, Budget Fiscal Year, Program Code, Regional Office, Field Office, and Project Number. Thus, the data elements transferred to the core financial system can be traced to the original financial events in IDIS Online via the TIN and grant number and meet the data exchange format necessary for HUDCAPS to post the transaction correctly in accordance with the USSGL at the transaction level.

We appreciate the assistance we received from you and other HUD officials and staff in completing this assignment. If you have any questions concerning the report, please contact me or Pat Layfield.

  
Leon Snead, President



**List of Officials and Contractors Interviewed**

<b>Name</b>	<b>Title</b>	<b>Organization</b>	<b>Phone Number</b>
Robert Brever, Jr.	Director	Community Planning & Development (CPD), Systems Development and Evaluation Division	202-402-4537
Christopher B. Davies	Director, Financial Systems Maintenance Division	Office of the Chief Financial Officer	202-708-1757
William H. Eargle, Jr.	Deputy Assistant Secretary for Operations	CPD	202-401-6367
James A. Heist	Assistant Inspector General for Audit	HUD Office of Inspector General	202-708-0364
Peter Huber	Director, Financial and Information Services Division	Office of Affordable Housing Programs, CPD	202-708-2684
Kendra Johnson	Manager, CPD Audit	HUD Office of Inspector General	202-402-7148
Elizabeth Louis	Budget Analyst	CPD Budget Division	202-708-2182
Thomas McEnany	Director, FAD	HUD Office of Inspector General	202-402-8216
Vincent Mitchell	Programmer/Analyst, HUD - CPD/IDIS Online Support	CACI	703-647-4132
Clifford Taffet	Director	Office of Affordable Housing Programs	202-402-4589
Sam Walker	Information Systems Security Officer	CPD	202-402-3883
Paul Webster	Director	Financial Management Division	202-708-1871
Jennifer Young	IDIS Help Desk (Contractor)	CPD	202-402-6024

Congressman Joe Baca  
 Financial Services Committee Hearing: *Oversight of HUD's HOME Program*  
 June 3, 2011

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Question to Ms. Marquez & Mr. Heist:

1) One of the main criticisms of the HOME program outlined in the articles was HUD's ability to track the status of projects. In my district the Housing Authority of the County of San Bernardino that operates a very successful Moving to Work program. As you know, MTW allows housing authorities a lot of flexibility to help promote self-sufficiency, reduce costs, and increase choice for low income households. Part of the program is the detailed reporting requirement that I know that San Bernardino has been recognized for in the past. Since both the HOME program and the MTW program focus on flexibility, have there been any discussions within the agency on how to apply the reporting requirements in MTW and with the HOME program? What would the challenges be in doing this?

Response from HUD-OIG:

The HOME Program and Moving to Work Program are two programs which provide different services, and are administered under two wholly different divisions within HUD. The HOME program falls under HUD's Community Planning and Development Division division and the Moving to Work program falls under the Public and Indian Housing division. The management information systems for the two programs are not linked because the management needs and program goals for each program are different. Further, the two programs have different statutory requirements.

The PIH and CPD programs have different information needs to manage the program, and distribute the funds. The HUD staff overseeing the HOME program monitors the development of housing units with established statutory requirements, and regulations. On the other hand, the HUD Moving to Work staff administers the demonstration program with minimal statutory requirements and without regulations. Each participating Moving to Work housing authority establishes their own unique operating plan and these plans often change on an on-going basis. Due to the vast difference in the programs and their missions, we do not recommend a reporting system to be used by both programs.

Due to the fact that the Moving to Work program is a demonstration project, there a limited number of participants. This can make it easier for the Department to monitor and manage the small number of participating housing authorities. However, with no firm rules, it makes it more difficult to measure program effectiveness or ensure program integrity. The HOME program has specific regulations, but operates in approximately 600 cities and municipalities located all over the country. Reporting requirements are set up in each program but the reported data is only as good as the data input into the system. Monitoring can ensure reporting is appropriate, but expanded monitoring may require additional staff resources. Improvements can be made in reporting requirements for HOME to ensure that goal-oriented results are captured and therefore that improvements are made to the community as a whole.

The following audits outline OIG's concerns over HUD's monitoring of the HOME Program:

**The Office of Affordable Housing Programs' Oversight of HOME Investment Partnerships Program Income Was Inadequate (2009-CH-0002):**

HUD did not ensure that participating jurisdictions drew down funds from their HOME trust fund accounts when they had available program income while others did not report program income in IDIS accurately or in a timely manner.

**HUD Lacked Adequate Controls to Ensure the Timely Commitment and Expenditure of HOME funds (2009-AT-0001):**

Prolonged delay or failure to cancel the balances on projects which were committed over five years ago caused an overstatement of commitments in IDIS and prevented the accurate identification of funds that were subject to recapture balances. In addition, HUD used a cumulative technique for assessing deadline compliance and a first-in first-out method for HOME commitments and expenditures that conflicted with statutory requirements that require identification of HOME commitments and expenditure by program funding year to which they relate.

**The Office of Affordable Housing Programs' Oversight of Resale and Recapture Provisions for HOME Investment Partnerships Program-Assisted Homeownership Projects Was Inadequate (2010-CH-0002):**

HUD did not ensure that participating jurisdictions complied with HUD's requirements in their use of resale and recapture provisions to enforce HUD's affordability requirements for Program-assisted projects. In addition, some jurisdictions did not ensure that HUD's interest was sufficiently protected for the projects which used HOME funds for home-buyer assistance.

Congressman Joe Baca  
 Financial Services Committee Hearing: *Oversight of HUD's HOME Program*  
 June 3, 2011

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Question to Ms. Marquez & Mr. Heist:

1) One of the main criticisms of the HOME program outlined in the articles was HUD's ability to track the status of projects. In my district the Housing Authority of the County of San Bernardino that operates a very successful Moving to Work program. As you know, MTW allows housing authorities a lot of flexibility to help promote self-sufficiency, reduce costs, and increase choice for low income households. Part of the program is the detailed reporting requirement that I know that San Bernardino has been recognized for in the past. Since both the HOME program and the MTW program focus on flexibility, have there been any discussions within the agency on how to apply the reporting requirements in MTW and with the HOME program? What would the challenges be in doing this?

Answer:

The Moving to Work Demonstration Program (MTW) does indeed have robust reporting requirements that produce valuable information for HUD and the partner public housing authorities (PHAs), such as the Housing Authority of San Bernardino. The MTW program is a demonstration program for PHAs that provides them the opportunity to design and test innovative, locally-designed strategies that use Federal dollars more efficiently, help residents find employment and become self-sufficient, and increase housing choices for low-income families. The HOME program, while offering flexibility similar to MTW, is the largest Federal block grant to State and local governments designed exclusively to create affordable housing for low-income households. The HOME program primarily funds development activities through the acquisition, rehabilitation or construction of affordable housing for rent or homeownership.

The reporting requirements of the MTW program focus primarily on measuring outcomes of the activities of the PHA. The agency is required to submit an annual plan that describes each activity it plans to undertake. At the end of the year, the agency submits an annual report that provides detailed information on whether the activity met the goals established in the plan. In creating the reporting requirements, the MTW program looked to existing HUD programs for guidance. The program needed requirements that ensured statutory objectives would be met, while still giving the PHA's the flexibility to be creative. In establishing its planning and reporting requirements, HUD's Office of Public and Indian Housing (PIH), which administers MTW, conferred with the Office of Community Planning and Development (CPD) about its planning and reporting requirements. PIH based many aspects of MTW planning and reporting on existing CPD's Consolidated Plan and Consolidated Annual Performance and Evaluation Report (CAPER) requirements. The Consolidated Plan and CAPER are the primary planning and performance reporting vehicles for CPD programs, such as the Community Development Block Grant (CDBG) and HOME programs.

In addition to these reports, HUD's HOME Program requires detailed project level reporting through the Integrated Disbursement and Information System (IDIS). To access HOME funding for a project, participating jurisdictions must set up the project for a specific amount in IDIS, at the same time providing information about the tenure type and number of units in the project. At completion, participating jurisdictions are required to enter information about all funding sources in the project as

well as income and demographic information about beneficiaries. HUD uses information in IDIS to develop and post monthly and quarterly performance reports on each participating jurisdiction and to report program accomplishments to Congress. This information is also considered in assessing relative risk among participating jurisdictions and prioritizing HUD monitoring efforts.

The additional real-time, project-level reporting required in the HOME program is necessary because the HOME program is primarily a development program – with 642 state and local participating jurisdictions undertaking 20,000 projects at any point in time. By contrast, MTW is a demonstration program through which 33 participating PHAs primarily provide rental assistance. MTW funds are only occasionally used to rehabilitate or construct housing.

May 25, 2011

The Honorable Spencer Bachus  
Committee on Financial Services  
2246 Rayburn HOB  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Barney Frank  
Committee on Financial Services  
2252 Rayburn HOB  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman and Ranking Member:

We are writing to you in support of the HOME Investment Partnerships program. We want to be sure Congress understands that the recent *Washington Post* article, "A Trail of Stalled or Abandoned HUD Projects," seriously distorts HOME's record by focusing on a very small percentage of HOME developments. The reality is that HOME has successfully and cost-effectively produced more than 1 million affordable homes for ownership and rental, as well as made additional homes affordable for tens of thousands of families with rental assistance.

HOME uniquely empowers states and localities to respond to the housing needs they judge most pressing, allowing them to serve the whole spectrum of need, from homeless to ownership to disaster recovery assistance, from urban to rural areas, and all low-income populations, including families with children, the elderly, and people with special needs. States and localities leverage HOME by generating almost four dollars of other public and private funding for every HOME dollar.

Administrators of the HOME program must comply with federal regulations; meet expenditure deadlines; fulfill reporting requirements; and, in the event of non-compliance, return the funding to HUD. The *Post's* portrayal of HOME as a "dysfunctional system" is just not supported by the facts.

In response to the *Post* article, HUD has analyzed a majority of the developments that appear to meet the *Post's* criteria for delayed developments and found that many of them are not actually delayed. In fact, a number of these "delayed" units are not only complete, but families are calling them home.

The *Post* article also neglected to include in its discussion of delayed HOME developments the impact of the current housing and economic crisis, which has upended many planned

developments, as well as some HOME ones. HUD found in its analysis that more than half of those that can correctly be identified as delayed are behind due to market conditions.

Beyond the inaccuracies discussed above, the *Post* failed to report the bigger picture. HOME has produced 381,883 rental units, assisted 428,373 homebuyers, completed 197,780 rehabilitations, and helped 242,768 tenants since 1992. All HOME funds must be used to help low-income families. More than 96 percent of families who receive HOME-funded tenant-based rental assistance and more than 80 percent of those in HOME-built rental units have incomes below 50 percent of area median income.

HOME funding is a vital piece in financing numerous affordable housing developments—many of which would not be able to go forward and many of which would not provide housing for low-income families without HOME assistance. HOME complements and supports many critical federal housing programs, including Section 202 housing for the elderly, rural housing programs, and the Low Income Housing Tax Credit, making development financing feasible and achieving deeper income targeting. It also enables for-profit and nonprofit developers to provide affordable housing in their communities.

Any report of misspent taxpayer dollars is disturbing and we fully support efforts to ensure all HOME funds are properly used. However, the isolated issues that were the focus of the *Post* article are not representative of either the administration or the outcome of HOME funds. We are proud of the impact that HOME has made in communities across the country.

We urge you to support the HOME program and help it to continue building on its solid legacy of producing decent, affordable homes.

Sincerely,

Consortium for Citizens With Disabilities Housing Task Force  
 Corporation for Supportive Housing  
 Council for Affordable and Rural Housing  
 Council of State Community Development Agencies  
 Enterprise Community Partners, Inc.  
 Habitat for Humanity International  
 Housing Assistance Council  
 Housing Partnership Network  
 Institute of Real Estate Management  
 LeadingAge (formerly AAHSA)  
 Local Initiatives Support Corporation  
 Mercy Housing  
 National Affordable Housing Management Association  
 National AIDS Housing Coalition  
 National Alliance of Community Economic Development Associations  
 National Alliance to End Homelessness

National Apartment Association  
 National Association for County Community and Economic Development  
 National Association of Affordable Housing Lenders  
 National Association of Counties  
 National Association of Home Builders  
 National Association of Housing and Redevelopment Officials  
 National Association of Local Housing Finance Agencies  
 National Association of REALTORS®  
 National Association of State and Local Equity Funds  
 National Association of State Mental Health Program Directors  
 National Community Development Association  
 National Council of State Housing Agencies  
 National Housing Conference  
 National Housing Trust  
 National Law Center on Homelessness & Poverty  
 National Leased Housing Association  
 National Low Income Housing Coalition  
 National Multi Housing Council  
 National NeighborWorks Association  
 Preservation of Affordable Housing, Inc.  
 Rebuilding Together  
 Stewards of Affordable Housing for the Future  
 The Community Builders, Inc.  
 U.S. Conference of Mayors  
 Volunteers of America





CITY OF BOSTON • MASSACHUSETTS

OFFICE OF THE MAYOR  
THOMAS M. MENINO

June 1, 2011

Barney Frank, Ranking Minority Member House Financial Services Committee  
2252 Rayburn House Office Building  
Washington, DC 20515

Dear Congressman Frank,

I am writing to you today to make sure that Congress fully understands the importance of the HOME program to America's cities and their working families. While there may be isolated cases of unsuccessful projects that need to be rectified, this must not distract from the overwhelming success of this program in Boston and throughout the country.

In Boston, the HOME program is used primarily as a resource to create and preserve affordable housing for those that cannot afford the private market. Boston, like every other American city, has a significant part (48%) of its labor force in lower-wage occupations particularly in the service sector. These workers cannot afford most of what is available in the private market – of the 4,500 apartment listings in the Multiple Listing Service for Boston last year, only 625 (14%) were offered at rents that were affordable to the *maximum* income permitted in most HOME-assisted rental units (60% of Area Median Income). Without HOME-funded housing, these lower-wage workers might be doubled-up or even homeless in some cases.

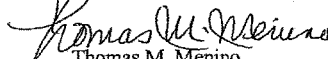
The HOME program also is astonishingly successful at leveraging other investment and creating construction jobs. Since the beginning of 2009, when the recession took hold, \$23.8 million in HOME funds created or preserved 731 units of housing, leveraging a total of \$259 million in new housing investment. Those projects created nearly 800,000 hours of construction sector employment – almost one-quarter of all public and private sector housing development construction jobs in Boston since 2009.

The flexibility of the HOME program is one of its greatest strengths, not a weakness, as some would have you believe. Since 2009, HOME-funded projects in Boston have also helped 13 property owners renovate 176 units of housing, created 173 new units of housing for the homeless and have helped 32 first time homebuyers buy a home with affordable and low-risk home loans.

BOSTON CITY HALL • ONE CITY HALL PLAZA • BOSTON • MASSACHUSETTS 02201 • 617/635-4000

The HOME Program is a masterstroke of intelligent federalism – replacing old one-size-fits-all federal programs with a flexible funding source that enables local communities to devise smart and successful solutions to local needs. I am proud of what the HOME program has done for working families in Boston, and I implore you to stand up for these people as the FY12 budget negotiations proceed.

Sincerely



Thomas M. Menino  
Mayor of Boston



Friday, May 20, 2011

The Honorable Spencer Bachus  
Chairman,  
House Financial Services Committee  
2129 Rayburn House Office Building  
Washington, DC 20515

The Honorable Barney Frank  
Ranking Member,  
House Financial Services Committee  
B301C Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Bachus and Ranking Member Frank:

For two decades, the federal HOME program has helped drive the development of quality affordable housing that creates local jobs and underpins significant community revitalization. In each and every state, HOME dollars flow to communities where the private development market does not function on its own. As such, it helps give low-income renters and homebuyers the chance to find quality homes within their means, and it gives struggling neighborhoods a chance to stabilize their residential base in ways that improve their overall standard of living.

Certainly, those are sweeping goals for any one program. But in the case of HOME, they are fact, not just promise. We can speak to this from decades of on-the-ground experience. The Local Initiatives Support Corporation (LISC) has been deeply involved in affordable housing for more than 30 years. As such, we know quality affordable housing is often the foundation for the broad, sustainable recovery of traditionally blighted areas. We have seen programs that work well—those that are efficient and effective, that leverage significant private capital, and that have a lasting impact—and those that fall short. We can say without hesitation that HOME is among the great successes.

HOME is critical not just for the dollars it represents—indeed, there are other programs with larger funding streams and bigger numbers—but it is valued for its particular structure and use.

- HOME is critical gap financing that extends the reach and reinforces the impact of other federal programs, like the Low Income Housing Tax Credit. It is a highly efficient use of federal dollars.
- HOME's block grant formula means it is flexible enough to respond to unique local conditions. It puts decision-making in local hands rather than imposing a federal top-down overlay on local housing markets.
- HOME leverages private dollars to support projects and communities where surrounding poverty and blight appear too risky for traditional private-market investment models. Because of its success, it helps demonstrate that low-income communities can be good long-term investments and lays the groundwork for additional revitalization.

**LOCAL INITIATIVES SUPPORT CORPORATION**

501 Seventh Avenue, 7<sup>th</sup> Floor ■ New York, NY 10018 ■ Phone 212-455-9800 ■ Fax 212-682-5929  
WWW.LISC.ORG

Certainly, the national statistics speak to HOME's impact: it supports more than one million units of affordable housing and represents rental assistance for some 240,000 families. Each dollar of HOME funds leverages nearly \$4 in other public and private investment and it has overall leveraged some \$80 billion over the 20-year life of the program.

Those numbers are impressive. But they don't specifically answer recent criticism of the program. We would like to be more direct in that regard: From our vantage point in 30 urban localities and some 70 rural communities across the country, HOME is neither mismanaged nor a source of easy cash for unqualified or unscrupulous developers. We think it is a significant misreading of the facts to conclude otherwise. Projects utilizing HOME funds and sponsored by nonprofit developers are no more likely to fail or be delayed than any other housing development effort.

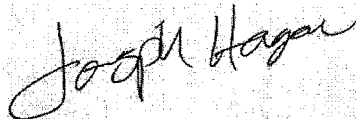
The recent housing crisis has most certainly been a factor in whether new developments--affordable or not, for-profit or nonprofit--move forward expeditiously. But it is important to remember that the involvement of community-based nonprofits often ensures these efforts succeed, despite the obstacles. Those organizations are closely connected to neighborhood redevelopment goals and are committed to the success of projects in ways that go far beyond their financial investment. The early commitment of HOME dollars gives private funders the confidence to participate in these important projects as well.

We urge you to consider the facts surrounding the HOME program. Particularly in the current environment, its value can not be underestimated. Without a strong HOME program, we will lose the chance to build and preserve thousands of desperately needed affordable homes each year in both urban and rural areas. And, the families and communities that might benefit from those projects will lose a critical tool for economic recovery.

Sincerely, and on behalf of The National Equity Fund, and our local LISC Executive Directors,



Michael Rubinger, President and CEO,  
Local Initiatives Support Corporation



Joseph Hagan, President and CEO,  
The National Equity Fund, the LISC LIHTC Affiliate

Bay Area LISC  
Stephanie Forbes, Executive Director

Greater Boston LISC  
Bob Van Meter, Executive Director

Buffalo LISC  
Michael Clarke, Executive Director

Chicago LISC  
Barb Beck, Director of Financial Services and Underwriting  
Joel Bookman, Director of Programs

Greater Cincinnati and Northern Kentucky LISC  
Kathy Schwab, Executive Director

Connecticut Statewide LISC  
Andrea Pereira, Executive Director

Detroit LISC  
Tahirih Ziegler, Executive Director

Duluth LISC  
Pamela Kramer, Executive Director

Greater Houston LISC  
Amanda Timm, Executive Director

Hartford LISC  
Andrea Pereira, Executive Director

Indianapolis LISC  
Bill Taft, Executive Director

Jacksonville LISC  
Janet Owens, Executive Director

Greater Kansas City LISC  
Julie Porter, Executive Director

Los Angeles LISC  
Mariano Diaz, Western Region Program Vice President

Michigan LISC  
Charles Vlieg, Midwest Region Program Vice President

Mid-South Delta LISC (Mississippi, Arkansas, and Louisiana)  
George Miles, Executive Director

**LOCAL INITIATIVES SUPPORT CORPORATION**

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Milwaukee LISC

Leo Ries, Executive Director

Greater Newark and Jersey City LISC

Richard Manson, Northeast Region Program Vice President

New York City LISC

Denise Scott, Executive Director

Philadelphia LISC

Andrew Frishkoff, Executive Director

Phoenix LISC

Teresa Brice, Executive Director

Rhode Island LISC

Richard Manson, Northeast Region Program Vice President

Rural LISC

Elise Hoben, Vice President for Rural

San Diego LISC

Joseph, Horiye, Executive Director

Pittsburgh Partnership for Neighborhood Development (Southwestern Pennsylvania)

Ellen Kight, Executive Director

Toledo LISC

Hugh Grefe, Executive Director

Twin Cities LISC

Andriana Abariotes, Executive Director

Virginia LISC

Candice Streett, Executive Director

Impact Capital (Washington Statewide)

Heyward Watson, Chief Executive Officer

Washington, DC LISC

Oramenta Newsome, Executive Director

**LOCAL INITIATIVES SUPPORT CORPORATION**

501 Seventh Avenue, 7<sup>th</sup> Floor ■ New York, NY 10018 ■ Phone 212-455-9800 ■ Fax 212-682-5929

[WWW.LISC.ORG](http://WWW.LISC.ORG)



**National Association of Home Builders**

1201 15th Street NW  
Washington, DC 20005

T 800 368 5242  
F 202 266 8400

www.nahb.org

June 2, 2011

The Honorable Spencer Bachus  
Chairman  
Committee on Financial Services  
United States House of Representatives  
Washington, DC 20515

The Honorable Barney Frank  
Ranking Member  
Committee on Financial Services  
United States House of Representatives  
Washington, DC 20515

Dear Chairman Bachus and Ranking Member Frank:

On behalf of the 160,000 members of the National Association of Home Builders (NAHB), I am writing today to provide NAHB's thoughts on oversight of the Department of Housing and Urban Development's (HUD) HOME Investment Partnership Program (HOME).

NAHB appreciates the opportunity to submit this letter. Our members are involved in building single family and multifamily housing, remodeling, and other aspects of residential and light commercial construction. Many of NAHB's members build and rehabilitate affordable single and multifamily rental housing and utilize HUD programs to provide decent, safe, and affordable housing to many of our fellow citizens.

NAHB commends the Committee for holding this hearing as we have long been a supporter of HOME. NAHB does not condone the misuse of taxpayer funds in any manner. When such things do happen it hurts the entire industry and the people for whom we provide affordable housing. Further, we believe it is incumbent on all parties to discover the truth and pinpoint appropriate actions to remedy the problems. NAHB supports efforts to uncover the weaknesses in HUD's oversight of the HOME program and to implement appropriate actions to address those weaknesses.

There are many NAHB members who have used the HOME program successfully. Most of our members use HOME in conjunction with the Low Income Housing Tax Credit program, which has very specific and non-negotiable deadlines for expenditure of funds and placing the project into service. These projects meet specific underwriting standards set by the state housing finance agencies and must meet all compliance requirements of both programs. NAHB members have also used HOME funds in conjunction with other financing sources to build affordable single family homes for first-time buyers, special needs housing and housing for low and moderate income senior citizens.

**Government Affairs**

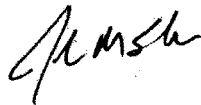
Joseph M. Stanton  
Senior Vice President

NAHB values the HOME program and the funding it provides to help build affordable housing. The HOME program has played a critical role in the production of affordable rental housing. Without HOME to fill the financing gap that remains even with equity from tax credits, many thousands of affordable rental units would not be built. There are very few sources of gap financing today, making the HOME program an extremely valuable resource.

NAHB would welcome an opportunity to assist the Committee in any way we can to ensure the HOME program continues its mission and operates in an effective and efficient manner. We would also be very happy to share some of our members' successful HOME stories with you.

Thank you for giving consideration to our views.

Best regards,

A handwritten signature in black ink, appearing to read "J. Stanton", written in a cursive style.

Joseph Stanton  
Senior Vice President and Chief Lobbyist  
Government Affairs

Cc: Members of the House Financial Services Committee





June 1, 2011

Honorable Spencer Bachus, Chair  
House Financial Services Committee  
2129 RHOB  
Washington, D. C. 20515

Honorable Barney Frank, Ranking Member  
House Financial Services Committee  
2252 RHOB  
Washington, D. C. 20515

Subject: SUPPORT FOR HUD HOME PROGRAM

Dear Chairman Bachus and Ranking Member Frank:

The HOME Investment Partnership Program (HOME) has and continues to achieve the successes envisioned by its original supporters, the Ronald Reagan and George H. W. Bush Administrations, a divided Congress, local and state municipalities and for and non-profit housing and community development entities. It has proven to be a leading cost and program effective model for successful public-private community development partnerships. The recent Washington Post news article concerning the HOME program generated a strong response from HUD and other HOME program supporters that illustrate two clear facts. The HOME program attracts private investment capital to the affordable housing and community and workforce development efforts of our nation in a cost effective manner and private capital rarely ventures into this space without leveraged government funds of which the HOME program has been a primary catalyst in these efforts.

The National Association of Real Estate Brokers Investment Division (NID) had the honor of working on the creation of this legislation, known as Title 11 of the Cranston-Gonzalez National Affordable Housing Act, with support from both the Ronald Reagan and George H. W. Bush Administrations from 1987 to its passage in 1990, the implementing regulations from 1990-1992 under the leadership of then HUD Secretary Jack Kemp; and several HOME assisted projects from 1992 to the present time through our 54 local branch offices serving over 75 local and state HOME jurisdictions.

During the short time since the May 19<sup>th</sup> publishing to the Post article we have surveyed our network in 22 state and 37 local HOME jurisdictions (LJ). Our preliminary take away from the survey can be summarized in the following four statements.

1. Not all LJ's have the ability to combine their redevelopment funds with HOME funds, which limits their ability to attract and effectively and efficiently leverage state funds, LIHTC and other private investment funds to HOME assisted projects.
2. Not all LJ's have experienced Community Housing Development Organization's (CHDO) that are able to compete effectively for both public and private investment dollars.



3. HUD provides extensive training on how a LJ and developers can effectively use/leverage HOME funds with redevelopment and other funds; but dealing with HOME restrictions on top of other restrictions remains a difficult exercise for many LJ's and most housing developers. In particular, HOME units are restricted to formula rents even for tenants with Section 8 tenant-based vouchers, but UHTC's allow Fair Market Rents to be charged to housing voucher holders, which increases cash flow and project long-term viability.
4. LJ's have differing views on the amount or type of affordable housing rental and for-sale units it wants to be developed in certain areas for fear of reducing for sale property values and or market rent values in those areas. Many do not strongly advocate for mixed-income development projects for both social and economic viability concerns, which is counter to the concepts of the HOME program. This reluctance often may be an important factor in lax HOME program performance for HOME efforts so located.

In closing, it is our experience on the private capital investor side of all real estate development projects that pre-development cost losses are much higher on a per project basis than those mentioned for the HOME program in the Post article. Before advancing pre-development funds LJ's understand they are on the hook with HUD for a clear explanation of those losses with a strong possibility of having HUD take actions to recapture the lost monies. On the private side, developer's budget for pre-development losses, including non-refundable deposits, so they can move on to more fruitful opportunities in a timely manner for whatever feasible reason that arises. By contrast, HUD has implemented enforcement standards that force LJ's to be financially responsible for delayed and or abandoned projects that they advance HOME funds to, including but not limited to, the return of the lost funds to HUD and the loss of future funding opportunities from HUD.

NID is an independent affiliate of the National Association of Real Estate Brokers, Inc., founded in 1947 and the oldest and largest minority real estate trade association in the nation. We look forward to working with the FSC, HUD and HOME program LJ's in efforts to assure the original intended public-private partnership us of the program proceeds in a cost effective and efficient manner.

Thank you,

A handwritten signature in dark ink, appearing to read 'Ray Carlisle', is written over a horizontal line.

Ray Carlisle,  
Honorary President, NAREB  
President, NID

2 | Page

*Promoting Community Development*

National Office: Watergate Towers, 2200 Powell Street, Suite 530, Emeryville, CA 94608 • Office (510) 268-9792 • Fax (510) 268-9794  
www.nidonline.org



## CITY OF PHILADELPHIA

OFFICE OF THE MAYOR  
215 City Hall  
Philadelphia, PA 19107  
(215) 686-2181  
FAX (215) 686-2180

MICHAEL A. NUTTER  
Mayor

May 31, 2011

Honorable Michael G. Fitzpatrick  
U.S. Senate  
1224 Longworth House Office Building  
Washington D.C. 20515

Dear Congressman Fitzpatrick:

I am writing to you as a member of the House Financial Services Committee, which is scheduled to have a hearing about the HOME program later this week. I am writing to make sure that Congress understands the importance of the HOME program to America's cities and their working families.

In Philadelphia, since 1994, the HOME program has provided approximately 2000 units of housing for individuals who could not otherwise have afforded to buy or rent, including veterans, seniors, disabled individuals and the homeless. In addition, its financial impact has extended far beyond the HOME funding itself as it has leveraged hundreds of millions of dollars in federal, state, local and private funding. New construction and rehabilitation developments supported by HOME funds have also created badly-needed construction jobs. Finally, HOME funds have transformed some entire communities, such as Eastern North Philadelphia, where developments supported by HOME have sparked a housing market where one did not previously exist.

Examples of recent developments in Philadelphia supported by HOME include:


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Honorable Michael G. Fitzpatrick  
 Congressman  
 May 31, 2011  
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As these examples demonstrate, the HOME program is a vital part of the City's safety net for veterans, seniors and other individuals who were formerly homeless or who would be pushed into homelessness without our assistance. I urge you to reject any attempt to cut this program and stand with me in support of HOME.

Sincerely,

  
 Michael A. Nutter  
 Mayor



# CITY OF PHILADELPHIA

OFFICE OF THE MAYOR  
215 City Hall  
Philadelphia, PA 19107  
(215) 686-2181  
FAX (215) 686-2180

MICHAEL A. NUTTER  
Mayor

May 31, 2011

Honorable Chaka Fattah  
U.S. House of Representatives  
Rayburn House Office Building, Rm. 2301  
Washington D.C. 20515

Dear Congressman Fattah:

I am writing to make sure that Congress understands the importance of the HOME program to America's cities and their working families.

In Philadelphia, since 1994, the HOME program has provided approximately 2000 units of housing for individuals who could not otherwise have afforded to buy or rent, including veterans, seniors, disabled individuals and the homeless. In addition, its financial impact has extended far beyond the HOME funding itself as it has leveraged hundreds of millions of dollars in federal, state, local and private funding. New construction and rehabilitation developments supported by HOME funds have also created badly-needed construction jobs. Finally, HOME funds have transformed some entire communities, such as Eastern North Philadelphia, where developments supported by HOME have sparked a housing market where one did not previously exist.

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Honorable Chaka Fattah  
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215 City Hall  
Philadelphia, PA 19107  
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FAX (215) 686-2180

MICHAEL A. NUTTER  
Mayor

May 31, 2011

Honorable Allyson Schwartz  
U.S. House of Representatives  
Longworth House Office Building, Room 1227  
Washington D.C. 20516

Dear Congresswoman Schwartz:

I am writing to make sure that Congress understands the importance of the HOME program to America's cities and their working families.

In Philadelphia, since 1994, the HOME program has provided approximately 2000 units of housing for individuals who could not otherwise have afforded to buy or rent, including veterans, seniors, disabled individuals and the homeless. In addition, its financial impact has extended far beyond the HOME funding itself as it has leveraged hundreds of millions of dollars in federal, state, local and private funding. New construction and rehabilitation developments supported by HOME funds have also created badly-needed construction jobs. Finally, HOME funds have transformed some entire communities, such as Eastern North Philadelphia, where developments supported by HOME have sparked a housing market where one did not previously exist.

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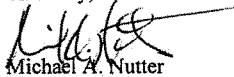
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Honorable Allyson Schwartz  
Congresswoman  
May 31, 2011  
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Sincerely,



Michael A. Nutter  
Mayor





# CITY OF PHILADELPHIA

OFFICE OF THE MAYOR  
215 City Hall  
Philadelphia, PA 19107  
(215) 686-2181  
FAX (215) 686-2180

MICHAEL A. NUTTER  
Mayor

May 31, 2011

Honorable Patrick Meehan  
U.S. House of Representatives  
Cannon House Office Building, Room 513  
Washington D.C. 20515

Dear Congressman Meehan:

I am writing to make sure that Congress understands the importance of the HOME program to America's cities and their working families.

In Philadelphia, since 1994, the HOME program has provided approximately 2000 units of housing for individuals who could not otherwise have afforded to buy or rent, including veterans, seniors, disabled individuals and the homeless. In addition, its financial impact has extended far beyond the HOME funding itself as it has leveraged hundreds of millions of dollars in federal, state, local and private funding. New construction and rehabilitation developments supported by HOME funds have also created badly-needed construction jobs. Finally, HOME funds have transformed some entire communities, such as Eastern North Philadelphia, where developments supported by HOME have sparked a housing market where one did not previously exist.

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MICHAEL A. NUTTER  
Mayor

May 31, 2011

Honorable Robert A. Brady  
U.S. House of Representatives  
Cannon House Office Building, Room 102  
Washington D.C. 20515

Dear Congressman Brady:

I am writing to make sure that Congress understands the importance of the HOME program to America's cities and their working families.

In Philadelphia, since 1994, the HOME program has provided approximately 2000 units of housing for individuals who could not otherwise have afforded to buy or rent, including veterans, seniors, disabled individuals and the homeless. In addition, its financial impact has extended far beyond the HOME funding itself as it has leveraged hundreds of millions of dollars in federal, state, local and private funding. New construction and rehabilitation developments supported by HOME funds have also created badly-needed construction jobs. Finally, HOME funds have transformed some entire communities, such as Eastern North Philadelphia, where developments supported by HOME have sparked a housing market where one did not previously exist.

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Honorable Robert A. Brady  
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Philadelphia, PA 19107  
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MICHAEL A. NUTTER  
Mayor

May 31, 2011

Honorable Jim Gerlach  
U.S. House of Representatives  
Rayburn House Office Building, Room 2442  
Washington D.C. 20515

Dear Congressman Gerlach:

I am writing to make sure that Congress understands the importance of the HOME program to America's cities and their working families.

In Philadelphia, since 1994, the HOME program has provided approximately 2000 units of housing for individuals who could not otherwise have afforded to buy or rent, including veterans, seniors, disabled individuals and the homeless. In addition, its financial impact has extended far beyond the HOME funding itself as it has leveraged hundreds of millions of dollars in federal, state, local and private funding. New construction and rehabilitation developments supported by HOME funds have also created badly-needed construction jobs. Finally, HOME funds have transformed some entire communities, such as Eastern North Philadelphia, where developments supported by HOME have sparked a housing market where one did not previously exist.

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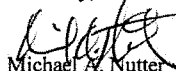
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Honorable Jim Gerlach  
Congressman  
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The Honorable Spencer Bachus, Chairman  
The Honorable Barney Frank, Ranking Member  
Committee on Financial Services  
United States House of Representatives  
2129 Rayburn House Office Building  
Washington, DC 20515

June 2, 2011

Dear Sirs:

Stewards of Affordable Housing for the Future (SAHF) would like to submit the attached document for the record of the Committee on Financial Services hearing titled "Oversight of HUD's HOME Program," scheduled for June 3, 2011. SAHF is a membership organization of the nation's largest, highest-capacity nonprofit owners and developers of affordable rental housing. Together our members represent more than 90,000 units of affordable rental housing in all 50 states.

We urge you to consider the attached as evidence of the widespread success of HUD's HOME Investment Partnership program. While the recent Washington Post article on the HOME program highlights examples of failed project and inadequate oversight, these examples represent only a small fraction of housing projects supported by HOME funds. Our member organizations continue to rely on HOME funding as critical "gap" financing used in combination with numerous other funding sources to compete complex housing development projects that serve the neediest households in the nation's most difficult real estate market areas. The attached provides several examples of successful HOME-funded projects completed by our members in recent years.

Thank you.

Sincerely,

Suzanne Hague  
Stewards of Affordable Housing for the Future (SAHF)



#### HUD's HOME Investment Partnership Program Provides Needed Support for Affordable Housing

The Washington Post's recent series on HUD's HOME Investment Partnership highlights notable examples of failed projects and inadequate oversight. These examples are troubling, but they represent only a small fraction of thousands of important housing efforts supported with HOME funds. **It is the nature of the HOME program that investments are made in difficult redevelopment projects, often in distressed neighborhoods, precisely where public funding for redevelopment is badly needed** to improve the quality of life for residents and attract private investment. Another basic principle of the HOME program is that funding decisions and project oversight are driven locally – not by HUD. In the rare cases cited by the Post, HUD should do a better job of recapturing misspent funds and cancelling funding for stalled projects – and has already stepped up efforts to do so. However, additional overall HUD control is not the solution to a better HOME program.

A reader of the series is also left with the impression that nonprofit housing providers as a class are at best incompetent. In fact, a whole new generation of **scaled social enterprise nonprofits** that represent a mix of mission and business competence **have been working for years to develop and preserve high-quality affordable housing throughout the country**. Despite the worst real-estate led recession in decades, there are many excellent examples of complex and ambitious development projects that use HOME funding to improve neighborhoods and expand much-needed affordable housing opportunities. Here are a few examples of such projects, developed by members of Stewards of Affordable Housing for the Future (SAHF), a membership organization of the nation's largest, high-capacity nonprofit developers and owners of affordable rental housing:

- The Commons at Livingston in Columbus, OH was developed by National Church Residences and houses exclusively low-income veterans in 50 one-bedroom apartments and 25 units of permanent supportive housing for formerly homeless veterans. The City of Columbus provided \$600,000 in HOME funds to fill financing gaps in the more than \$8 million total cost of construction.
- St. Vincent's Gardens in Santa Barbara, CA, completed by Mercy Housing in 2007, leveraged \$4.4 million in HOME funding with low-income housing tax credits and other financing to build 75 units of family housing and community facilities. Residents are provided services, including job training, homeownership counseling, healthcare, nutrition programs, and literacy classes.
- The Blakeley Building in Lawrence, MA, developed by Volunteers of America, transformed a 120 year old building into 46 affordable apartments and rehabilitated a landmark structure that previously sat blighted and unused. The National Association of Homebuilders recognized the project as a particularly difficult financing challenge.
- Poppleton Apartments in East Baltimore, MD will provide 86 desperately needed affordable apartments for low-income families and help rebuild a severely distressed East Baltimore neighborhood. The project, developed by National Housing Trust-Enterprise Preservation Corporation (NHTE), includes energy efficiency improvements that will directly create 180 local jobs.



- Skyview Park Apartments in Scranton, PA, originally built in 1970, is home to 188 low-income families and seniors. NHTE and Evergreen Partners are using HOME funds to leverage a variety of additional public and private financing sources to make needed repairs and fund new improvements including a new community center that will preserve affordability and improve the quality of life for residents.
- The Commons at Buckingham in Columbus OH, another award-winning property, used HOME funds to create permanent supportive housing for senior residents moving out of nursing homes and group homes. By providing residents with supportive services that will allow them to live independently and improve their quality of life over nursing home situations, the project will also save an estimated \$30,000 per resident compared to nursing and group homes.
- Arden Aire in Sacramento, CA was completed by Mercy Housing in 2008 and provides safe, high-quality rental housing to 53 families earning 30% and 55% area median income, including 19 apartments for mentally ill adults that include supportive services. The \$12.6 million project was funded in part by \$3.1 million in HOME funds from the Sacramento Housing and Redevelopment Agency.

The above projects represent only a small sample of the hundreds of successful HOME-funded projects across the nation. More information on these and other affordable housing development projects can be found at [www.sahfnet.org](http://www.sahfnet.org) or by emailing [contact@sahfnet.org](mailto:contact@sahfnet.org).



OFFICE OF THE MAYOR  
CITY OF ST. LOUIS  
MISSOURI

FRANCIS G. SLAY  
MAYOR

CITY HALL - ROOM 200  
1200 MARKET STREET  
SAINT LOUIS, MISSOURI 63103-2877  
(314) 622-3201  
FAX: (314) 622-4061

June 2, 2011

The Honorable William Lacy Clay  
United States House of Representatives  
Washington, D.C. 20515

Dear Congressman Clay:

It has been brought to my attention that the House Committee on Financial Services, of which you are a member, will be holding oversight hearings tomorrow on the HOME Investment Partnership Program (HOME) as a result of a recent article in the *Washington Post*. As Mayor of the City of St. Louis, I want you to know that I was disappointed and saddened to see the damaging misstatements, misunderstandings, and improperly-drawn conclusions that found their way into print.

Contrary to what many readers may take away from the *Post* article, the HOME Investment Partnership Program is a vibrant, successful and effective tool for addressing our country's great need for affordable housing. In the City of St. Louis, we have been able to provide 2,436 new or fully rehabilitated affordable units thanks to the HOME program since January 1, 2000. Of these units, 2,160 are quality affordable rental apartments, townhouses, or detached dwellings, and another 276 are homeownership units, mostly single-family. Owing at least in part to the stringent monitoring requirements mandated in the HOME regulations and our frequent use of HOME funds to provide buyer affordable second mortgages secured by liens, the City's HOME-assisted renters and buyers suffered far less from predatory lending and resultant foreclosures than was the case in the general housing market.

We are now using HOME dollars in combination with Neighborhood Stabilization Program (NSP) funds to complete the rehabilitation of single-family homes that have suffered foreclosure. NSP funding, while welcome, is limited, and we need the HOME assistance to finish the job of restoring these properties and providing stable and affordable mortgage financing to hard-working individuals and families who are struggling to overcome the effects of the economic downturn.

HOME has been a vital tool in our Healthy Home Repair Program as well. HOME funds are enabling us to abate lead paint hazards, correct code violations and address deferred maintenance so that low and moderate income homeowners, particularly seniors, are able to stay in their homes safely, contributing to neighborhood stability.

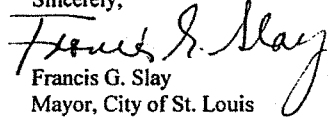


What makes HOME an especially powerful program is the ease with which it can be combined with other programs and tools as part of a comprehensive community revitalization strategy. It is an affordable housing program, but it is much more. For us it has been a critical component of proven mixed-income neighborhood investments that have been shown to offer long-term social and economic benefits—as well as decent, safe and sanitary housing—to low and moderate income households.

The HOME program gives us the rare combination of flexibility, careful benefit targeting and long-term monitoring in one package. Therefore I urge you to continue the HOME program and its funding.

Thank you very much.

Sincerely,

  
Francis G. Slay  
Mayor, City of St. Louis