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Audit Report Number 2012-AT-1009

TO: José R. Rivera, Director, Community Planning and Development, San Juan Field Office, 4ND

//signed//

FROM: James D. McKay, Regional Inspector General for Audit, Atlanta Region, 4AGA

SUBJECT: The Municipality of Bayamón, PR, Did Not Always Ensure Compliance With HOME Investment Partnerships Program Requirements

HIGHLIGHTS

What We Audited and Why

We audited the Municipality of Bayamón's HOME Investment Partnerships Program. We selected the Municipality for review as part of our strategic plan based on the large amount of HOME funds approved. The objectives of the audit were to determine whether the Municipality maintained its financial management system in compliance with U.S. Department of Housing and Urban Development (HUD) requirements and met HOME program objectives.

What We Found

The Municipality's financial management system did not properly identify the source and application of more than \$3.5 million in HOME funds, did not support the eligibility of more than \$288,000 in program charges, and failed to disburse more than \$420,000 in HOME funds within HUD-established timeframes. As a result, HUD lacked assurance that funds were adequately accounted for, safeguarded, and used in accordance with HUD requirements.

The Municipality disbursed \$703,473 in HOME funds for two activities that showed signs of slow progress without assurance that the activities would generate the

intended benefits. As a result, HUD had no assurance that funds were used solely for eligible purposes and that HOME-funded activities met program objectives and fully provided the intended benefits.

The Municipality reported to HUD more than \$901,000 in HOME commitments without executing a written agreement or identifying the property in accordance with HUD requirements. It also failed to reprogram and put to better use more than \$48,000 in unexpended obligations associated with two activities that were terminated. In addition, it did not report and put to better use more than \$62,000 in program income and recaptured funds. As a result, HUD had no assurance that the Municipality met HOME program objectives, commitments, and disbursement requirements.

What We Recommend

We recommend that the Director of the San Juan Office of Community Planning and Development require the Municipality to provide all supporting documentation to demonstrate the eligibility and allocability of more than \$4 million in HOME program funds. The Director should require the Municipality to reprogram or return to its line of credit and put to better use more than \$1.3 million in unexpended obligated funds and HOME funds maintained in its local bank account.

We also recommend that the Director require the Municipality to develop and implement an internal control plan to ensure that (1) its financial management system complies with HUD requirements, (2) its HOME-funded activities meet the program objectives, and (3) accurate information is reported to HUD.

For each recommendation in the body of the report without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-4. Please furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

We discussed the findings with HUD and the Municipality during the audit and at the exit conference on April 23, 2012. The Municipality provided its written comments to our draft report on April 27, 2012. In its response, the Municipality generally disagreed with the findings.

The complete text of the Municipality's response, along with our evaluation of that response, can be found in appendix B of this report. Attachments to the Municipality's comments were not included in the report but are available for review upon request.

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BACKGROUND AND OBJECTIVES

The HOME Investment Partnerships Program is authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act as amended. The U.S. Department of Housing and Urban Development (HUD) allocates funds by formula to eligible State and local governments for the purpose of increasing the supply of decent, safe, sanitary, and affordable housing to low- and very low-income families. State and local governments that become participating jurisdictions may use HOME funds to carry out multiyear housing strategies through acquisition, rehabilitation, new housing construction, and tenant-based rental assistance.

Participating jurisdictions are required to commit HOME funds within 24 months and expend them within 5 years after the last day of the month in which HUD notifies the participating jurisdiction of HUD's execution of the HOME agreement. Participating jurisdictions draw down HOME funds through HUD's Integrated Disbursement and Information System. HUD's information system is also used to monitor and track HOME commitments, program income, repayments, and recaptured funds, among other things.

The Municipality of Bayamón is the third largest participating jurisdiction in Puerto Rico, for which HUD has approved more than \$4.9 million in HOME funds during the past 3 fiscal years. HUD's information system reflected expenditures exceeding \$1.75 million during the fiscal year ending June 30, 2011, for the following activities:

Activity type	Amount expended
Home buyer assistance	\$1,242,338
Community housing development organization	164,500
New construction	161,036
Planning and administration	150,308
Homeowner rehabilitation	<u>32,660</u>
Total	<u>\$1,750,842</u>

The Municipality's Office of Planning is responsible for administering HOME funds in coordination with other Municipality offices, including the Municipality's Department of Housing and Office of Community Development. Its books and records are maintained in the offices located at State Road PR-2, km 11, Bayamón, PR. We audited the Municipality's HOME program as part of the HUD Office of Inspector General's (OIG) strategic plan. The Municipality was selected for review based on the amount of HUD funding provided.

The objectives of the audit were to determine whether the Municipality maintained its financial management system in compliance with HUD requirements and met HOME program objectives.

RESULTS OF AUDIT

Finding 1: The Municipality's Financial Management System Did Not Comply With HUD Requirements

The Municipality's financial management system did not properly identify the source and application of more than \$3.5 million in HOME funds, did not support the eligibility of more than \$288,000 in program charges, and failed to disburse more than \$420,000 in HOME funds within HUD-established timeframes. In addition, it allowed the use of \$1,200 for ineligible expenditures. These deficiencies occurred because the Municipality disregarded HUD requirements and instructions to ensure compliance with financial requirements. As a result, HUD lacked assurance that funds were adequately accounted for, safeguarded, and used for requested and eligible purposes and in accordance with HOME requirements.

Inadequate Accounting Records

Regulations at 24 CFR (Code of Federal Regulations) 85.20(b) require participating jurisdictions to maintain financial records that are accurate, current, and complete and that adequately identify the source and application of funds provided for assisted activities. However, the Municipality's accounting records did not comply with HUD requirements and were not adequate for the preparation of reports.

The Municipality's accounting records did not reflect complete and accurate financial information on HOME program activities and did not permit the adequate tracing of program receipts and expenditures. For example, the Municipality did not maintain a general ledger for the HOME program. The record it maintained was basically a disbursement register that did not reflect disbursements by grant, activity, and funding type and excluded all disbursements associated with program income and recaptured funds. The Municipality also did not properly account for HOME receipts, capital assets, and accounts payable and receivable. In addition, the Municipality's records contained several instances of incomplete and inaccurate financial information, including an incorrect check number and amount and a check improperly recorded as void when it was cashed by the vendor. We also found several instances in which the payee name on the checks was not consistent with the payee name included in the disbursement register.

The Municipality also provided conflicting information on the total amount disbursed for HOME-funded activities. For example, the expenditures shown in the Municipality's records for 12 activities did not agree with amounts reflected in HUD's information system.

Activity number	Municipality's records	HUD's information system	Difference
1811	\$0	\$30,000	\$(30,000)
1808	\$20,700	\$35,000	\$(14,300)
1807	\$0	\$11,797	\$(11,797)
1742	\$35,000	\$42,213	\$(7,213)
1806	\$27,443	\$30,000	\$(2,557)
1333	\$13,138	\$14,138	\$(1,000)
1339	\$24,548	\$25,226	\$(678)
1781	\$27,068	\$26,356	\$712
1819	\$25,269	\$0	\$25,269
1821	\$26,880	\$0	\$26,880
1822	\$29,278	\$0	\$29,278
1823	\$35,000	\$0	\$35,000

The Municipality did not maintain a financial management system that permitted the tracing of funds to a level which ensured that such funds had not been used in violation of the restrictions and prohibitions of applicable statutes. A Municipality official informed us that information in HUD's information system was not reconciled with the Municipality's accounting records. As a result, HUD lacked assurance that funds were adequately accounted for, safeguarded, and used for eligible purposes. More than \$3.5 million in HOME funds drawn from HUD between July 1, 2009, and December 31, 2011, was unsupported. This deficiency was also identified in the 2010 HUD monitoring report; however, the deficiency continued to exist.

Unsupported Program Disbursements

Unsupported home-ownership activities - Regulations at 24 CFR 92.217 require that with respect to home-ownership assistance, HOME funds invested in dwelling units be occupied by households that qualify as low-income families. Therefore, the Municipality must determine whether each family is income eligible by determining the family's annual income. Annual income must include income from all family members as required by 24 CFR 92.203(d)(1). The Municipality adopted additional requirements and procedures for determining the eligibility of the family.

The Municipality did not properly document the eligibility of three families assisted by not verifying discrepancies found associated with the income eligibility of the

participants. In addition, it did not always follow its own program requirements and procedures when it determined the eligibility of the participants. As a result, HUD lacked assurance that all of the families' annual income was considered and whether participants qualified as low-income families as required by HUD. HOME funds totaling \$173,978 disbursed for the acquisition of three dwelling units was unsupported.

Activity number	Amount	Comments
1760	\$60,000	Discrepancies were found regarding income determination. In addition, no credit report was issued for the participant as required by the Municipality.
1799	\$58,645	No verification was documented regarding the possibility that a family member was not considered in determining the family's composition and income.
1798	\$55,333	No income verification was documented regarding a family member and a discrepancy found in the participant's credit report. The Municipality also used an incorrect income limit.

Unsupported project delivery costs - Regulations at 24 CFR 92.206(d)(6) allow disbursements for eligible project costs, including staff and overhead costs directly related to carrying out the project, such as services related to assisting potential owners, tenants, and home buyers. In addition, 24 CFR 92.508(a)(3)(ii) requires participating jurisdictions to maintain records demonstrating the source and application of funds, including supporting documentation, in accordance with 24 CFR 85.20.

The Municipality charged to the HOME program the amount of \$114,139 as project costs associated with wages and other administrative costs. However, it did not maintain supporting documentation providing the basis and reasonableness of funds charged to home-ownership activities and how these costs directly related to carrying out the activities. The Municipality did not track its employees' time by activity or implement a cost allocation plan to distribute payroll costs among HOME-funded activities. In addition, it did not locate disbursement vouchers associated with the payment of more than \$22,618 in payroll costs.¹ Therefore, HUD lacked assurance of the reasonableness, allowability, and allocability of more than \$114,000 in project delivery costs charged between July 1, 2008, and November 9, 2010.

¹ The Municipality did not locate nine original disbursement vouchers associated with the payment of more than \$22,618 in payroll costs. It did locate copies of disbursement vouchers associated with \$19,715 but did not locate a copy of the disbursement voucher associated with the payment of \$2,903 in payroll costs.

HOME Funds Not Disbursed in a Timely Manner

HUD's regulations at 24 CFR 92.502(c)(3) require that HOME funds in the participating jurisdiction's local bank account, including program income and recaptured funds, be disbursed before additional grant funds are requested. Participating jurisdictions are also required by 24 CFR 92.502(c)(2) to expend for eligible costs HOME funds drawn down from the treasury account within 15 days. Any unexpended drawdowns must be returned to the treasury account. A HUD memorandum, dated April 5, 2011, also provides guidance to participating jurisdictions on returning funds drawn down from the treasury account in advance or excess of need instead of revising vouchers in HUD's information system. The Municipality failed to disburse HOME funds totaling more than \$420,000 in HOME funds within HUD-established timeframes.

Unexpended program income and recaptured funds - The Municipality received more than \$98,000 associated with program income and recaptured funds that was not used before the Municipality made additional drawdowns from HUD. The Municipality drew down more than \$2 million in HOME funds from HUD since July 2010. The 2010 HUD monitoring report included a similar deficiency; however, the deficiency continued to exist.

Withdrawals not expended within 15 days - The Municipality withdrew from its treasury account more than \$1.7 million in HOME funds between July 1, 2010, and July 31, 2011. Contrary to HUD's regulations, the Municipality failed to disburse drawdowns totaling more than \$322,000 in HOME funds within 15 days. Further, it did not return \$86,567 in unexpended drawdowns to HUD. A Municipality official informed us that the funds were withdrawn in advance because of the possible shutdown of the Federal Government due to the budget impasse.

The following table shows the voucher and activity number, date of drawdown, and HOME funds for the drawdowns that were not disbursed within 15 days.

Voucher number	Activity number	Amount	Date of drawdown deposit	Date of disbursement	Days elapsed between deposit and disbursement dates
5255383/28	1568	\$6,800	Apr. 11, 2011	July 21, 2011	101
5255383/13	1659	6,193		May 16, 2011	35
5255383/1	1742	8,839		May 24, 2011	43
				June 3, 2011	53
		June 8, 2011		58	
5255383/25	1757	51,420		Not disbursed*	305
5255383/3	1781	2,169		June 29, 2011	79
5255383/26		8,580		May 16, 2011	35
5255383/27		1,769		Oct. 17, 2011	189
5255383/8	1806	27,443		Aug. 17, 2011	128
		2,557		Not disbursed*	305
5255383/24	1807	11,797		Not disbursed*	305
5255383/5	1808	35,000		Not disbursed*	305
5255383/10	1809	30,000		June 16, 2011	66
5255383/23	1810	18,203		June 16, 2011	66
5255383/11	1811	30,000		Not disbursed*	305
5255383/15	1814	20,663		June 2, 2011	52
5255383/16	1815	9,337		June 2, 2011	52
5255383/18		17,467			
5255383/19		12,533			
5255383/21	1816	14,289		June 2, 2011	52
Total:		<u>\$322,272</u>			

*As of February 10, 2012, funds remained unexpended and had not been returned to HUD.

The Municipality also did not ensure that HOME funds transferred to a community housing development organization (CHDO) were used in a timely manner. It withdrew \$30,500 in HOME funds for property acquisition on December 28, 2010, but the CHDO disbursed the funds on April 28, 2011, more than 3 months after funds were received. A CHDO official informed us that funds were not disbursed in a timely manner because a legal issue arose after the receipt of funds that needed to be resolved before the CHDO could acquire the unit.

The Municipality disregarded HUD's instructions. As a result, it failed to disburse funds in a timely manner, and \$86,567 in unexpended funds was not returned to HUD.

Ineligible Program Disbursements

The Municipality's financial management system permitted the disbursement of \$1,200 in HOME funds for predevelopment costs incurred by the CHDO on July 31, 2006, before the grant agreement was executed on August 29, 2006. This action was contrary to HOME regulations at 24 CFR 92.2, which require participating jurisdictions to execute a legally binding agreement with the recipient to use HOME funds to produce affordable housing.

Lack of Adequate Controls and Procedures

The lack of adequate program controls and procedures also contributed to the deficiencies in the Municipality's financial management system. For example, the Municipality did not maintain written procedures for accounting for and disbursing HOME funds and establishing responsibilities among its personnel. A Municipality official informed us that information in HUD's information system was not reconciled with the Municipality's accounting records. Controls over the Municipality's HOME program checks were also inadequate. For example, checks were not prenumbered, we identified at least 19 instances in which there was a gap in the check number sequence, and the Municipality did not locate one check that it had indicated was void. We also identified purchase orders signed by Municipality officials without being dated.

In addition, the Municipality did not maintain a proper system that permitted tracking the status of HOME-assisted activities, including those that could result in the payment of program income or recaptured funds and accounting for program accomplishments. Further, the Municipality did not provide adequate segregation of duties by permitting officials who authorized or recorded transactions to collect HOME funds associated with program income and recaptured funds. Therefore, the Municipality's internal controls were not sufficient and adequate to assure HUD that HOME funds were adequately accounted for, safeguarded, and used for authorized purposes and in accordance with HUD requirements. Management must establish and implement adequate controls and procedures to permit proper accountability for all HOME funds to ensure that they are used solely for authorized purposes.

Conclusion

The Municipality maintained a financial management system that did not reflect the full history of all financial transactions, did not properly identify the source and application of HOME funds, permitted program charges for unsupported and ineligible costs, and did not ensure that HOME funds were disbursed within HUD-established timeframes. This condition occurred because the Municipality disregarded HUD requirements and instructions. As a result, HUD lacked assurance that funds were used only for requested and eligible purposes. The Municipality must improve its internal controls to safeguard, use, and properly account for HOME program funds.

Recommendations

We recommend that the Director of the San Juan Office of Community Planning and Development

- 1A. Require the Municipality to develop and implement a financial management system in accordance with HUD requirements and ensure that \$3,213,572 in HOME funds drawn from HUD between July 1, 2009, and December 31, 2011, can be traced to a level which ensures that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes or reimburse the HOME program from non-Federal funds.²
- 1B. Require the Municipality to submit supporting documentation evidencing the income eligibility of the participants assisted with \$173,978 in HOME funds or reimburse the program from non-Federal funds.
- 1C. Require the Municipality to submit supporting documentation showing the allocability and eligibility of \$114,139 charged to the HOME program for project delivery costs or reimburse the program from non-Federal funds.
- 1D. Require the Municipality to return to its line of credit and put to better use \$86,567 associated with unexpended funds drawn from its treasury account.

² Total disbursements of \$3,523,723 were adjusted to consider \$173,978 questioned in recommendation 1B, \$86,567 questioned in recommendation 1D, and \$49,606 questioned in recommendation 2B.

- 1E. Require the Municipality to put to better use \$35,977 associated with unexpended program income and recaptured funds maintained in its local bank account.³
- 1F. Require the Municipality to reimburse the HOME program from non-Federal funds \$1,200 paid for ineligible costs.
- 1G. Increase monitoring of the Municipality's performance in the administration of its HOME program.

³ Unexpended program income and recaptured funds in the amount of \$98,239 were adjusted to consider \$62,262 included in recommendation 3A.

Finding 2: The Municipality Did Not Implement Adequate Controls To Ensure Compliance With HOME Program Objectives

The Municipality disbursed \$703,473 in HOME funds for two activities that showed signs of slow progress without assurance that the activities would generate the intended benefits. This condition occurred because the Municipality did not take appropriate planning and monitoring measures to ensure that funds were used in accordance with all program requirements as required by HUD. As a result, HUD had no assurance that funds were used solely for eligible purposes and that HOME-funded activities met program objectives and fully provided the intended benefits.

Slow Progress Activities

HUD regulations at 24 CFR 92.504(a) provide that the participating jurisdiction is responsible for managing the day-to-day operations of its HOME program, ensuring that HOME funds are used in accordance with all program requirements and written agreements, and taking appropriate action when performance problems arise. HUD regulations also provide at 24 CFR 92.2 that when committing HOME funds for rehabilitation and new construction projects, the construction can reasonably be expected to start within 12 months of the agreement date. The Municipality disbursed more than \$703,000 for two activities that reflected slow progress without taking appropriate planning and monitoring measures to ensure the timely completion of the activities, that funds would be used in accordance with all program requirements, and that program objectives would be met.

Rental housing project (Ciudad Ensueño housing project) - The Municipality executed an agreement with a CHDO on August 29, 2006, for more than \$1 million for land acquisition and predevelopment costs associated with the construction of a 70-unit rental housing project (activity number 1506). Although more than \$538,000 (52 percent) of the committed funds had been disbursed, as of January 24, 2012, only 27 of the 70 housing units (38 percent) had been constructed, using only a portion of the land acquired.⁴

More than 5 years had elapsed since HOME funds were committed for the project, and the intended benefits had not materialized. A Municipality official informed us that additional funding to complete the project had not been identified, and that the Municipality would need to reevaluate the viability of the project. Based on this condition, HUD had no assurance that the Ciudad de Ensueño housing project would fully meet HOME program objectives and

⁴ In June 2008, the title of the land was transferred to the Municipality, and the construction of the 27 housing units was completed with local funds. A Municipality official informed us that approximately 2.91 of the 12.12 acres had been used for the construction of the 27 housing units.

provide the intended benefits. Therefore, more than \$538,000 in HOME disbursements was unsupported. In addition, \$499,700 in unexpended commitments must be deobligated and put to better use since there are no clear plans for the completion of the project.



Partial views of the main entrance of the project and 27 housing units constructed



Partial views of the 9.2 acres of undeveloped land acquired with HOME funds⁵

Home-ownership acquisition activity - The Municipality obligated in HUD's information system more than \$732,000 in HOME funds for the acquisition of more than five single-family housing units to be rehabilitated by a CHDO (activity number 1699) and resold to low- and moderate-income families.⁶ Although this activity was initially funded in August 2009, the Municipality had disbursed only \$164,500 for the acquisition of five properties.⁷ As of October 2011, the CHDO had rehabilitated four of the five properties acquired but had not sold any to low- and moderate-income families. A CHDO official informed us that the rehabilitation of the fifth property had not started because the CHDO was waiting for the resale of the rehabilitated properties to obtain the funding needed to do the work and avoid economic difficulties. In addition, the CHDO had not identified additional properties to be acquired with the more than \$568,000 in unexpended HOME commitments.

⁵ In addition to the 70 units proposed to be constructed, the CHDO planned the construction of a 30-unit long-term care and assisted living center at the same site acquired with HOME funds.

⁶ The Municipality increased the funding from \$473,214 to \$732,669.

⁷ The properties were acquired between January and April 2011.

Based on this condition, HUD had no assurance that the housing project would fully meet HOME program objectives and provide the intended benefits. Therefore, unexpended commitments in the amount of \$568,169 must be deobligated and put to better use, since there are no clear plans for the acquisition of additional properties.

Lack of Adequate Controls and Procedures

The Municipality did not establish and implement adequate controls and procedures to ensure the timely completion of activities and that funds were used in accordance with all program requirements as required by HUD. For example, executed agreements with homeowners did not specify the date for activity completion and property standards to be met as required by 24 CFR 92.504(c)(5)(ii). According to the Municipality's program guidelines and as we were informed by a Municipality official, the site visits conducted to the activities by its program inspector were to certify completion and verify that the amount invoiced agreed with the construction stage of the project but not to certify compliance with property standards. In addition, executed agreements with CHDOs did not (1) include in sufficient detail a schedule for completing the tasks to provide the participating jurisdiction a sound basis on which to effectively monitor performance under the agreement, (2) specify whether HOME funds to be retained by the CHDO were to be used for HOME-eligible or other housing activities to benefit low-income families, and (3) specify that disbursement of funds could not be requested until the funds were needed for payment of eligible costs, stipulations required by 24 CFR 92.504(c)(3) and 92.300(a)(2).

The Municipality's written procedures did not provide for reviewing at least annually, as required by 24 CFR 92.504(a), the performance of each contractor and subrecipient. The procedures also did not provide for establishing responsibilities among its personnel. The Municipality also did not include HOME-funded activities in its 2011 and 2012 annual monitoring plan submitted to HUD. In addition, it did not maintain a proper system for tracking the status of the activities. A Municipality official informed us that no internal audit of the HOME program had been performed since at least January 1, 2009. We were also informed that the Municipality's Planning Department had not conducted monitoring regarding home-ownership activities carried out by the Municipality's Department of Housing in the last 3 years.

Conclusion

The Municipality did not adequately manage HOME-funded activities to ensure that they were carried out in a timely manner and that funds were used to meet HOME program objectives. This condition occurred because the Municipality did not take appropriate planning and monitoring measures to ensure that funds were used in accordance with all program requirements as required by HUD. As a result, HUD had no assurance that more than \$538,000 in HOME funds was used solely for eligible purposes and that HOME-funded activities would provide the intended benefits.

Recommendations

We recommend that the Director of the San Juan Office of Community Planning and Development

- 2A. Require the Municipality to deobligate in HUD's information system, reprogram, and put to better use \$1,067,869 associated with unexpended funds for the activities showing signs of slow progress.⁸
- 2B. Determine the eligibility of the \$537,773 disbursed for the Ciudad de Ensueño project and reevaluate the feasibility of the activity.⁹ The Municipality must reimburse its HOME program from non-Federal funds if HUD determines the activity to have been terminated.
- 2C. Require the Municipality to take adequate measures to ensure that activities with signs of slow progress are completed in a timely manner and that program objectives are met.
- 2D. Require the Municipality to establish and implement adequate controls and procedures for its HOME program to ensure that HUD requirements and objectives are met.

⁸ The two activities had obligations of \$1,771,342 and disbursements totaling \$703,473 as of January 3, 2012. The unexpended balance of \$1,067,869 (\$1,771,342 less \$703,473) needs to be reprogrammed and put to better use.

⁹ Total disbursements of \$538,973 were adjusted to consider \$1,200 questioned in recommendation 1F.

Finding 3: The Municipality Did Not Have Adequate Controls Regarding Information Entered Into HUD's Information System

The Municipality reported to HUD more than \$901,000 in HOME commitments without executing a written agreement or identifying the property in accordance with HUD requirements. The Municipality also failed to reprogram and put to better use more than \$48,000 in unexpended obligations associated with two activities that were terminated. In addition, it did not report and put to better use more than \$62,000 in program income and recaptured funds. The Municipality reported other inaccurate information concerning HOME-funded activities. These deficiencies occurred because the Municipality did not properly monitor the accuracy of commitments and other information reported in HUD's information system. As a result, HUD had no assurance that the Municipality met HOME program objectives, commitments, and disbursement requirements.

Unsupported Commitments

Participating jurisdictions are required by 24 CFR 92.500(d) and 92.502 to commit HOME funds within 24 months of their allocation and report commitment information in HUD's information system. HUD's regulations at 24 CFR 92.2 define "commitment" as an executed, legally binding agreement with a State recipient, a subrecipient, or a contractor to use a specific amount of HOME funds to produce affordable housing or provide tenant-based rental assistance or an executed written agreement reserving a specific amount of funds to a CHDO or having met the requirements to commit to a specific local project, which also requires that a written, legally binding agreement be executed with the project or property owner. In addition, no HOME funds can be committed for a rental or home-ownership project until address information is available. HUD also requires that the signatures of all parties be dated to show the execution date.

HUD's information system reflected that the Municipality committed more than \$2.92 million in HOME funds between July 1, 2010, and July 31, 2011. We examined commitments totaling more than \$1.76 million that the Municipality entered into HUD's information system. In addition, we examined 28 activities with commitments totaling more than \$2.54 million that were funded between April 2005 and August 2011.

The Municipality reported in HUD's information system that it had committed \$781,954 in HOME funds, although it did not have executed agreements with the recipients. The actual commitments occurred between 72 and 503 days after the funding date. In addition, the Municipality reported in HUD's information system that it had committed \$120,000 in HOME funds for two home-ownership activities, although there were no identifiable properties (activities number 1757 and 1760).

Therefore, funds in the amount of \$901,954 were improperly reported as committed and not in accordance with HUD requirements.

Activity number	Reported commitment amount in HUD's information system	Initial funding date in HUD's information system	Actual agreement date	Days elapsed between reporting and agreement dates
1699	\$732,669*	Aug. 7, 2009	Dec. 23, 2010	503
1329	\$9,921	Apr. 15, 2005	Jan. 23, 2006	283
1333	\$14,138	Apr. 15, 2005	Jan. 23, 2006	283
1339	\$25,226	Apr. 19, 2005	June 30, 2005	72

* The initial funded amount was \$473,214 and later increased to \$732,669.

We also found 31 activities in which the Municipality reported in HUD's information system the commitment of more than \$3.5 million in HOME funds between 1 and 135 days after the grant agreement was executed. The Municipality also did not implement adequate controls by not identifying the property(ies) in the agreements and requiring that the signatures of all parties be dated to show the execution date as required by HUD. As a result, HUD had no assurance that the Municipality met HOME commitment requirements.

Unexpended Commitments Not Reprogrammed

The Municipality did not reprogram and put to better use more than \$48,000 in unexpended obligations associated with two terminated home-ownership activities (activities 1807 and 1818).

As a result, obligations in HUD's information system were overstated, and more than \$48,000 in HOME funds was not available for other eligible efforts. The Municipality should reprogram these funds and put them to better use.

Activity number	IDIS* funding date	IDIS amount unexpended	Comments
1818	June 10, 2011	\$30,000	The Municipality terminated the activity because the participant's credit history was insufficient to qualify the participant for a mortgage loan. The contract expired on November 30, 2011. However, the Municipality did not cancel the activity and reprogram the unexpended commitments.
1807	Apr. 7, 2011	<u>18,203</u>	The Municipality terminated the activity because the unit did not qualify for Federal Housing Administration financing and the participant did not want to go through the process of finding another unit. The contract expired on July 25, 2011. However, the Municipality did not cancel the activity and reprogram the unexpended commitments.
Total		<u>\$48,203</u>	

* IDIS = HUD's Integrated Disbursement and Information System. As of December 31, 2011, activities were reported in IDIS as open.

Program Income and Other Receipts Not Properly Reported

HUD regulations at 24 CFR 92.503 provide that program income, recaptured funds, and repayments received be deposited into the participating jurisdictions' HOME account to carry out eligible activities. These receipts must be reported in HUD's information system and used before additional HOME withdrawals are made.

Contrary to HUD requirements, the Municipality did not report the proceeds of \$62,262 in program income and recaptured funds in HUD's information system.¹⁰ More than 1 year had elapsed since the Municipality received these funds, but it had not reported them in HUD's information system. Consequently, HUD had no assurance of the accuracy of the amount that the Municipality received and its compliance with HOME requirements.

¹⁰ Program income and recaptured funds may result from the resale and recapture requirements imposed by HUD and the Municipality on the participants to ensure affordability during predetermined periods depending on the assistance amount provided.

Other Inaccurate Reporting

HUD's information system contained additional inaccurate information concerning the Municipality's HOME-funded activities. This information included the incorrect activity address, project completion date, fund type classification, activity type, and funding amount.

Incorrect activity address - In 17 activities, the address of HOME-funded activities reported in HUD's information system was inaccurate or incomplete. A Municipality official explained that in some cases, the address reported in HUD's information system might represent the address of the participant before the participant acquired the HOME-funded unit.

Incorrect project completion date - In 12 activities, the project completion date in HUD's information system was incorrect. These activities included three in which the project completion date reported in HUD's information system was between 6 and 7 days before the actual completion date. In addition, in nine activities the project completion date reported in HUD's information system was between 2 and 194 days after the actual completion date.

In addition, the Municipality did not report the project completion information within 120 days of the final project drawdown as required by 24 CFR 92.502(d)(1). In five activities, the information was entered into HUD's information system between 146 and 188 days after the final project drawdown, and in one activity, the information had not been reported as of January 3, 2012, 151 days after the final project drawdown.

Incorrect fund type classification - Participating jurisdictions are required to report in HUD's information system the type of fund for each activity assisted with HOME funds. For three activities, HUD's information system reflected an incorrect fund type classification. These activities included one for which, according to the activity file, the assistance was in the form of a loan and not a grant and two activities for which more than \$37,000 in HOME commitments was incorrectly reported as administrative costs.

Incorrect activity type, tenure, and description - Participating jurisdictions are required to report in HUD's information system the type of activity and tenure. For three activities, HUD's information system reflected an incorrect activity type or tenure classification. These activities included one rental activity incorrectly reported as home buyer and two activities incorrectly reported to include acquisition or rehabilitation. In one instance, the activity description was inaccurate as it reported that the activity would consist of nine properties instead of five as stated in the agreement. In addition, for two activities, the description was not descriptive of the CHDO activities.

Inaccurate funding amount - In one activity, the awarded amount of HOME funds shown in HUD's information system was understated by \$5,000 (activity number 1506). The Municipality's procedures also permitted committing HOME funds for an unspecified amount contrary to HUD requirements in 24 CFR 92.504(c)(5)(i). For example, executed agreements for 20 home-ownership activities were for a not to exceed amount. However, the final assistance provided was for a lower amount.

Lack of Adequate Controls and Procedures

The Municipality did not develop written procedures providing guidance to its personnel regarding the accuracy and monitoring of information reported in HUD's information system, including compliance with HUD reporting requirements and deobligation of committed funds, and establishing responsibilities among its personnel. Municipality officials informed us that they had met with staff to verify reports from HUD's information system. However, the Municipality had not implemented a system for monitoring the accuracy of the data entered into the system. Therefore, its internal controls were not sufficient and adequate to provide HUD assurance that information entered into HUD's information system was accurate and that the Municipality met HOME program objectives, commitments, and disbursement requirements.

Conclusion

Because the Municipality did not properly monitor, it did not ensure the accuracy of commitments and other information entered into HUD's information system. There was no assurance that the Municipality met HUD commitment and disbursement requirements and that program objectives were met. The inaccurate data compromised the integrity of HUD's information system and the degree of reliability HUD could place on the data for monitoring commitments and compiling national statistics on the HOME program. The 2010 HUD monitoring report disclosed similar deficiencies; however, the deficiencies continued to exist.

Recommendations

We recommend that the Director of the San Juan Office of Community Planning and Development

- 3A. Require the Municipality to report in HUD's information system and put to better use in accordance with HOME requirements unused program income and recaptured funds totaling \$62,262.
- 3B. Require the Municipality to deobligate in HUD's information system, reprogram, and put to better use \$48,203 in commitments for activities that were terminated.
- 3C. Require the Municipality to review all grant agreements for each activity entered into HUD's information system and correct any inaccurate information, including the address of HOME-funded activities, project completion date, fund type classification, activity type and description, funding amount, and activity status.
- 3D. Reassess the Municipality's annual commitment compliance and recapture any amounts that have not been committed within HUD-established timeframes.
- 3E. Require the Municipality to establish and implement adequate controls and procedures to ensure the timely and accurate reporting in HUD's information system of commitment and activity information and receipts associated with program income and recaptured funds.

SCOPE AND METHODOLOGY

The objectives of the audit were to determine whether the Municipality maintained its financial management system in compliance with HUD requirements and met HOME program objectives by providing the intended benefits. The financial requirements included (1) disbursing HOME funds for eligible and supported costs, (2) disbursing HOME funds within established timeframes, (3) reporting accurate and supported information in HUD's information system, and (4) maintaining accounting records that were complete and accurate.

To accomplish our objectives, we

- Reviewed applicable HUD laws, regulations, and other HUD program requirements;
- Reviewed the Municipality's controls and procedures as they related to our objectives;
- Interviewed HUD, Municipality, and CHDO officials;
- Reviewed monitoring, independent public accountant, and HUD's information system reports;
- Reviewed the Municipality's files and records, including activity files and financial records;
- Traced information reported in HUD's information system to the Municipality's records, including executed agreements; and
- Performed site inspections of the activities.

HUD's information system reflected that the Municipality had 30 open HOME-funded activities as of August 31, 2011. We selected and reviewed 13 activities for which the last draw was more than 145 days earlier with commitments totaling more than \$2.1 million.¹¹ We reviewed the 13 activities to determine the status of activities for which HOME funds had been disbursed but which reflected slow progress.

HUD's information system reflected that the Municipality committed more than \$2.92 million in HOME funds between July 1, 2010, and July 31, 2011. We selected for review seven activities with commitment amounts greater than \$50,000, totaling more than \$1.76 million (60 percent). We reviewed 28 additional activities funded between April 15, 2005, and August 15, 2011, with commitments totaling more than \$2.5 million. We reviewed these 35 activities to determine whether the information reported to HUD, including commitments, was accurate and supported.

HUD's information system reflected that the Municipality drew down from its treasury account more than \$1.7 million in HOME funds between July 1, 2010, and July 31, 2011. We selected

¹¹ We excluded from the review four activities that were reviewed during the 2010 HUD monitoring.

and reviewed withdrawals greater than \$50,000, which resulted in six withdrawals totaling more than \$442,000. We reviewed 17 additional withdrawals totaling more than \$270,000, based on deficiencies noted regarding the timeliness of the funds disbursed. A total of 23 withdrawals totaling \$713,212 (40 percent) were reviewed to determine whether HOME funds were disbursed within HUD-established timeframes.

The Municipality's records reflected that it disbursed between July 1, 2010, and July 31, 2011, more than \$1.89 million in HOME funds. We selected for review disbursements greater than \$50,000, which resulted in seven disbursements totaling more than \$515,000 (27 percent). We reviewed the disbursements and related supporting documents to determine whether the payments were made for authorized and eligible efforts and properly supported.

We also selected for review four disbursements totaling \$24,007 that were made on March 16, 2011, based on deficiencies noted regarding the allocability of the charges. The withdrawals were reviewed to determine whether HOME funds were used for supported and eligible costs.

The Municipality's records reflected that it charged more than \$114,000 in HOME funds for project delivery costs between July 1, 2008, and November 9, 2010. We reviewed the transactions and related supporting documents associated with more than \$33,000 (29 percent) of the charges to validate the nature and purpose of the charges and their allocability. The transactions were selected for review based on the fluctuations and materiality of the costs as compared with the other transactions of the population.

To achieve our audit objectives, we relied in part on computer-processed data contained in the Municipality's database and HUD's information system. Although we did not perform a detailed assessment of the reliability of the data, we performed a minimal level of testing and found the data adequate for our purposes. The results of the audit apply only to the items selected and cannot be projected to the universe or population.

The audit generally covered the period July 1, 2010, through July 31, 2011, and we extended the period as needed to accomplish our objectives.

We conducted our fieldwork from August 2011 through March 2012 at the Municipality's offices in Bayamón, PR.

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

INTERNAL CONTROLS

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

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

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

Relevant Internal Controls

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

- Effectiveness and efficiency of program operations - Policies and procedures that the audited entity has implemented to provide reasonable assurance that a program meets its objectives, while considering cost effectiveness and efficiency.
- Relevance and reliability of information - Policies and procedures that officials of the audited entity have implemented to provide themselves with reasonable assurance that operational and financial information they use for decision making and reporting externally is relevant, reliable, and fairly disclosed in reports.
- Compliance with applicable laws, regulations, contracts, and grant agreements - Policies and procedures that the audited entity has implemented to provide reasonable assurance that program implementation complies with provisions of laws, regulations, contracts, and grant agreements.
- Safeguarding of assets and resources - Policies and procedures that the audited entity has implemented to reasonably prevent or promptly detect unauthorized acquisition, use, or disposition of assets and resources.

We assessed the relevant controls identified above.

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

Significant Deficiencies

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

- The Municipality did not develop and implement a financial management system that complied with HUD requirements (see finding 1).
- The Municipality did not implement adequate controls and procedures to ensure that HOME activities met program objectives (see finding 2).
- The Municipality lacked written procedures and adequate controls to ensure that accurate information on HOME activities was reported to HUD (see finding 3).

APPENDIXES

Appendix A

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

Recommendation number	Ineligible 1/	Unsupported 2/	Funds to be put to better use 3/
1A		\$3,213,572	
1B		173,978	
1C		114,139	
1D			\$86,567
1E			35,977
1F	\$1,200		
2A			1,067,869
2B		537,773	
3A			62,262
3B			48,203
Total	<u>\$1,200</u>	<u>\$4,039,462</u>	<u>\$1,300,878</u>

- 1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations.
- 2/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.
- 3/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an OIG recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this instance, if the Municipality implements recommendations 1D, 1E, 2A, 3A, and 3B, funds will be available for other eligible activities consistent with HOME requirements.


Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

Comment 1



April 27, 2012

Mr. James D. McKay
Regional Inspector General for Audit
U.S. Department of Housing and Urban Development
Region 4 Office of Inspector General
Office of Audit, Box 42
Richard B. Russell Federal Building
75 Spring Street, SW, Room 350
Atlanta, GA, 30303-3388

**Subject: Comments to Draft Review of the Municipality of Bayamón's
HOME Investment Partnerships Program**

Dear Mr. McKay:

This is in response to your letter dated April 18, 2012 transmitting subject document and requesting our review and written comments. As required by your letter we are presenting our comments to the subject report for which we present alternate resolutions to the recommendations.

As explained to members of your staff during the exit conference the Municipality of Bayamón is committed to comply with all the applicable federal regulations. In some of the conditions identified the cause is based on external elements out of the control of our staff. The following are our comments:

Comment #1- Finding 1: The Municipality's Financial Management System Did Not Comply With HUD Requirements ... "These deficiencies occurred because the Municipality disregarded HUD requirements and instructions to ensure compliance with financial requirements". (Page 5)

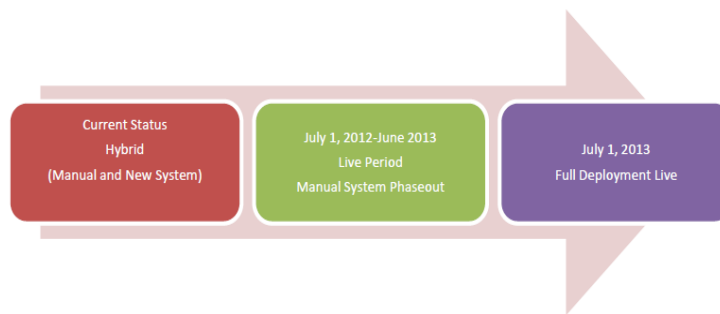
We disagree with the statement "*These deficiencies occurred because the Municipality disregarded HUD requirements and instructions to ensure compliance with financial requirements*", included in page 5 of the draft report. We request that this statement be removed from the report because it implies that intentionally the Municipality disregarded HUD's instruction and that such observation is inaccurate. The OIG auditor concluded this in reference to HUD's previous monitoring review which had identified similar conditions, yet this certainly does not mean that the management had "disregard" HUD's recommendation.

Since May 2009, the Municipality is in the process of implementation of a new Citywide Information System that will improve compliance with the applicable local and federal



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regulation. The Municipality of Bayamon assure that the new financial management systems will provide all the internal controls that provide for (1) complete disclosure of the financial results, (2) adequate financial information for managerial purposes, (3) effective control over and accountability for the Municipality's assets, and (4) reliable accounting and financial reporting. More than \$3,062,984 has been allocated to this project that will address all areas of the financial and human resources operations of the Municipality. Many efforts are underway to implement new core financial systems and supporting financial management systems such as logistics, acquisition, and human resources. As you may know the implementation of a Citywide Information System is not immediate and requires precise planning and implementation. The following table shows the current implementation schedule:



As demonstrated the Municipality has taken action to address the deficiencies of the current information system and in no way disregarded the recommendation from HUD. Based on this we request the elimination of the comment from the report.

Comment #2- Finding 1: The Municipality's Financial Management System Did Not Comply With HUD Requirements (Page 5)...

We acknowledge that the current information system does not provide the level of immediate accessible detail expected by HUD. When the audit was conducted the Municipality was undertaking the implementation of a new Computer Based Financial Information System. During the audit period the Municipality was managing transition to the new computerized system while still maintaining some manual records. This situation can explain the confusion of some of the reports and information presented to the auditors. We know that when the new system is operational the required detailed reports will be readily available with the level of information expected by HUD.

Comment 2

One of the key features of the new system that is being implemented is the adoption of the IDIS activity number to the each CPD related financial transaction. This will facilitate the reconciliation of the federal system with the local financial system and the tracing of the fund from source to its application. In addition with the implementation of

the new system the Municipality will revise the current internal control to improve the management of HUD funded programs.

Comment #3- Unsupported Program Disbursements (pages 6 & 7)

Comment 3

We disagree with the report conclusion that the Municipality did not properly document the income of three families that were assisted with downpayment and closing cost assistance. For the three questioned cases the Municipal staff requested income documentation, performed third party verification and determined that the income was below the income limits established by HUD. All the income documentation was presented and discussed with the auditors during the review. In the following paragraphs we discuss the individual conditions of each case:

Case #1760

The HOME regulation at 24 CFR 92.203(d)1 require that, for the purpose of determining eligibility for HOME assistance, a PJ must project a household's income in the future. Based on this requirement the Municipality used the **most recent** documentation that evidences the income of the participant. The documents used for the income determination were the following:

- Payroll Stub- dated may 31, 2010
- Income Verification from Employer- June 3, 2010

In addition third party verification was made. On June 15, 2010, the housing technician contacted the Vice President of Human Resources to verify that the payroll stub and that the income verification information provided was true and correct. The employer confirmed that the anticipated annual income of the participant was \$15,680 (as the documents used show) including bonuses. The maximum HOME income was \$17,000, thus the family was eligible for assistance.

According to the auditors the W2 form showed a different income that made the participant ineligible. The W2 form in the file was for tax year 2009 (January 1, 2009 - December 31, 2009). All households that receive HOME assistance must be income-eligible at the time assistance is provided. Generally, the HOME Program permits "income verification dated no earlier than six months prior to receipt of assistance". For this case, the subsidy was provided on September 16, 2010 thus the W2 was an old document that does not reflect the most recent annual income of the family.

Another document that evidences that the income calculated by the Municipality was correct was the Uniform Residential Loan Application (URLA) used by the financial institution to approve the financing of the unit. The URLA prepared by

As informed to the OIG auditor the family composition was corroborated by an official from the Department of Housing (Section 8 Inspector), who perform the re-exam inspections on the property under contract and verified the family size .

Based on this information we certify that the family size determination was correct and that was eligible for assistance. We request the elimination of this condition from the report.

Case #1798

According to the auditors the municipality income determination was incorrect because:

- no income verification was documented regarding a family member
- a discrepancy found in the participant's credit report
- the Municipality used an incorrect income limit.

The family member mentioned in the report was the participant's mother, who is from the Dominican Republic, and was not living in Puerto Rico. The participant informed the Municipality that in the future his mother was going to reside in the unit. Income was not verified because she was not considered part of the composition at the time of eligibility, this information was made only to notify us that in the future she would be living with him.

For the same reason the financial institution did not included the additional member during the qualification for the loan. FHA Mortgage Credit Guidelines requires that lenders must determine and verify the residency status of the applicants and any family member(HUD 4155.1 REV-5, pag. 2-2). The verification must be documented and certified in the Uniform Residential Loan Application (URLA). The copy of the URLA included in the file shows that the households consist of only one individual, the applicant.

Like in case #1760 the Municipality used the **most recent** documentation that evidences the income of the participant. At the time of qualification the participant was working at Plantas Tropicales. When confronted with the information in the credit report the participant indicated that he does work there anymore because he was studying and he quit his second job. The documents used for the income determination were the following:

- Payroll Stub- July 29, 2010
- Income Verification from Employer- August 2, 2010

This information was verified with the employer was made on August 4, 2012. Like Case #1760 the financial institution URLA includes the same income information as the one presented to the Municipality. All the income information is included in **attachment 3**.

Assuming that the additional family member was part of the family composition we requested the participant to present a certification of the income of its mother (**attachment 4**). The certification show no income.

Based on this information we certify that the family size determination was correct and that was income eligible for assistance. We request the elimination of this condition from the report.

Comment 4

Comment #4- Unsupported project delivery costs (page 7)

We certify that the staff paid with HOME funds was carrying out eligible activities of the HOME program as permitted by program regulation and CPD notice 06-01. Due to the fact that the staff was performing duties only to the HOME program no time allocation tracking was necessary. The notice does not require the preparation of a cost allocation nor a time allocation. CPD notice 06-01 establishes that 100% of the staff and overhead costs directly related to carrying out a project, including certain fair housing and housing counseling activities can be charged as project-related soft costs. Based on this notice we distributed the staff and overhead costs equally among all participant served. Yet we understand that it would be adequate to establish a documented cost per services provided to each case. As explained during the exit conference we will present the documentation that evidences how the staff performed duties among the different eligible activities and that the cost were reasonable. We believe that in a time of limited funding the Municipality will continue to charge project related soft costs to the different projects and activities and that HUD must provide additional guidelines on the subject.

Comment 5

Comment #5- HOME Funds Not Disbursed in a Timely Manner (Page 8)

All funds indentified are accounted for and are located in the bank account of the Municipality to be used for the eligible activities. As part of recommendation 2D the Municipality will revise and adopt new procedures and internal controls that will prevent the recurrence of the situation.

Comment 6

Comment #6- Ineligible Program Disbursements (Page 10)

We request the revision of the text of the report to reflect the actual facts behind the disbursement of the \$1,200. HOME program regulation at 24 CFR 92.2 (2)(i) requires that HOME funds can only be committed to "identifiable project under which construction can reasonably be expected to start within twelve months of the agreement date". Being this the case and in order to start the project within the required timeframe it is the accepted industry practice (and is also accepted by HUD, Page CPD Notice CPD Notice 01-11) that developers can incur and be reimbursed for soft costs incurred before the execution of a agreement with the PJ.

For the condition identified in the report the CHDO-Non Profit Developer incurred an obligation of \$1,200 on July 28, 2006, for the environmental review of the property to be acquired and developed with HOME funds. The completion of an environmental review is required by Local and Federal Law. On August 29, 2006 the Municipality of Bayamon and the CHDO-Non Profit Developer executed a grant agreement for the acquisition and development of a Housing Rental Project. On June 4, 2007 the CHDO-Non Profit Developer presented an invoice for payment that included the questioned cost. This invoice was paid on October 2007, more than a year later that the execution date of the agreement.

The payment of the pre-development and pre agreement costs is a gray area of the regulation for which HUD has allowed and determined it be an eligible and reimbursable cost. Indeed the new proposed HOME program regulation permit HOME funds to be used to pay for architectural and engineering costs and other related professional services that were incurred within 18 months of the date that HOME funds were committed to the project, provided that the HOME written agreement with the project owner authorizes such use of funds.

For this condition we request the following: 1) that the text in the report be rephrased to clearly state that the payment was made after contract execution, and 2) change the \$1,200 from ineligible to unsupported.

As stated in page 27 (footnote 2) of the report "unsupported costs are:

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

We understand that the condition identified fit under the unsupported cost category and the report must be revised accordingly.

Comment #7- Recommendation 1E(Page 12)

Comment 7

We understand that recommendation 1E must be changed to: *The Municipality must revise and adopt procedures for the management of the Program.*

Comment # 8 - Rental Housing Project (Ciudad de Ensueño housing project)

Comment 8

We do not concur with the OIG view of Ciudad de Ensueño Project. In 2006 a nonprofit organization presented the Municipality with a project to develop 70 rental housing units. The financial viability of the project was analyzed and HOME funds were awarded for

the acquisition of the site, soft cost and other eligible activities. In addition to the HOME funds the project was in need of additional HOME funds, Low Income Housing Tax Credits, and private financing. As HUD knows since 2007 the housing and banking industries in Puerto Rico entered into a crisis that affected the financing and construction of new projects. This crisis affected the timing of the project and the organization was not able to secure all the funding necessary to undertake the construction of the project. After recognizing financial limitations, the project was scaled down to 27 units. Despite this situation the Municipality was committed with the project and provided local funds (\$4,000,000.00) for the construction of 27 units that are 100% constructed and occupied.

We understand that the text of the report does not accurately reflect the actual circumstance of the project. The twenty-seven (27) constructed units are located in a building of three (3) levels with common areas and restrooms for visitors. At each level there are 9 apartments. Each unit has a distribution space that consists of one bedroom, one bathroom, a kitchen, living room and a balcony. Each apartment has a construction area of about four hundred forty (440) square feet.

The units located on the first floor of the building are equipped for people with disabilities, in full compliance with the provisions applicable to the Americans with Disability Act (ADA). All residential units have a system of "nursing call", which provides immediate notification to the project management, and security and safety in the event of an emergency. In addition all units have accessible bathrooms for people with limited mobility.



The use of the HOME funds was originally intended to complement other funds. The one million dollar allocation from Bayamón would have not provided solely for the total proposed project of 70 units. The original layering and underwriting analysis performed

in 2006 concluded that with the HOME funds a total of 9 would be considered HOME units (4 when you consider the actual disbursement). Taking into consideration that 27 units are occupied, the actual project is providing three times the intended HOME benefit.

As explained during the exit conference the corrective action is the revision of the grant agreement with the nonprofit to reduce the units from 70 to 27 and the reallocation of the remaining \$499,700 to other eligible activities.

We concur we the OIG that the remaining \$499,700 must be used for the project or deobligated and put to better use.

Comment # 9 -Lack of Adequate Controls and Procedures (Page 15)

Comment 9

The Municipality understands that changes are required to the existing procedures and it will undertake a revision of the internal controls and procedures of the HOME program.

Comment #10- Require the Municipality to take adequate measures to ensure that activities with signs of slow progress are completed in a timely manner and that program objectives are met (Page 16)

Comment 10

It is important to establish that the activities with slow progress are developed by Community Housing Development Organizations. In addition the Municipality is obligated by law to allocate 15% of its HOME funds to this organizations. We concur that action is needed to improve the performance of the CHDO's. It is our understanding that HUD is currently providing technical assistance to the CHDO's in Puerto Rico funded with State HOME funds. We request the inclusion of the Municipality of Bayamon and the local CHDOS in the TA plan currently undertaken by HUD.

We certify that for all disbursements made with HOME funds an agreement between the participant and the Municipality is executed. Regarding the four cases indentified by the report each one has a different justification for the differences between the initial funding date in IDIS and the agreement execution date.

Regarding activity 1699 the difference is based on a commitment made for two different activities in which the Municipality decided to maintain the same activity number.

In March 2008 the Municipality received a proposal from the Local CHDO for the development of Brisas de Monte Alto. The activity was evaluated and a environmental review was completed on May 2008. In compliance with the Consolidated plan requirements a public notice was published (April 23, 2009) announcing the allocation of \$473,214 for the project. On August 7, 2009 the activity was created in the IDIS system. Unfortunately the activity project was cancelled and the original allocation was never removed from the IDIS System.

In June 2010 the Municipality received another proposal from the CHDO for the acquisition of foreclosed housing units to be rehabilitated and to be sold to low income families. This new proposal was accepted by the Municipality. After the completion of the environmental review process the agreement was signed on December 23, 2010. The \$473,214 allocated came from the original allocation that was never cancelled in the IDIS system. To facilitate the management of the grant, the administration determined to use the same IDIS activity (1699) changing only the information related to the new project. Unfortunately we were unaware that the Initial Funding Date needed to be changed and such action was not undertaken. We understand that to correct the situation technical assistance is required and we officially request it in this letter.

For the other activities we will provide additional information to the field office during the management review process.

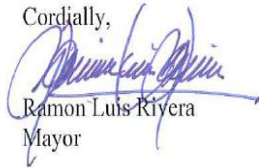
Comment #11- Commitment and program income not reprogrammed or recorded.

Comment 11

The remaining recommendations of finding #3 are related to actions that need to be taken in the IDIS system. We will take the recommended actions in combination with the San Juan Field Office.

Before ending, I will like to extend my appreciation and thanks to Mr. Michael Rivera, and Ms. Luisa Villalon, for the cooperation, guidance and support provided to the staff of the Municipality of Bayamón in addressing the correction of the findings in this report, which we are sure will result in a significant improvement in our operation of HOME Investment Partnership Program

Cordially,



Ramon Luis Rivera
Mayor

Enclosures

OIG Evaluation of Auditee Comments

Comment 1 The Municipality stated that it disagreed with OIG's statement that the cause for not complying with financial requirements was the disregard of HUD requirements and instructions, and requested the removal of the statement from the report. The Municipality also stated that it has been working on the implementation of a new information system since 2009 that will permit compliance with HUD financial requirements. A new automated system will be in place in July 2013.

The disregard of HUD requirements and instructions was not limited to the Municipality's lack of proper accounting records. The Municipality also disregarded HUD requirements and instructions when it failed to disburse HOME funds in a timely manner. The fact that the Municipality did not have an accounting system (manual or automated) since 2009 demonstrates a serious violation of HUD requirements. The establishment and implementation of a financial management system requires immediate action by the Municipality to permit the proper accountability of HOME funds and ensure that they were used solely for authorized purposes. The Municipality did not provide us additional documentation that could substantiate its claim. Therefore, we did not modify the report cause of the finding.

Comment 2 The Municipality stated that the new information system will permit tracing the source and application of HOME funds by activity number and that the Municipality will revise the current internal control to improve management of HUD-funded programs. The Municipality will need to work with HUD during the audit resolution process to ensure that the new financial management system is in compliance with HUD requirements.

Comment 3 The Municipality stated that the three families were eligible based on its review of income documentation and third party verification done. However, it did not provide additional supporting documentation resolving discrepancies found associated with the income-eligibility of the participants. The Municipality will need to provide HUD additional documentation resolving the discrepancies found to determine whether funds were disbursed to assist participants that qualified as low-income families as required by the HOME program. Therefore, we did not modify the report finding and recommendation.

Comment 4 The Municipality stated that the staff paid with HOME funds was carrying out eligible activities under the HOME program. In addition, the staff and overhead costs were distributed equally among participants that were assisted in accordance with HUD requirements. However, it did not maintain any tracking of the costs and that it will provide documentation to show its reasonableness.

HUD regulations permits charging each project individually for delivery costs directly related to carrying out such project. The Municipality will need to submit

HUD supporting documentation showing the allocability and eligibility of project delivery costs charged to the HOME program.

Comment 5 The Municipality stated that all funds were in its bank account and it will revise its internal controls and procedures to prevent the recurrence of the deficiency found. However, it did not address whether it will use HOME funds before making additional drawdowns from HUD or return to its line of credit the unexpended funds as required. The Municipality will need to take immediate action over the disbursement of HOME funds not expended in a timely manner consistent with applicable HUD requirements and instructions.

Comment 6 The Municipality believes that CPD Notice-01-11 allows the reimbursement of costs incurred before the execution of a grant agreement with the developer and requested that the questioned costs be reclassified as unsupported.

Notice 01-11 provides guidance on the environmental review process required under the HOME program. Contrary to the Municipality's statement, the notice does not make reference of the reimbursement of costs incurred by a developer prior to the execution of the grant agreement. The Municipality did not provide us adequate support that could show the allowability and allocability of the disbursement. Therefore, we did not modify the report finding and recommendation.

Comment 7 The Municipality believed recommendation 1E should be changed to recommending the revision and adoption of procedures for the management of the HOME program. However, it did not provide additional supporting documentation addressing our recommendation regarding the use of unexpended program income and recaptured funds for eligible efforts in accordance with HUD requirements. Therefore, we did not modify the report recommendation.

Comment 8 The Municipality stated that it did not agree with OIG's finding. In addition, the scope of the rental housing project was reduced from 70 to 27 units because the CHDO was not able to secure all the funding necessary to undertake the project as originally planned.

The reduction in scope was not consistent with the grant agreement signed with the CHDO on August 29, 2006. Meanwhile, more than \$499,000 in HOME funds was committed for the project and the funds were not available for other eligible efforts. The Municipality also failed to mention that approximately 9.21 acres of the land acquired with HOME funds remain undeveloped without providing any benefits. The Municipality will need to work with HUD during the audit resolution process to demonstrate the eligibility of HOME funds disbursed for the project. Therefore, we did not modify the report finding and recommendations.

Comment 9 The Municipality understands that changes are required to the existing procedures and it will undertake a revision of the internal controls and procedures of the

HOME program. It will need to provide HUD documentation showing that adequate controls and procedures for its HOME program were established and implemented to ensure that HUD requirements and objectives are met.

Comment 10 The Municipality requested HUD technical assistance to improve the performance of CHDOs. The Municipality also explained that the commitment of funds for activity number 1699 was initially done for the development of another project but, the activity was cancelled and the original allocation was never removed from HUD's information system. In addition, it failed to properly record the new activity in HUD's information system. The Municipality requested HUD technical assistance and stated it will provide additional information to HUD during the audit resolution process.

Comment 11 The Municipality stated that it will address the deficiencies and will implement the recommended actions with the assistance of HUD during the audit resolution process.