



**Office of the Chief Financial Officer
Washington, DC**

Recovery Act-Funded Housing Programs



Issue Date: September 27, 2012

Audit Report Number: 2012-FO-0006

TO: David P. Sidari, Chief Financial Officer, F

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FROM: Thomas R. McEnanly, Director, Financial Audits Division, GAF

SUBJECT: HUD's Oversight of Recovery Act-Funded Housing Programs

Enclosed is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), final results of our review of HUD's oversight of the four selected housing programs funded by the American Recovery and Reinvestment Act of 2009.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8L, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 202-402-8216.



September 27, 2012

HUD's Oversight of Recovery Act-Funded Housing Programs

Highlights

Audit Report 2012-FO-0006

What We Audited and Why

We audited the U.S. Department of Housing and Urban Development's (HUD) oversight of the four selected housing programs funded by the American Recovery and Reinvestment Act of 2009. These HUD programs received \$4.86 billion of the \$13.61 billion in Recovery Act funding that HUD received. Our audit objectives were to determine whether HUD (1) monitored the recipients to ensure that Recovery Act funds would be fully expended by the expenditure due dates and (2) ensured that expired unliquidated funds would be recaptured and returned to the U.S. Department of the Treasury in accordance with the Pay-It-Back Act. The Office of Inspector General (OIG) initiated the audit as part of its fiscal year 2012 audit plan, which is in line with OIG's priority to review Recovery Act funding.

What We Recommend

We recommend that the Office of the Chief Financial Officer, in coordination with the program offices, establish policies and procedures governing the return of recaptured Recovery Act funds and immediately transfer \$9.52 million in expired and unused Recovery Act funds to the Treasury's general fund.

What We Found

HUD adequately monitored Recovery Act recipients to ensure that (1) Recovery Act funds would be fully expended by the expenditure due dates and (2) unliquidated but expired Recovery Act funds would be identified and recaptured as appropriate. However, HUD was not effective in ensuring that \$9.52 million in expired and unused Recovery Act funds would be returned promptly to the Treasury in accordance with the intent of the Pay-It-Back Act.

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BACKGROUND AND OBJECTIVES

On February 17, 2009, the American Recovery and Reinvestment Act of 2009¹ was signed into law and was intended to provide supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization. This legislation in total provided \$13.61 billion² to the U.S. Department of Housing and Urban Development (HUD), of which \$4.86 billion was provided for four selected programs covered in this review. The law included specific expenditure and reallocation requirements, which varied by program. The specific expenditure requirements of the four Recovery Act programs are discussed below.

- **Lead Hazard Control.** The Lead Hazard Reduction program is composed of the Lead-Based Paint Hazard Control grant program that assists States, Native American tribes, cities, counties or parishes, or other units of local government in identifying and controlling lead-based paint hazards in privately owned rental or owner-occupied housing. The Recovery Act provided funding for the following grant programs: Lead-Based Paint Hazard Control, Lead Hazard Reduction Demonstration, Healthy Homes Demonstration, and Healthy Homes Technical Studies. Grantees must expend 50 percent of the funds within 2 years of the date on which funds became available for obligation and 100 percent within 3 years of such date. The final expenditure deadlines, which varied for each grantee, ranged between April and May 2012.
- **Green Retrofit Program.** The Green Retrofit Program is composed of grants and loans and funds retrofit of certain existing HUD-assisted multifamily housing to promote energy efficiency and create jobs. The Recovery Act provided that \$250 million of the funds would be awarded as grants and loans for energy retrofit and green investments in certain assisted multifamily housing administered by the Office of Affordable Housing. Further, the Recovery Act required timely expenditure of funds. The grantees and borrowers must expend 100 percent of the funds within 2 years of the date they receive the funding. Expenditure deadlines vary by grantees and loan holders. The final expenditure deadlines, which varied for each grantee, ranged between December 2011 and October 2012.
- **Public Housing Capital Fund.** The Public Housing Capital Fund provides funds for the capital and management activities of public housing agencies as authorized under Section 9 of the U.S. Housing Act of 1937. These activities include the modernization and development of public housing. Funds from this program cannot be used for operations or rental assistance. The Recovery Act requires that public housing agencies give priority to capital projects that can award contracts based on bids within 120 days from the date the funds are made available to the agencies. Grantees must expend 60 percent of the funds within 2 years of the date on which funds became available for obligation and 100

¹ Public Law No 111-5, 123 Stat 115, 224 (2009)

² HUD was appropriated \$13.625 billion in Recovery Act funds, which included \$15 million for Office of Inspector General (OIG) oversight.

percent within 3 years of such date. The final expenditure deadlines, which varied for each grantee, ranged between March 2012 and September 2013.

- **Native American Housing Block Grants.** The Native American Housing Block Grant program funds new construction, acquisition, rehabilitation, and infrastructure development activities. Funds can also be used to leverage private-sector financing for new construction, renovation, and energy retrofit investments. Grantees must expend 50 percent of such funds within 2 years of the date on which funds became available for obligation and 100 percent within 3 years of such date. The final expenditure deadlines, which varied for each grantee, ranged between March 2012 and September 2013.

On July 21, 2010, the Recovery Act was amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Title XIII - Pay It Back Act, Section 1306, of Public Law 111-203. The Pay-It-Back Act required that funds rejected by the States or withdrawn by the head of the executive agency for any reason, including any unobligated funds that are recaptured, be rescinded and returned to the U.S. Department of the Treasury's general fund.

Our audit objectives were to determine whether HUD (1) monitored the recipients to ensure that Recovery Act funds would be fully expended by the expenditure due dates and (2) ensured that expired unliquidated funds would be recaptured and returned to the Treasury in accordance with the Pay-It-Back Act.

RESULTS OF AUDIT

Finding 1: Recovery Act Funds Were Adequately Monitored, but Unused Funds Were Not Promptly Returned to the Treasury

Although HUD adequately monitored to ensure compliance with Recovery Act expenditure requirements, it did not promptly process the return of unused Recovery Act funds to the Treasury in accordance with the intent of the Pay-It-Back Act. Specifically, HUD did not immediately transfer \$8.64 million in recaptured funds. Additionally, it rescinded \$883,147 from 13 grants that must be recaptured and returned because it is no longer available for disbursement. This condition occurred because of a lack of coordination between the program offices and the Office of the Chief Financial Officer due to the absence of formal written policies and procedures governing the return of unused Recovery Act funds. As a result, effective use of these funds was not achieved to support other government programs or deficit reduction as envisioned in the Pay-It-Back Act.

Monitoring of Recovery Act Recipients' Expenditure of Funds Was Adequate

HUD adequately monitored the Recovery Act recipients to ensure that (1) awarded funds would be disbursed within the 2- or 3-year prescribed disbursement periods and (2) expired and unliquidated funds would be identified and recaptured as appropriate.

To monitor the recipients' expenditure of funds, HUD produced monthly expenditure reports to track the expenditure activities at various stages of the recipients' grant life cycle. The expenditure reports contained awarded funds, cumulative expenditures incurred to date, and the interim and final expenditure due dates. Additionally, HUD produced recapture reports, which identified the grantee, recaptured grant amount, and recapture dates. HUD was effective in ensuring that expired unused funds would be identified and recaptured in a timely manner.

Overall, these monthly reports proved to be an effective monitoring tool for HUD to reasonably ensure that recipients complied with Recovery Act expenditure requirements.

HUD Must Promptly Return Recaptured and Rescinded Funds to the Treasury

HUD did not promptly³ process the return of recaptured and rescinded Recovery Act funds to the Treasury’s general fund as envisioned in the Pay-It-Back Act for the four selected programs covered in this review. The Pay-It-Back Act was silent regarding the timing of the return of recaptured funds to the Treasury. However, it is OIG’s position that any unused funds no longer available for disbursement in the program be returned immediately based on the intent of the Act, which was to reduce the deficit. Additionally, OIG believes these unused funds would be better served if returned to the Treasury immediately and it would be a good cash management practice to do so.

For example, out of nearly \$42 million (172 grants) in recaptured funds identified in this audit and subject to the Pay-It-Back Act, only \$33 million from 45 grants had been returned to the Treasury as of July 31, 2012. Therefore, the remaining \$9 million from 127 grants with recaptured funds had not been returned.

Table 1. Schedule of recaptured Recovery Act funds⁴

<i>Schedule of recaptured Recovery Act funds (\$ in millions)</i>	PHCF	OHHLHC	NAHBG	GRP	Total
Funds recaptured as of July 31, 2012 (172 grants)	\$29.23	\$6.45	\$3.32	\$2.64	\$41.64
Funds returned to the Treasury (45 grants)	28.33	4.51	0.16	-	\$33.00
Recaptured funds not returned to the Treasury (127 grants)	<u>\$0.90</u>	<u>\$1.94</u>	<u>\$3.16</u>	<u>\$2.64</u>	<u>\$8.64</u>

Notes:

PHCF = Public Housing Capital Fund grants

OHHLHC = Office of Healthy Homes and Lead Hazard Control grants

NAHBG = Native American Housing Block Grants

GRP = Green Retrofit Program loans and grants

In addition, HUD rescinded \$883,147 from 13 grants for various reasons. Examples of the rescissions include but not limited to the failure of grantees to fully expend the funds by expenditure due dates or the improper obligation of funds for ineligible activities. The rescissions occurred after July 21, 2010, and, therefore, were subject to Pay-It-Back Act requirements. HUD must recapture

³ Based on OIG’s analysis, HUD was not effective in ensuring unused and unneeded funds would be returned to the Treasury. For example, for the 45 grants with recaptured funds already returned to the Treasury, the lag time between their recapture dates and return of funds processing dates ranged from 66 to 365 days. For the other 127 grants with recaptured funds not returned to the Treasury, 64 grants (50 percent) had lag time between 121 days and more than a year; the remaining 63 grants (50 percent) were less than 121 days old.

⁴ Source: HUD monthly recapture reports

and immediately transfer these unused funds to the Treasury, as they are no longer available for disbursement.

Section 1306 of the Pay-It-Back Act⁵ states that if the head of any executive agency, after July 21, 2010, withdraws or recaptures, for any reason, funds appropriated or otherwise made available under this division and such funds have not been obligated by a State to a local government or for a specific project, such recaptured funds must be rescinded and deposited into the general fund of the Treasury. As noted in the table above, HUD had recaptured \$41.64 million as of July 31, 2012, which is subject to Pay-It-Back Act requirements. However, only \$33 million had been returned to the Treasury.

This condition occurred because of a lack of coordination between the program offices and the Office of the Chief Financial Officer, which was partly due to the absence of formal written policies and procedures regarding the return of expired and unliquidated funds to the Treasury. According to the Office of the Chief Financial Officer, a request for a negative Treasury warrant via standard form 132, Apportionment and Reapportionment Schedule⁶ is needed to process the return of recaptured funds to the Treasury. However, the program offices incorrectly assumed that funds would be returned to the Treasury once the funds were deobligated or recaptured in HUD's accounting system.

Conclusion

The purpose of the Recovery Act funds was to stimulate the economy, and when these funds are no longer needed and have been recaptured by HUD after the implementation of the Pay-It-Back Act on July 21, 2010, there would be no purpose for retaining these funds on HUD's books. Thus, HUD must return \$8.64 in recaptured funds and \$883,147 in rescinded funds to the Treasury's general fund in a timely manner to ensure that such funds can be effectively used to support other government programs or deficit reduction.

Recommendations

We recommend that the Office of the Chief Financial Officer, in coordination with the program offices:

- 1A. Process immediately the return of \$8,635,844 in recaptured funds to the Treasury.

⁵ Public Law 111-203, dated July 21, 2010

⁶ To facilitate the return of unused funds to the Treasury, the agency is required to obtain a warrant from the Treasury. Once a warrant is issued, Office of Management and Budget needs to apportion these funds via SF 132, Apportionment and Reapportionment Schedule before the agency can process the return of unused funds in the Treasury's accounting system.

- 1B. Recapture and immediately process the return of \$883,147 in rescinded funds to the Treasury.
- 1C. Develop and implement formal written policies and procedures, including timing for the return of unused Recovery funds to Treasury to serve as a guide to program offices regarding the processing of recaptured Recovery Act funds to the Treasury going forward.
- 1D. Continue to monitor and identify undisbursed Recovery Act funds for recapture when the availability of these funds for disbursement expires.

SCOPE AND METHODOLOGY

The Recovery Act provided for supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization for the fiscal year ending September 30, 2009. Each program area had specific expenditure requirements, which we considered in planning the review. The scope of this review covered only Recovery Act recipients with final expenditure due dates that ranged between October 2011 and May 31, 2012, and through July 31, 2012, for the first and second audit objectives, respectively, on the following four programs:

- Office of Healthy Homes and Lead Hazard Control grants,
- Green Retrofit Program loans and grants,
- Public Housing Capital Fund formula and competitive grants, and
- Native American Housing Block Grants.

To accomplish our objectives, we performed the following:

- Reviewed and analyzed the March, April, and May 2012 expenditure reports to determine whether grants had unliquidated balances after the expiration of their respective expenditure periods and whether those expired funds had been properly identified and recaptured by HUD as appropriate.
- Reviewed and analyzed HUD's recapture reports to identify recaptured funds subject to the Pay-It-Back Act and verified the timing of the return of those funds to the Treasury to determine compliance with the Act.
- Interviewed the staffs from the Offices of the Chief Financial Officer, Affordable Housing and Preservation Programs, Public and Indian Housing, and Healthy Homes and Lead Hazard Control to understand their internal control policies and procedures regarding the Recovery Act-funded housing programs.

We assessed the reliability of the data obtained from the Office of the Chief Financial Officer and the program offices and determined that these data were sufficiently reliable for the purposes of this audit.

We performed our audit work from March through August 2012 at the HUD offices located at 451 7th Street SW, Washington, DC. 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 objective(s). 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:

- Controls over Recovery Act recipients' expenditure of funds.
- Controls over the recapture and return of expired and unliquidated Recovery Act funds to the Treasury.

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 Deficiency

Based on our review, we believe that the following item is a significant deficiency within the context of our audit objectives:

- HUD had insufficient controls to reasonably ensure that recaptured Recovery Act funds would be promptly returned to the Treasury in accordance with the intent of the Pay-It-Back Act.

APPENDIXES

Appendix A

SCHEDULE OF FUNDS TO BE PUT TO BETTER USE

Recommendation number	Funds to be put to better use 1/
1A	\$8,635,844
1B	<u>883,147</u>
Totals	<u>\$9,518,991</u>

1/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. OIG considers the amount cited in this report as funds put to better use because we believe these unused funds could be used more efficiently to support deficit reduction or other government programs.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-3000

CHIEF FINANCIAL OFFICER

SEP 21 2012

MEMORANDUM FOR: Thomas McEnanly, Director, OIG Financial Audits Division, GAF

Acting
FROM: David P. Sidari, Acting Chief Financial Officer, F

SUBJECT: Management Comments on the Draft Audit Report on HUD's Oversight of Recovery Act-Funded Housing Programs

Comment 1

Thank you for the opportunity to review and comment on the subject draft audit report. We appreciate the work of the Office of the Inspector General and are pleased that you recognized that HUD adequately monitored Recovery Act funds to ensure compliance with expenditure requirements. However, we strongly disagree with your finding that HUD did not comply with the "intent" of the Pay-It-Back Act by not "immediately" returning recaptured Recovery Act funds to Treasury. Your draft report implies that the Pay-It-Back Act requires recaptured funds to be returned to Treasury immediately. Nowhere, in the text of the Act does it state that the funds be returned immediately or even promptly. The only date mentioned in the Act is December 31, 2012 for the return of unobligated balances and the Department intends to meet this deadline. In the spirit of cooperation and since the \$8.64 million reflected in the IG's report have already been recaptured, the Department has requested a negative warrant from Treasury to return the funds as recommended. However, at this time Treasury has a hold on processing our request. The Department of Treasury believes that the Recovery Funds should be returned to Treasury as part of the normal end of the fiscal year cancellation process as funds expire. This opinion is in direct contrast to the OIG's opinion on the intent of the law. Treasury has indicated that HUD's request for negative warrants will be on hold until Treasury is able to obtain a legal opinion from its Office of General Counsel as well as from OMB's General Counsel.

Comment 1

Additionally, my Office of Accounting has been in conversation with Office of Public and Indian Housing for the recapture of \$883,147 in rescinded funds as indicated in the OIG's draft report. Of this total, \$97,960 for an Indian Program grant has already been recaptured. Therefore, my Office of Accounting will request a negative warrant for this amount. However, as indicated above Treasury is **not** processing our request. Of the total in rescinded funds, \$347,720 for the Housing Authority of Charleston has been disbursed and thus there is nothing to recapture. The balance has to go through a specific recapture process which starts with the Public Housing Agencies (PHAs) and thus cannot be recaptured in time to return to Treasury before September 30, 2012. The normal process is for PHAs to file an Actual Modernization Cost Certificate (AMCC) or an Actual Development Cost Certificate as part of the grant close out process. Office of Public and Indian Housing is pushing to close out Recovery Act grants expeditiously, but in many instances PHAs are subject to the Single Audit Act requirement to undergo an audit prior to grant close out. In these situations the PHA cannot file an AMCC or ADCC until the audit process is completed. Once the PHA submits the AMCC or ADCC to the Field Office, the Field Office reviews it and if it is accurate, approves it. Once approved, the Field Office forwards the AMCC/ADCC to the CFO

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Comment 2

Ft. Worth Accounting Center for funds to be recaptured. Regarding your statement about the absence of written policies and procedures for the return of expired and unliquidated funds to Treasury, HUD has formal written policies and procedures in place for the return of **all** expired unliquidated obligations to Treasury (Attachment 1). Additionally, the Department continuously monitors **all** undisbursed obligations for potential recapture and has controls in place in the Department's financial system HUDCAPS to prevent disbursement of any fund after the funds have expired. For ARRA funds, a special weekly report (Attachment 2) is sent out to all program offices for review.

In the spirit of cooperation, the Department will return recaptured funds to Treasury. However, the Department has not violated the Pay-It-Back Act and has proper policies and procedures in place to return expired unliquidated funds to Treasury. The Department also continuously monitors and identifies funds for recapture and has controls in place to prevent disbursement of funds that expire. Therefore, we feel that the finding in this report is unwarranted and we request that it be deleted from the final report.

Attachments

OIG Evaluation of Auditee Comments

Comment 1 OCFO generally agreed with recommendations 1A and 1B regarding the return of \$9.52 million. However, it did not agree with OIG's assessment regarding the timing of the return of unused Recovery Act funds to the Treasury. According to OCFO, Treasury believes that the Recovery Act funds should be returned as part of the normal end of fiscal year cancellation process and that OCFO's fiscal year 2012 request for negative warrants would be on hold until Treasury is able to obtain a legal opinion from its and OMB's General Counsels. Additionally, OCFO believes that the deadline for the return of funds to Treasury is December 31, 2012, as this is the only date mentioned in the Pay-It-Back Act.

- In fiscal year 2011, a total of \$33 million in recaptured funds had been returned by HUD to the Treasury. Therefore, OIG did not see any reason why OCFO's fiscal year 2012 request for negative warrants would be put on hold by the Treasury.
- Regarding the reference to the December 31, 2012 deadline, OIG believes that this date was an amendment to the Recovery Act funds' period of availability (to the extent that HUD has Recovery Act funds not obligated as of December 31, 2012) and not the deadline for the return of funds to the Treasury. However, the December 31, 2012 was not applicable because all grants that made up \$8.64 million had already been rescinded and recaptured.
- Additionally, although the Pay-It-Back Act was silent regarding the timing for the return of funds to the Treasury, OIG believes that retaining \$9.52 million in HUD's books for a period of time serves no purpose especially when these funds had already expired and are no longer available for obligation or disbursement. To ensure effective utilization of these funds, OCFO should return these funds to the Treasury as quickly as possible to support other government programs or deficit reduction.

Comment 2 OCFO did not agree with recommendations 1C and 1D. According to OCFO, HUD has formal written policies and procedures for the return of all expired unliquidated obligations to Treasury. Additionally, HUD monitors and identifies funds for recapture and has policies, procedures and controls in place to prevent disbursement of funds after they expire.

- For recommendation number 1C, OIG reviewed the open obligations review procedures received from OCFO and determined its procedures did not address timing as well the coordination between OCFO and the program offices regarding the return of funds to the Treasury. Therefore, it is OIG's decision to keep this recommendation in the report.

- Regarding recommendation 1D, OIG agrees that HUD has policies and procedures to monitor and identify funds for recapture but there are still a significant number of grants that are expected to expire in the next 12 months and thus, OIG recommends HUD continue to actively monitor its Recovery Act recipients.