M E M O R A N D U M

To: Congressman Michael R. Turner
From: Jeffrey Wilson
Re: City of Dayton – HOME Funds

Purpose: This memo will outline the recent letter the U.S. Department of Housing and Urban Development (HUD) sent to the City of Dayton (The City) regarding their misuse of the Home Investment Partnership Program (HOME) program funds.

Summary: There were three Findings identified during this review. The total amount subject to repayment is $3,233,353.66 plus any difference between the amount of HOME funds requested for reimbursement by Kettering and the amount of HOME funds drawn from HUD's Integrated Disbursement and Information System (IDIS) by the City for Kettering. The City is required to provide a written response to HUD in 30 days.

Background: From July 10-12, 2018, the Columbus, Ohio Field Office and HUD Headquarters' Office of Affordable Housing Programs (OAHP) jointly conducted an on-site monitoring of the City of Dayton, the lead entity of the Dayton Consortium HOME program. Program performance was assessed through a review of operations, file documentation and interviews. In addition, HUD's Departmental Enforcement Center (DEC) conducted an on-site review of the Consortium's HOME program on December 4-8, 2017. DEC staff examined contract files, IDIS data, accounting records and source documentation to investigate 240 voucher revisions executed by the City in the Integrated Disbursement and Information System (IDIS). Further, on September 13, 2018, HUD sent a letter notifying the City that HUD rejected the Consortium's FY 2018 HOME program Certification and disapproved the HOME portion of the Consortium's FY 2018 Action Plan. The letter provided specific reasons for the rejection and disapproval and described the actions that the Consortium must take to meet HUD's criteria for approval.[1]

A voucher is a request for payment (a drawdown) of grant funds. After the participating jurisdiction (PJ) sets up an "activity" in IDIS, i.e., inputs information for a HOME project reflecting the written agreement which committed HOME funds to the specific project, including the amount of HOME funding, the PJ may then draw down grant funds for that project. (This report uses the HOME regulatory terminology of "HOME project" to refer to the undertaking (e.g. rehabilitation of housing) and refers to the IDIS activity number when citing to information the City reported in IDI$.) The HOME regulation at §92.502(c) requires the funds to be expended within 15 days.[2]

Finding #1: The City failed to comply with HUD regulations designed to prevent HOME funds from being misused, misappropriated, or wasted.

- In 2004, the City setup and funded Integrated Disbursement and Information System (IDIS) #1561 for demolition and new construction of the Schwind Building. The City

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[1] U.S. Department of Housing and Urban Development Letter to City of Dayton, June 6,2019 – p. 1
[2] U.S. Department of Housing and Urban Development Letter to City of Dayton, June 6,2019 – p. 3

expended $172,809.35 for demolition but did not complete the project as required at §92.205(a) by building new HOME-eligible affordable housing. Because the project was terminated, the City was required to reimburse its HOME Program account for expenditures on the Schwind Building in accordance with §92.205(b)2. However, the City did not repay the funds to its HOME Investment Trust Fund.[3]

- **Regulation:** 24 CFR 92.503(b)(2). Any HOME funds invested in housing that is terminated before completion, either voluntary or otherwise, must be repaid by the PJ to its HOME Investment Trust Fund.

- **Issue:** The City of Dayton failed to follow policies and procedures to repay HOME funds expended on a project that was terminated before completion and return the funds to the HOME Investment Trust Fund.

- In 2010, the City did not use HOME funds for eligible Community Housing Development Organization (CHDO) set-aside activities when it provided $50,000 of CHDO set-aside funds to CityWide Development Corporation (CityWide) to administer a downpayment assistance program. The HOME regulations do not permit the use of CHDO set-aside funds for a downpayment assistance program.[4]

  - **Regulation:** 24 CFR 92.3 00(a). Within 24 months after the date that HUD notifies the PJ of HUD's execution of the HOME Investment Partnerships Agreement, the PJ must reserve not less than 15 percent of the HOME allocation for investment only in housing to be owned, developed or sponsored by community housing development organizations.

  - **Issue:** The City of Dayton lacked or knowingly failed to follow guidelines and procedures to ensure it carried out projects in accordance with HOME program requirements.

- The City failed to review the performance and compliance of its Consortium member, Kettering, or to take actions to address noncompliance. Specifically, the City did not execute an agreement to authorize Kettering to administer HOME projects and programs, outline the eligible uses of HOME funds, and require compliance with all federal laws and HOME regulations in accordance with §92.101(d) and §92.504(b)(2) despite the City allowing Kettering to enter into HOME written agreements with project owners.[5]

- In addition, the City stated to HUD that it allowed Kettering to undertake homebuyer new construction, rental rehabilitation, and rental new construction projects despite those projects not being identified in the Consortium's Annual Action Plan and without amending it. Moreover, the City failed to set up IDIS activities associated with those projects instead of drawing HOME funds from IDIS activities set up for unrelated HOME projects or programs. The City also permitted Kettering to retain program income rather

[3] U.S. Department of Housing and Urban Development Letter to City of Dayton, June 6,2019 – p. 6
[4] U.S. Department of Housing and Urban Development Letter to City of Dayton, June 6,2019 – p. 6
[5] U.S. Department of Housing and Urban Development Letter to City of Dayton, June 6,2019 – p. 7

than requiring Kettering to send the program income to the City for deposit into the local HOME Investment Trust fund account, reporting program income in IDIS, and drawing program income in accordance with §92.503(a)(1) and the Dayton Consortium Agreement.[6]

- **Regulation:** 24 CFR 92.101(d). If the representative unit of general local government distributes HOME funds to member units of general local government, the representative unit is responsible for applying to the member units of general local government the same requirements as are applicable to subrecipients.

- **Regulation:** 24 CFR 92.503(a)(1). Program income must be used in accordance with the requirements of this part. Program income must be deposited in the PJ's HOME Investment Trust Fund local account unless the PJ permits the State recipient or subrecipient to retain the program income for additional HOME projects pursuant to the written agreement required by §92.504.

- **Issue:** The City of Dayton failed to oversee its consortium member's compliance with HOME requirement. In addition, City staff lack the HOME program knowledge necessary to carry out projects and manage the Consortium's HOME program in compliance with HOME requirements.

Finding #2: HUD requires a recipient of HOME funds to maintain proper financial management systems to ensure the HOME funds are not misused, misappropriated, or wasted. HUD identified the City of Dayton does not have a fail safe to prevent misuse.

- The City did not maintain project records and did not identify project addresses on its financial records in accordance with §92.508(a)(3)(i) and §92.508(a)(5) and therefore the City does not have project records to support the source and application of funds for each project required by §92.508(a)(3)(i).[7]

  - **Regulation:** 24 CFR 92.508(a). Each PJ must establish and maintain sufficient records to enable HUD to determine whether the PJ has met the HOME requirements.

  - **Issue:** Simply put, the City is failing to adhere to the basic guideline of maintaining proper project records.

- The City had reported HOME program income in IDIS since 1998, but for grant years 2010-2012, the City did not report program income in IDIS. **City staff could not verify whether any program income was actually received** but not reported during this time period. In addition, the DEC report indicates that HomeStart (also known as CountyCorp), a HOME developer, stated that its invoices for $198,153.94 of HOME

[6] U.S. Department of Housing and Urban Development Letter to City of Dayton, June 6,2019 – p. 7
[7] U.S. Department of Housing and Urban Development Letter to City of Dayton, June 6,2019 – p. 12

costs for IDIS #1942 were paid primarily with program income generated from the sale of HOME units in 2015.[8]

- **Regulation:** 24 CFR 92.503(a)(1). Program income must be used in accordance with the requirements of this part. Program income must be deposited in the PJ's HOME Investment Trust Fund local account unless the PJ permits the State recipient or subrecipient to retain the program income for additional HOME projects pursuant to the written agreement required by §92.504.

- **Issue:** The City of Dayton failed to follow policies and procedures for reporting program income as required by HUD.

- In addition, the City made numerous voucher revisions in IDIS, which had the effect of altering the records of HOME draws from the original HOME project in IDIS for which the funds were drawn to other HOME projects. The City revised these vouchers without supporting documentation to show that the HOME funds were originally expended for the project that received the revised draw or HOME funds were repaid to the local account and expended on the project to which the voucher was revised. **The City engaged in this practice for over 10 years, revising 240 vouchers in IDIS totaling $8,491,605.57 of HOME funds**.[9]

  - **Issue:** The City lacks procedures for approving and documenting IDIS voucher revisions that require either evidence that HOME funds were originally drawn for an eligible cost of the HOME project to which the IDIS voucher revision reassigned the funds, or review and approval of evidence of a repayment to the local HOME Investment Trust Fund account and expenditure for eligible HOME costs of the project to which the IDIS voucher revision reassigned the funds.[10]

  - **Issue:** The City entered false information into IDIS by drawing HOME funds for homebuyer new construction and rental projects under IDIS activities corresponding to different project types.[11]

Finding #3: The City of Dayton did not maintain records to ensure that projects funded were eligible for the receipt of HOME funds and could not prove the costs of each project.

- The City failed to keep records for each project it undertakes, as required by the HOME regulations at 92.508(a)(3), rather, the City maintains limited records by each contractor or developer, which carry out multiple HOME projects. The City lacks records to demonstrate compliance with HOME requirements, including development written agreements, project budgets, homebuyer agreements, evidence or income eligibility, or evidence that resale or recapture provisions were imposed, where applicable.[12]

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[8] U.S. Department of Housing and Urban Development Letter to City of Dayton, June 6,2019 – p. 12
[9] U.S. Department of Housing and Urban Development Letter to City of Dayton, June 6,2019 – p. 12
[10] U.S. Department of Housing and Urban Development Letter to City of Dayton, June 6,2019 – p. 15
[11] U.S. Department of Housing and Urban Development Letter to City of Dayton, June 6,2019 – p. 15
[12] U.S. Department of Housing and Urban Development Letter to City of Dayton, June 6,2019 – p. 18

- Before the on-site monitoring visit, HUD requested eligibility documentation for IDIS #1347, 1348, 1542, 1550, 1599, 1930, 1931, 1939, 1940, 1941, and 1942. The City stated that it did not have eligibility documentation, including project budgets, homebuyer agreements, income determinations and affordability restrictions, for IDIS #1348, 1542, 1550, 1599, 1930 and 1931. In addition, the City stated that #1940 was not completed and is currently a vacant lot. **In its review, the DEC reported that the City lacked supporting documentation for the entire amount of HOME expenditures for IDIS #1347, 1550, 1939, and 1940.**[13]

    - **Regulation:** 24 CFR 92.50$. Each PJ must establish and maintain sufficient records to enable HUD to determine whether the PJ has met the requirements of this part. At a minimum, the PJ must maintain program records, project records, CHDO records, financial records, program administration records and records concerning other federal requirements.

    - **Issue:** The City's records do not demonstrate that it carried out HOME projects in compliance with HOME program requirements, that the units qualify as affordable housing, or that beneficiaries were income eligible.

There was a partial review of the following:

- **HUD investigated IDIS activities carried out by Improved Solutions for Urban System (ISUS) for compliance with HOME eligibility requirements.**

    - IDIS #1347 (Page 29): Voucher Created – 12/24/2003. Grant Year - 2003.
        - (Page 33): Voucher Created – 12/29/2004. Grant Year - 2000

    - IDIS #1348: (Page 22): Voucher Created – 12/23/2002. Grant Year - 2000. IDIS #1348 was revised at least 4 times (2002 and 2011).

    - IDIS #1542: (Page 32): Voucher Created – 6/29/2204. Grant Year – 2000.
        - (Page 33): Voucher Created – 12/24/2004. Grant Year – 2000.

    - IDIS #1550: (Page 32): Voucher Created – 12/14/2004. Grant Year – 2003.

    - IDIS #1599: (Page 22): Voucher Created – 12/23/2002. Grant Year – 2000. IDIS #1599 was revised more than a dozen times (2002 and 2011).

    - IDIS #1930: (Page 37): Voucher Created – 8/5/2011. Grant Year – 2004.

    - IDIS #1931: (Page 37): Voucher Created - 8/5/2011. Grant Year - 2004

    - IDIS #1938: Unable to locate in GBQ Audit.

[13] U.S. Department of Housing and Urban Development Letter to City of Dayton, June 6,2019 – p. 18

- IDIS #1939: (Page 50): Voucher Created – 8/8/2011. Grant Year – 2004.
- IDIS #1940: Unable to locate in GBQ Audit.
- IDIS #1941: (page 45): Voucher Created – 8/8/2011. Grant Year - 2004.
- IDIS #1942: (Page 54): Voucher Created – 8/8/2011. Grant Year – 2007.

- **IDIS #1885 identified by the DEC Report as having an unknown address was reviewed to determine whether the IDIS activity was an eligible project.**
  - IDIS #1885: (Page 64): Voucher Created – 11/21/2014. Grant Year – 2010.