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Houston Field Office, Region VI
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FEB 26 2013

Alsie Bond, Manager
Community Development Services Department
City of Bryan
P.O. Box 1000
Bryan, Texas 77805

Dear Ms. Bond:

SUBJECT: End of Year Letter for 2011
October 1, 2011 – September 30, 2012

The basic purpose of this letter is to share the conclusions of the U. S. Department of Housing and Urban Development (HUD) of the programs included in the City of Bryan's Consolidated Annual Performance and Evaluation Report (CAPER), received in this office on December 28, 2012. The evaluation is based upon the grantee's CAPER, data as reported in the Integrated Disbursement and Information System (IDIS) and other information (Consolidated Plan, financial reports, etc.) available to this office. Through this performance review, HUD's Office of Community Planning and Development (CPD) is able to combine the statutory and regulatory requirements for evaluation of program progress, review program management and determine whether or not the City has the continued capacity to adequately implement and administer the programs for which federal assistance is received.

In preparing this letter, CPD has examined the City's management of funds and activities undertaken for consistency with the priorities and objectives outlined in the City's Consolidated Plan. Therefore, the information provided in the CAPER for this and past program years was examined for compliance and accuracy with statutory and regulatory requirements (Part 91.520 and 91.525). CPD's review is based on an evaluation of the City's consolidated planning, program progress in the program management of funds and subrecipients, the annual performance report, and the achievement of program objectives.

In Program Year 2011, the City of Bryan received \$852,709 in Community Development Block Grant (CDBG) funds and \$417,744 in HOME Investment Partnerships Act (HOME) funds. In addition, the City is a past recipient of American Recovery and Reinvestment Act of 2009 (ARRA) funds which included \$250,205 in Community Development Block Grant - Recovery Act (CDBG-R) funds.

Primary Benefit: In 2011, the City expended 94.14 percent of its CDBG funds for activities that benefit low-and moderate-income (LMI) persons. This percentile exceeds the 70 percent minimum standard for overall program benefits. Bryan is to be commended for its strong commitment to activities which benefit low-and moderate-income persons.

Planning and Administration: In 2011, the amount of funds expended on planning and administration with CDBG funds equaled 19.70 percent which does not exceed the 20 percent cap for these activities.

Public Services: In 2011, the City obligated 14.95 percent of CDBG funds for public services. This percentile is within the 15 percent cap and is therefore fully acceptable. As a result, Bryan was in compliance with the cap standard. However, the City should observe special care with respect to this requirement in the future in order to ensure that the cap is not inadvertently or accidentally exceeded.

Minor Home Repair Assistance Program

For Program Year 2011, Table 1C reflects that the City had a vital objective regarding the Minor Home Repair Assistance Program. The City uses CDBG funds for this particular objective. Specifically, the City had the annual objective of assisting with fifteen minor repair projects including sweat equity projects annually or 75 over the five years. The actual accomplishment stood at 37 in 2011 which equates to over 246 percent of the annual objective for the 2011 Program Year.

This is the second year that the City has surpassed the annual goal by a large margin for this specific objective. As a result, the City is currently ahead of schedule for this multi-year goal. This is a prudent course of action because natural disasters (floods, hurricanes) may practically impede the City from reaching its yearly goal for each and every year of the five year term. By increasing its rate early in the five year term, the City increases the likelihood that it will ultimately meet the multi-year goal in spite of any unanticipated obstacle such as a natural disaster that may imperil its progress for a period of time.

Clearly, the City of Bryan continued to perform at an ideal and exceptional level of performance with regard to this particular objective for 2011. CPD greatly appreciates your hard work and dedication and that of your staff with regard to this goal. CPD is extremely pleased with the City of Bryan's performance regarding this yearly and multi-year goal and greatly desires to see this level of performance (or at least at the 100 percent level) be replicated with respect to all of the City's annual goals for the five year period

Owner Occupied Rehabilitation

For Program Year 2011, Table 1C demonstrates that the City had an objective regarding owner occupied rehabilitation. The City utilizes both CDBG and HOME funds for this

objective. Specifically, the City had the annual objective of rehabilitating three substandard housing units to standard condition annually or fifteen over the five year period. The actual accomplishment was only two owner occupied rehabilitation projects completed which equates to 66.7 percent of the annual objective for the 2011 Program Year. This is the second year in which the expected number of three was missed. Indeed, the anticipated number for the last two years combined was six but the actual number was only three or one half of the expected number.

Therefore, unfortunately, the City has fallen significantly behind in the first two years and will now have to exceed its performance in future years in order to make up for the deficit in production from the first two years. It is possible to make up for current deficits in future years by increasing production beyond that which was originally the goal for future years. However, that is not an optimal way of proceeding as it means that benefits for beneficiaries shall be delayed.

Integrated Disbursement and Information System – PR03

It was noted during the review that the City of Bryan generally does provide pertinent information in the accomplishment and description fields of IDIS as demonstrated on the PR03 Report for Program Year 2011. The one lone exception that was noted was Activity 844 on page 61 which had no information in the description field. This was probably an oversight. Please continue to ensure the accuracy, completeness, and relevancy of the information in IDIS. The IDIS system is an absolutely critical system which is crucially relied upon to determine the status and progress of the CDBG Program.

Program Progress

The paramount importance of the efficient and effective stewardship over taxpayer funded activities by the City of Bryan cannot be overemphasized. Ideally, it is far preferable for a city to achieve each of its yearly goals rather than having to catch up and greatly increase the level of performance in the last year or two years of a five year cycle. HUD acknowledges the accomplishments made regarding the Minor Home Repair Assistance Program and looks forward to the City meeting and/or exceeding all of its objectives both on an annual and multi-year basis. However, in those instances where goals have not been met, the City is encouraged to correct, as appropriate, any conditions that may be a hindrance to meeting its yearly goals.

CPD recognizes Bryan for having no red flags in its HOME Program as reflected on the report dated 9/30/2012. We appreciate the staff's efforts in making this significant achievement possible. A copy of the report is enclosed for easy access.

It has come to CPD's attention that the staff of Bryan has shared its valuable experience and has mentored the staff of another PJ. We commend the capable and accomplished staff of the City of Bryan for this demonstration of leadership.

Civil Rights

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in all HUD-assisted programs. Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex or national origin. Title VIII was amended in 1988 by the Fair Housing Amendments Act, which expanded the coverage of the Fair Housing Act to prohibit discrimination based on disability or on familial status (presence of a child under the age of 18 and pregnant women). In the HUD workforce, Fair Housing and Equal Opportunity (FHEO) staff has the primary responsibility of ensuring compliance with fair housing laws. With reference to fair housing, we bring to your attention that Jeff Carlock, Equal Opportunity Specialist, has been assigned as Bryan's FHEO contact pertaining to HUD fair housing issues. Mr. Carlock of FHEO may be reached directly at 713-718-3182. Mr. Carlock stated that "We have reviewed the subject documents in accordance with 24 CFR Part 91.520 and have found it acceptable. The following items need to be noted:

- No funding for Fair Housing activities"

CPD encourages direct communication between the City and FHEO in order that the City might fully ascertain FHEO's expectations in detail and be in full compliance with FHEO's expectations for the City for 2011 and future years.

CDBG - Foreclosed Home

The foreclosed home in question is located at 502 W. 17th Street Bryan, Texas (the subject property). The City of Bryan provided a CDBG loan of \$67,951.67 in reference to the subject property to the then owners, Bertis and Lois Pittman, to pay for the reconstruction.

With regard to the use of real property involving the CDBG program, the Code of Federal Regulations (CFR) found at 24 CFR 570.505 sets forth the requirements and responsibilities for such activities. With respect to the applicability of 24 CFR 570.505, it states the following:

The standards described in this section apply to real property within the recipient's control which was acquired or improved in whole or in part using CDBG funds in excess of \$25,000. These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of an entitlement recipient's participation in the entitlement CDBG program or, with respect to other recipients, until five years after the closeout of the grant from which the assistance to the property was provided.

The City of Bryan was the purchaser (successful bidder) of the subject property at the foreclosure sale on December 7, 2010 for \$40,000.00. Subsequently, Rose Jones, Judge over Precinct 4 of Brazos County, ordered that the City of Bryan have possession of the subject property as of February 1, 2011.

However, it is also imperative that the City adhere to the federal requirements regarding the use of the funds pertaining to the CDBG program including (but not limited to) the Housing and Community Development Act of 1974. CPD learned that the Pittman household's income was calculated to be less than 80 percent of the Area Median Income in February of 2002. Thus, it is clear that the \$67,951.67 in CDBG funds were originally being utilized for the benefit of low- and moderate-income persons. However, the ownership and possession of the subject property is no longer benefitting the Pittmans. Indeed, the HUD monitor, Robert Beck, visited the subject property during his monitoring visit on the week of June 13-17, 2011. He observed that the property was vacant and therefore not benefiting any person (much less a low or moderate income person). Because the property has been vacated and went into the ownership of the City, it ceased to fulfill any of the national objectives of the CDBG program.

Therefore, the use of the property clearly changed from one of benefitting a low and moderate income person (the Pittman household) to being owned by the City of Bryan and not fulfilling any of the three national objectives of the CDBG program. As a result, the other portion of 24 CFR 570.505 pertains to the subject property.

(a) A recipient may not change the use or planned use of any such property (including the beneficiaries of such use) from that for which the acquisition or improvement was made unless the recipient provides affected citizens with reasonable notice of, and opportunity to comment on, any proposed change, and either:

(1) The new use of such property qualifies as meeting one of the national objectives in Sec. 570.208 (formerly Sec. 570.901) and is not a building for the general conduct of government; or

(2) The requirements in paragraph (b) of this section are met.

(b) If the recipient determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (a)(1) of this section, it may retain or dispose of the property for the changed use if the recipient's CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property.

(c) If the change of use occurs after closeout, the provisions governing income from the disposition of the real property in Sec. 570.504(b)(4) or (5), as applicable, shall apply to the use of funds reimbursed.

(d) Following the reimbursement of the CDBG program in accordance with paragraph (b) of this section, the property no longer will be subject to any CDBG requirements.

The requirement found in (a) involves providing affected citizens with reasonable notice and the opportunity to comment on proposed changes. With regard to the requirement found in (a), you informed CPD during the program year that the City has already completed the actions that follow:

Posted a notice (November 11, 2011) in the legal section of the Bryan-College Station Eagle newspaper soliciting citizen comments concerning the use of the foreclosed property located at 502 W. 17th Street to satisfy the requirements of 24 CFR 570.505 and announcing a public hearing. The comment period was from November 11, 2011 through November 29, 2011. The legal notice was also posted at the City's Municipal Office Building.

Provided a Memo to Bryan City Council members regarding the requirements of 24 CFR 570.505, and provided them an opportunity to encourage their constituents to attend the public hearing and/or provide comments regarding the use of the property.

Contacted citizens who have expressed an interest in the property to give them an opportunity to attend the public hearing and/or provide comments.

Convened the Community Development Advisory Committee (CDAC) to host a public meeting and public hearing regarding the foreclosed property. The meeting was held at the Neal Recreation Center, which is within close proximity to the foreclosed property, provided information on the Department's housing programs, provided a summary of all potential options for the property, and provided information on the requirements of 24 CFR 570.505.

However, CPD has grown concerned that so much time has elapsed with the property remaining vacant. The latest update that CPD has received from the City of Bryan regarding the

subject matter occurred on February 7, 2013 via electronic mail. It is CPD's understanding that the City is working with a low- or moderate-income person and anticipates a final loan on the subject property for a closing in February of 2013. Therefore, within 30 days of the date of this letter, please provide the Houston Field Office with a letter and documentation demonstrating that the City of Bryan has fully complied with the requirements of 24 CFR 570.505 with regard to the subject property.

HOME Program - Open Activities

The Outcome Performance Measurement System for CPD's formula programs, and the modernization of IDIS has brought renewed focus on the quality and timeliness of IDIS data input by participating jurisdictions (PJ) and other grantees. PJs must report HOME project completion and beneficiary data for initial occupants timely by entering it in IDIS on a regular basis, and periodically review the status of all projects in the system to identify those that need to be cancelled. The HOME final rule at 24 CFR 92.502(d)(1) requires PJs to enter project completion information into IDIS within 120 days of making a final draw for a project. Failure to do so is a violation of this provision and of 24 CFR 92.504(a), which states that PJs are responsible for managing day-to-day operations of its program. The final rule also states that HUD may suspend further project set-ups or take other corrective actions, if satisfactory project completion data is not provided. Further, if a PJ fails to complete activities in final draw within 120 days, HUD may suspend the PJ's ability to commit HOME funds or take other corrective actions. For more information on this topic see HOMEfires v.6, n.1, August 2005 found at the link that follows:

<http://www.hud.gov/offices/cpd/affordablehousing/library/homefires/volumes/vol6no1.cfm>

In addition, failure to enter project completion data negatively impacts a PJ's score on several HOME Performance SNAPSHOTs indicators, understating actual accomplishments and reducing the PJ's statewide and national overall rankings. The frequent failure of PJs to timely enter completion and beneficiary data results nationally in underreporting of actual HOME Program accomplishments to Congress and the Office of Management and Budget (OMB) and may negatively impact future funding for the program.

PJs should have effective quality control systems in place in order to ensure that required project completion information and beneficiary data are complete, accurate and entered into IDIS at least monthly. Project completion information, including beneficiary data for any occupied units, should be entered into IDIS as soon as it is available. Beneficiary data for units that are vacant at the time of project completion should be entered as they are obtained. For homeowner rehabilitation projects, project completion data, including beneficiary data, should be entered as soon as the rehabilitation and final inspections are completed. For homebuyer projects (particularly those involving downpayment assistance with no construction activity), project completion and beneficiary data can often be entered at the time that a final draw is made, as total costs, other financing sources, and occupant information are known at that time. If this is not possible, project completion information should be entered immediately after the closing.

Completing a project requires changing the status code in IDIS. Instructions for completing projects can be found in Chapter 4 of the IDIS Reference Manual available online. Please note that PJs must repay HOME funds invested in projects that have been terminated or will not be completed within a reasonable timeframe.

Therefore, it is crucial that PJs improve their performance reporting both to comply with HOME regulations and to ensure accurate individual and national reporting on HOME accomplishments. To assist PJs in identifying projects that may need to be cancelled or projects that remain in "open" status despite their having been completed, CPD will be posting a report, the HOME PJs Open Activities Report, on its website each month. CPD strongly recommends that you frequently access this report and take appropriate action as per the guidance discussed above. CPD has begun publishing the report, HOME PJs Open Activities Report, on the internet at the link that follows: <http://www.hud.gov/offices/cpd/affordablehousing/reports/open/>

Please be reminded that major changes occurred with regard to HOME functionality in IDIS beginning in April of 2012. These crucial changes may substantially impact the ability of the City to perform certain critical functions in IDIS in the future. Therefore, we urge the City to take appropriate actions to prevent future impediments or practical barriers to the City's ability to set up new activities or commit funds to activities.

Please take careful note that the new changes will mean that PJs with at least one HOME activity in final draw in IDIS will not be able to set up new activities or commit funds to activities (other than those in final draw for more than 120 days) until the activities identified as being in final draw status for more than 120 days are either completed or otherwise taken out of final draw status.

Please be mindful of the fact that PJs having at least one HOME activity with some amount disbursed, but no disbursements in the previous 12 months will need to enter a reason for the lack of timely disbursements into IDIS along with a narrative explanation of the status of the project. In the event of a failure by a PJ to enter the reason for the lack of timely disbursements and a narrative explanation, the status will result in the inability of that PJ to set up new activities or commit funds to HOME activities.

In addition, activities falling into one or more of the abovementioned categories (as well as activities considered involuntarily terminated before completion) will be identified in IDIS and on the PR48 *Home Open Activities Report* both 90 days and 30 days prior to the deadline. There were also other important IDIS modifications for HOME to begin in April, 2012 including changes to the program income functionality, activity completion date edits, and additional commitment and CHDO certifications for 2012 activities. Activities that fall into one or more of these categories will be identified in IDIS and on the new PR48 *HOME Open Activities Report* both 90 days and 30 days prior to the deadline.

FY 2012 HOME funds used for projects not completed within four years of the commitment date, as determined by a signature of each party to the written agreement, must be repaid to the HOME Investment Trust Fund. For the purpose of complying with this requirement, completion shall mean that all necessary construction work has been completed and the project has received a certificate of occupancy or other local certification indicating that construction or rehabilitation has been completed and the project is ready for occupancy. For owner-occupied rehabilitation projects, completion means that all rehabilitation work has been completed, the PJ or its designee has performed a final inspection, and the homeowner has accepted the work, as indicated by a final sign-off.

PJs should evaluate the readiness of each project before setting it up in IDIS as a HOME activity under a 2012 Consolidated Plan/Annual Action Plan Project to ensure compliance with the four-year completion requirement. PJs should establish a process to track a project's four-year completion deadline based on the date of the executed written agreement. Reviewing the reports HUD posts each month on the HOME Reports website will also assist in determining when PJs may need to take action. HUD may grant a one-year extension of the completion deadline to HOME projects that have not progressed due to circumstances beyond the PJ's control.

HOME Program - Conversion of Homebuyer Units to Rental Units

Any FY 2012 HOME homebuyer units that have not been sold to an eligible homebuyer within six months of completion must be converted to a HOME rental unit that complies with all HOME requirements for the period of affordability applicable to such rental units. This requirement is applicable to all HOME activities set up in IDIS under 2012 Consolidated Plan/Annual Action Plan Projects.

HUD will consider a homebuyer unit "sold" if the PJ has a ratified sales contract for the unit within six months of completing project construction. For the purpose of complying with this requirement, completing project construction shall mean that all necessary construction work has been completed and the project has received a certificate of occupancy or other local certification indicating that construction or rehabilitation has been completed and the project is ready for occupancy. (Using IDIS data, HUD will identify HOME homebuyer activities set up under 2012 Consolidated Plan/Annual Action Plan Projects in IDIS that are in final draw and those HOME homebuyer activities with more than 90 percent of the HOME funds drawn yet no draws in the past six months. Reports identifying these activities will be posted monthly on the HOME Reports website (<http://www.hud.gov/offices/cpd/affordablehousing/reports/>).

PJs must monitor all HOME homebuyer activities set up under 2012 Consolidated Plan/Annual Action Plan Projects in IDIS to ensure that there is a ratified contract for sale within six months of completing construction. Units in HOME homebuyer projects that do not have a ratified contract for sale within six months of construction completion must be converted to HOME rental units and operated in

compliance with all applicable rules. Accordingly, HUD recommends that PJs develop or modify existing policies and procedures that take this possibility into account, and identify potential partners in the community with the capacity to manage rental units if this conversion becomes necessary.

CDBG-R

Notice CPD 2012-04 provides closeout instructions. It was issued February 13, 2012. It can be accessed at the link below; once open, please click on the link beside 2012-04:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/notices/cpd

Instructions for CDBG-R closeout can be found on pages 8-10 of the notice at the link above and the closeout certification forms, checklists and agreements may be found on pages 25-32. Grantees need to complete all activities and submit a final report in FederalReporting.gov before they submit these forms.

HUD expects that all CDBG-R grants should be ready for grant closeout no later than six months after the expenditure deadline, (March 31, 2013). A CDBG-R grant cannot be closed out until all activities comply with national objective requirements. Therefore, grantees should ensure that all activities will have met national objective criteria requirements by March 31, 2013 and these should be entered into IDIS for CDBG-R activities.

Audits

OMB Circular A-133 Audits of States, Local Governments and Non-profit Organizations requires Federal award recipients to have independent audits performed, if they expend \$500,000 or more in Federal funds during their fiscal year. As the City of Bryan did exceed this threshold, an independent audit was conducted by Weaver and Tidwell, L.L.P. The results of this audit revealed no findings or concerns related to the HUD Federal award for this fiscal year.

Conclusion:

There are a few areas in which improvements can be made by the City. Please focus on improving the City's CPD programs in the areas outlined in this letter. However, a general conclusion may be made at this point in time regarding the City's performance.

In summary, based on reviews by the Houston staff, the following general determinations have been made concerning the City of Bryan's performance during the 2011 Program Year:

1. The City has carried out its program substantially as described in its Consolidated Plan submission;
2. The Consolidated Plan submission as implemented generally complies with the requirements of the Housing and Community Development Act and other applicable laws and regulations; and

3. The City has the continuing capacity to carry out the approved program in a timely manner.

Public Access

This report is intended to be shared with the public. You may provide copies to interested persons such as the news media, members of local advisory committees, and citizens attending public hearings. We also request that you provide a copy of this letter to the Independent Public Accountant who performs the single audit of the City in accordance with OMB Circular A-133.

Please recognize that the comments and conclusions made in this letter are subject to a 30-day review and comment period by the City. We may revise this letter after consideration of the City's views and will make the letter, the City's comments and any revisions available to the public within 30 days after receipt of the City's comments. Absent any comments by the City, this will be considered the final letter on this subject.

Again, we congratulate the City of Bryan on those accomplishments achieved during the past year and look forward to seeing improvement in those areas that are lacking or falling short of established goals. If you have any questions regarding this letter, please contact me or call Robert Beck, Community Planning and Development Representative at 713-718-3119.

Sincerely,



Sandra H. Warren
Director, Community Planning and
Development

Enclosure