State of New York
Office of the State Comptroller
Division of Management Audit

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL

SELECTING HOUSING PROJECTS FOR FUNDING

REPORT 95-S-119

H. Carl McCall

Comptroller

State of New York
Office of the State Comptroller

Division of Management Audit

Report 95-S-119

Mr. Joseph Lynch
Acting Commissioner
Division of Housing and Community Renewal
Hampton Plaza
38-40 State Street
Albany, NY 12207

Dear Mr. Lynch:

The following is our audit report on the Division of Housing and Community Renewal's management practices in identifying and selecting appropriate housing projects for funding.

This audit was performed pursuant to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution and Section 8, Article 2 of the State Finance Law. Major contributors to this report are listed in Appendix A.

Office of the State Comptroller
Division of Management Audit

March 28, 1997

Executive Summary

New York State
Division Of Housing And Community Renewal
Selecting Housing Projects For Funding

Scope of Audit

The Division of Housing and Community Renewal (DHCR) is charged with supervising, maintaining and developing decent, affordable housing for low and moderate income individuals and families in New York State. To this end, DHCR approves and administers various loan and grant funds for the development of housing. Among the various housing programs administered by DHCR are the Low Income Housing Trust Fund, Low Income Housing Tax Credit and Federal HOME Investment Partnership programs.

DHCR approves and administers funding through its Unified Funding Process, which is the method by which organizations, municipalities, and individuals apply for capital project funding, technical assistance, seed money and tax credits. Applications undergo a series of reviews by DHCR technical staff, the extent of which depends upon the specific program and the type of assistance requested. Although applications are accepted continuously, DHCR divides its funding cycles into a series of "rounds" organized around specific dates when applications are due. Through the first five rounds of the Unified Funding Process, which had application due dates between January 1992 and June 1994, DHCR had $217 million available for awards under these programs.

Our audit addressed the following question about DHCR's implementation of the Unified Funding Process for the period January 1, 1992 through February 29, 1996, with specific emphasis on the first five rounds:

- Does the Unified Funding Process result in the selection of housing projects which best address the housing needs of New York State?

Audit Observations and Conclusions

We found that DHCR's Unified Funding Process does not necessarily ensure that projects selected for funding best meet the housing needs of New York State. DHCR does not have a process to identify the specific housing priorities of individual communities. As a result, DHCR is unable to determine whether applications address a community's greatest housing needs. In addition, DHCR does not always adhere to its established criteria for selecting projects. In some cases, projects are awarded funding despite serious deficiencies identified by technical staff.

There is a great demand for funds to address the unmet housing needs of New York State. For example, DHCR records indicate that in fiscal year 1992-93, more than 140 applications were submitted requesting more than $96 million of Federal HOME program funds, although only $19 million was available.

As a result, only 64 applicants were selected for funding. Since the demand for funding greatly exceeds the available funds, applications which provide the greatest benefits should be identified and funded. However, DHCR has not utilized data to prioritize the housing needs of the localities within New York State, and is therefore unable to determine which applications best address the greatest housing needs. DHCR should have a mechanism in place which, after considering statutory and eligibility requirements, identifies the priority housing needs of each locality, and evaluates each application in respect to the application's ability to address those priority needs. (See pp. 5-9)

We also found that DHCR has awarded funding to projects that did not meet its criteria for selection (e.g., financially feasible, marketable, and viable in the long run). In total, we identified 11 projects that were awarded more than $13.3 million, despite the fact that DHCR's technical staff recommended that they not be funded. In each case, we could find no justification in DHCR's files for selecting these projects over others that had been recommended by the technical units. For example, one project was awarded funding although DHCR's technical staff stated that the project was not feasible. These staff found that the project did not meet established criteria because the project's development costs exceeded DHCR's cost guidelines by more than $98,000 per unit. In addition, although the population that the applicant identified as needing the proposed housing was located in southern Rockland County, the application proposed housing in a resort area of Sullivan County, more than 50 miles away. Despite these shortcomings, DHCR awarded $1.2 million to the project in November 1994. Since that time, there has been no progress in developing this project, because the applicant has not resolved these issues. Although DHCR eventually terminated this award in May 1996, in the interim the $1.2 million was unavailable for other projects which had been found to be feasible at the time the funding award was made. DHCR should adhere to its criteria for selecting projects, and document the reasons for any selections which do not adhere to the established criteria. (See pp. 11-14)

Comments of DHCR Officials

DHCR officials disagree with the report recommendations and the basic premise of the report, that applications should be evaluated and selected for funding based on the greatest need of the locality in which the project is proposed. Instead, they indicate that they are required to evaluate and select projects which meet statutory requirements and serve a demonstrated need, and to attempt to identify and prioritize the housing needs of localities throughout the State would be infeasible and be considered an intrusion into local government affairs. They also indicate that the new unified funding process will better document those instances where a project which is considered to meet an unanticipated need is recommended for funding.

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Introduction

Background

The Division of Housing and Community Renewal (DHCR) is charged with supervising, maintaining and developing decent, affordable housing for low and moderate income individuals and families in New York State. To this end, DHCR approves and administers various loan and grant funds for the development of housing through its Office of Community Development (Office). Among the various housing programs administered by the Office are the Low Income Housing Trust Fund, Low Income Housing Tax Credit and Federal HOME Investment Partnership (HOME) programs.

The Office approves and administers funding through its Unified Funding Process. The Unified Funding Process is the method by which organizations, municipalities, and individuals apply to the Office for capital project funding, technical assistance, seed money and tax credits. Applications undergo a series of reviews by DHCR technical staff. The extent of these reviews depends upon the specific program and the type of assistance requested. Although applications are accepted continuously, DHCR divides its funding cycles into a series of “rounds” organized around specific dates when applications are due. Through the first five rounds of the Unified Funding Process, which had application due dates between January 1992 and June 1994, DHCR had $217 million available for awards under these programs. Although initial funding decisions had been made, as of the end of our review (February 1996), DHCR was still reviewing certain aspects of some of the projects.

The Unified Funding Process has two distinct procedures for evaluating applications. Certain funding sources, such as the Low Income Housing Tax Credit program, are awarded through an "open window" process. In this process, applications are not competitively reviewed by DHCR technical staff, but are evaluated to determine if the project is eligible and feasible. DHCR makes these funding awards throughout the year. We have issued separate reports, 95-D-29 and 95-S-70, pertaining to the Low Income Housing Tax Credit program and did not include this program and the open window process in this audit.

Other capital funding sources are awarded through a competitive application review process, in which applications are received, batched and competitively reviewed. The Low Income Housing Trust Fund and HOME funds are awarded in this manner. The competitive review process includes a review of the application for completeness and eligibility as well as a scoring of the application. Applications that score competitively are subject to detailed feasibility reviews by DHCR's technical units. These technical units can include the Office of Legal Affairs, the Design Services Unit, the Underwriting

Unit, and the Program Management Unit. They review the application to determine the feasibility of the proposed project from a legal, design, financial and development perspective.

At the culmination of these feasibility reviews, DHCR's technical units hold a Project Review Meeting during which they discuss the results of the various feasibility reviews and reach a decision as to which of the competitive applications to recommend for funding. DHCR's executive staff select the projects to fund based on the results of the feasibility reviews, priorities identified by DHCR, geographic distribution and the availability of funds. Final approval of the selection rests with the Commissioner.

Audit Scope, Objective and Methodology

We audited DHCR's capital project funding activities related to the competitive application review process for the period January 1, 1992 through February 29, 1996, with specific emphasis on the agency's implementation of the first through fifth rounds of its Unified Funding Process. The primary objective of our performance audit was to determine whether DHCR's competitive review and funding process resulted in identifying and selecting projects which would best address the housing needs of New York State. To accomplish this objective, we reviewed and evaluated DHCR's operating policies and procedures, interviewed appropriate DHCR central office and regional office staff, and reviewed select project case files and other documents which support the funding decisions made.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations of DHCR which are included within our audit scope. Further, these standards require that we understand DHCR's internal control structure and its compliance with applicable laws, rules and regulations that are relevant to DHCR's operations which are included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions, and recommendations.

We use a risk-based approach when selecting activities to be audited. This approach focuses our audit efforts on those operations that have been identified through a preliminary survey as having the greatest probability for needing improvement. Consequently, by design, finite audit resources are used to identify where and how improvements can be made. Thus, little audit effort is devoted to reviewing operations that may be relatively efficient or effective. As a result, our audit reports are prepared on an "exception basis." This report, therefore, generally highlights those areas needing improvement.

Response of DHCR Officials to Audit

A draft copy of this report was provided to DHCR officials for their review and comment. Their comments have been considered in preparing this report and are included in Appendix B.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Division of Housing and Community Renewal shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

Identification of Housing Priorities

DHCR is required by statute to allocate some of its capital funding in a specified manner. For example, in the Low Income Housing Trust Fund program, projects should be economically feasible and serve a substantial number of low income persons. No more than one-half of these funds may be awarded to a single municipality, no more than one-third of the funds may be for projects in a city of one million or more population, and no more than one-third of the funds may be for projects in areas surrounding cities of one million or more population. For the HOME program, projects should serve a demonstrated need and leverage private investment, and 15 percent of the total available funds are to be awarded to Community Housing Development Organizations, with 80 percent of the remainder to be awarded to projects in localities which do not receive HOME funds directly from the Federal government (nonparticipating jurisdictions). Within these parameters, funds are awarded to specific projects based on criteria developed by DHCR.

There is a great demand for funds to address the unmet housing needs of New York State. For example, DHCR records indicate that in the 1992-93 fiscal year there were more than 140 applications requesting more than $96 million of HOME funds, although only $19 million was available. As a result, only 64 of the 140 applicants were selected for funding. Overall, from January 1992 through the application due date for the fifth round of funding in June 1994, DHCR received 829 funding applications, but only 327 received an award.

Since the demand for funding greatly exceeds the available funds, applications which provide the greatest benefits should be identified and funded. To accomplish this, DHCR should have a mechanism in place that identifies the priority housing needs of each locality and should evaluate each application in respect to its abilities to address those priority needs. DHCR officials responded that DHCR is responsible for addressing statewide priorities, not individual locality needs. Yet, according to a report on housing strategies prepared for the Federal Department of Housing and Urban Development, a critical step in developing a housing strategy is to decide who needs assistance most, and how available resources should be targeted.

DHCR does not have the necessary information to make this evaluation and determination because the agency does not use data to prioritize the housing needs of the individual localities within New York State. DHCR officials responded that they believe that it is simply not feasible, realistic or effective to obtain this data. Without this data, however, DHCR is unable to determine whether an application addresses the highest priority of a particular locality.

We found that, pursuant to the National Affordable Housing Act of 1990 (Act) which established the HOME program, DHCR is required to identify the

housing needs of the State in its Comprehensive Housing Affordability Strategy (CHAS). According to the Act, the CHAS should describe the State's housing needs for very low income, low income, and moderate income families, and specify the needs of various types of households, such as the elderly, single persons, large families, and persons with AIDS. A description of the nature and extent of homelessness and the significant characteristics of the housing market should also be included in the CHAS. Although the CHAS does not apply to all of DHCR's funding programs, it is the only document prepared by DHCR which attempts to identify the State's housing needs.

Our review of DHCR's 1992-96 CHAS indicates that the housing needs vary in different locations of the State. For example, the 1992-96 CHAS indicates that the greatest percentage of elderly households living in inadequate units (outside of New York City) is in the Eastern (Albany) region, while the Rochester region has the lowest percentage of elderly households living in inadequate units. The CHAS also indicates that the greatest percentage of overcrowded rental units (outside of New York City) is in the Rochester region, while the Downstate Suburban region has the lowest percentage of overcrowded rental units. As a result, it is apparent that the housing priorities of a particular locality may significantly differ from the overall statewide needs.

DHCR notifies potential developers of its overall housing priorities through its Requests for Proposals (RFPs). DHCR officials then evaluate how well each resulting application addresses these housing needs through scoring questions used to competitively rank the applications. Although the RFPs specify that proposed housing should be based upon the locality's needs, which are consistent with the CHAS, DHCR develops both the RFPs and the scoring questions for housing needs on a statewide basis. Since the specific needs that DHCR identifies in the RFPs are not always the same as those identified in the CHAS, DHCR may not be identifying applications which best meet the housing needs of a particular locality.

For example, the 1992-1996 CHAS identifies the statewide housing priorities as very low income households, renters, and the elderly, and indicates that the greatest area of need generally exists in New York City. The specific housing problems discussed in the CHAS pertain to inadequate units, overcrowding, homelessness and high rental costs. In contrast, the RFPs have generally identified different priorities, including populations with special needs, such as the mentally ill, and housing developed in conjunction with specific State initiatives, such as projects located in Economic Development Zones and specific Neighborhood Based Alliance communities.

We also found that the scoring criteria used by DHCR do not place a high emphasis on housing needs. Instead, other factors, such as the likelihood that a project can be completed quickly, receive greater emphasis. For example, in the fifth funding round, Low Income Housing Trust Fund applications could

receive a maximum score of 110 points. Yet, only 15 of these points (14 percent) related to the application's ability to address the needs of large families or homeless populations and only 10 points (9 percent) related to very low income households and individuals on waiting lists to obtain housing. The majority of the scoring criteria instead addressed project readiness (25 points), cost containment (20 points), financing sources (25 points), and other issues (15 points).

DHCR officials responded that the factors used in the scoring criteria are based on statutory requirements of the funding programs. They indicate that selection criteria are clearly defined in State statutes for the HOME program and include the extent to which the proposal will serve a demonstrated need; the degree to which the proposal leverages private investment; the likelihood of successful project completion; and the type of assistance requested. Statutory criteria for Low Income Housing Trust Fund indicates that preference in the awarding of contracts shall be given to economically feasible projects which contain a substantial number of persons of low income. While this is correct, nothing in these statutes precludes DHCR from establishing additional criteria or factors which may be considered in making funding awards after all of the required conditions have been met by the applicant.

In 1996, DHCR revised its Unified Funding Process to place increased emphasis on projects which address low income households. The revisions also pertain to the level of detail that applicants must provide, procedural changes in the review of applications, and the philosophy of DHCR as a funding entity. DHCR officials emphasize that the revisions address the policy objective of assisting the greatest number of lowest income households for the longest period of time, through the limited funds available. However, the revised process still does not enable DHCR to identify which applications best meet local housing needs. According to the Federal Department of Housing and Urban Development, this is a critical step in the development of a housing strategy when limited funds are available. As a result, DHCR has still not developed a concerted strategy for ensuring that the projects which meet the highest priorities are awarded funds.

DHCR officials state that, in order to identify the greatest needs in each locality, they would have to require each community in the State to complete a comprehensive master plan. They believe this effort would be a costly and inappropriate mandate, particularly for small communities that do not regularly apply for and receive DHCR funding. Without such plans, officials feel that it is not possible to evaluate funding applications for their ability to address an individual community's particular housing priorities.

We agree that a comprehensive master plan would be onerous for many municipalities. However, we do not believe that this is the only option available to DHCR. Data currently used by DHCR to develop its CHAS can provide additional insight into the degree of various housing needs in specific

localities throughout the State. For example, existing data shows that while the suburban Town of Bethlehem has a small very low income population, about 74 percent of that population needs affordable housing. This compares to 66 percent in the City of Albany and 26 percent in Clinton County. Among these three localities, almost half of the low income elderly population of the Town of Bethlehem has housing problems compared to about 40 percent in both the City of Albany and Clinton County. Information such as this is already available to DHCR at no additional cost to the communities, and could be used to help evaluate applications submitted.

DHCR officials disagree that this data is of adequate benefit in evaluating funding applications because there is a limited amount of time to evaluate the applications and, since the data is not likely to be available for all applicants, it would result in an uneven and unequitable evaluation of applications. We believe that this data can be beneficial to DHCR in making its funding decisions. The great demand for funding coupled with the limited funds available, means that there are projects that are determined to meet all funding criteria, but are still unable to be funded. There is currently no process to objectively decide which of these projects should receive funding, especially in light of the differing housing needs in the various localities throughout the State. As we attempt to demonstrate, it is possible for DHCR to evaluate whether the need for very low income housing in one area is greater than the need for low income elderly housing in another area. Further, as cited in the Federal Department of Housing and Urban Development study, this evaluation is critical to developing an effective housing strategy. DHCR's concerns that there is limited time to evaluate applications and that data may not be available for all applicants are confusing to us, particularly since a significant amount of data is already available and maintained by DHCR.

DHCR officials indicate that they try to ensure that funding is distributed equally among the applicants, and that they cannot exclude any groups from funding opportunities. By being more flexible regarding how applications are evaluated and funding decisions are reached, DHCR maintains greater discretion to ensure this happens. However, this discretion may come at a price since it does not necessarily ensure that funds are used as effectively as possible to address the needs of either the State or the communities in which development occurs.

Recommendations

1. Utilize data which identifies and prioritizes the housing needs of the localities throughout the State.

2. Evaluate applications for funding based on their ability to address the greatest housing priorities for the locality proposed.

   (DHCR officials responded that they disagree with the premise that applications should be evaluated based on the greatest need of the locality, and that they should collect data needed to make that judgment. They indicate that statutory requirements, equitable distribution of resources to meet needs throughout the State, feasibility, cost effectiveness, timeliness, and meeting a need are important concerns. We agree that these are important concerns which should be, and currently are, considered in making project funding decisions. However, once all of the projects that address these concerns have been identified, DHCR should use data that identifies and prioritizes local housing needs to further evaluate potential projects. This is particularly true when there is not enough funding to cover all worthy projects.)

Feasibility Reviews

DHCR officials emphasize that they are responsible for ensuring that projects selected for funding are financially feasible, marketable and viable in the long run. These aspects of a project are determined during technical reviews. In order for DHCR to meet its responsibility, only projects that meet the above criteria should be funded. We determined, however, that there is potential for projects to receive funding despite the technical units' findings that the projects are not feasible. We identified 11 projects which DHCR approved for funding despite the fact that DHCR's technical staff recommended that these projects not be funded. We found no justification for selecting these projects over other projects deemed feasible by the technical units, nor any documentation in the project files as to why the funding decisions were made.

For example, one project was awarded funding although DHCR technical staff stated the project was not feasible. The staff found that the project's per unit development costs exceeded DHCR's cost guidelines by more than $98,000 per unit. In addition, the Underwriting Unit staff found that, although the population identified as needing the proposed housing was located in southern Rockland County, the applicant proposed to build housing in a resort area of Sullivan County, more than 50 miles away. Despite these deficiencies, DHCR awarded $1.2 million to the project in November 1994. From that time on, there was no progress in developing this project, because the applicant had not resolved the identified deficiencies. Although DHCR officials informed the applicant that they had until February 28, 1996 to submit a complete, acceptable application or the funding award would expire, this funding award was not terminated until May 1996. In the interim, the $1.2 million was not available for other projects which were found to be feasible at the time the funding award was made.

Another project had several identified shortcomings in its application, but was still awarded funding by DHCR. The Design Services Unit staff found that the proposed development costs were 126 percent above cost guidelines, causing the project to not be competitive with similar projects. In addition, the Underwriting Unit staff noted that there was inadequate documentation to support the financial feasibility of the project. This project was determined to be noncompetitive because of these deficiencies, and the developer was informed of this status in a letter dated September 30, 1994. However, in October 1994 DHCR awarded the project $1.4 million. According to DHCR officials, the developer did not correct these deficiencies until April 1996, and the project then proceeded to the construction stage.

The review of another project by the Design Services Unit staff found that the per unit development costs were $42,000 above the limits set by DHCR. In addition, the Underwriting Unit staff found that the project was not feasible,

since the applicant failed to provide documentation that there was sufficient market support. A letter was sent to the project developer in September 1994 stating that the project was noncompetitive due to the findings of the technical units. Less than a month later, DHCR awarded the project $3.5 million, although there is no documentation to indicate that it was feasible at the time. DHCR officials indicate that questions on this project were resolved and that, as of April 1996, the project was under construction.

In another example, a developer submitted an application for funding to DHCR that was subsequently found to be infeasible by the technical units based on reviews conducted between July 13 and August 22, 1994. The technical reviews determined that the application was poor and incomplete, and had many design problems. However, on September 30, 1994, DHCR approved the project for more than $1.4 million in funding. The project files contained no documentation that the previously identified problems had been resolved prior to the funding decision being made.

Our review of the project files also included two project applications for HOME funding for multi-site programs, which require only a limited technical review. Although the technical reviews of both applications determined that the programs were not feasible, the Directors of the applicable DHCR regional offices recommended the programs for funding to DHCR executive staff. Subsequently, a total of $425,000 was awarded by DHCR to these two programs. DHCR officials told us that many discussions were held between the regional office staff and the HOME program manager. However, we found no record of these discussions in the project files, no indication that identified problems in the applications were reconciled prior to awarding funds, and no other documentation to indicate why the technical review recommendations were not followed.

In total, we found that DHCR awarded $13.3 million to the 11 projects, although they had been deemed infeasible by technical units staff based on the criteria established by DHCR. There was no documentation to support why these projects were selected for funding by DHCR over other projects which were determined to be feasible by the technical units staff. As of May 1996, project files and DHCR officials indicated that five of the projects had been completed, two were under construction, one received limited funds to help complete its application and was subsequently denied further funding, two had not yet begun construction and one had its funding terminated in May 1996. As late as April 1996, four of the projects had not progressed beyond the award notification stage, although they were awarded funding between October and November 1994. During that period, the $4.7 million reserved to fund the development of these four projects was unused. This reserved funding cannot be expended until the projects are determined feasible and ready to proceed to the construction stage. DHCR guidelines indicate that projects should begin construction within 6 to 16 months of award notification and that construction should be complete 15 to 28 months after award notification.

The absence of documentation to support funding decisions which differ from the recommendations of the technical review units is not a new problem. An internal audit conducted by DHCR (report issued in August 1991) of the Unified Funding Process identified several control weaknesses, including undocumented decisions about the competitiveness of applications and instances where upper management overrode the eligibility decisions of lower level reviews. Although DHCR officials agreed then to document the basis for all funding decisions, this apparently has not been done.

DHCR officials told us that the technical reviews are part of a well-defined, formula-driven process which is designed to ensure that funded projects are successful, but that circumstances may occur which are outside of what was originally anticipated. These circumstances require that managerial and executive staff have the flexibility and capability to modify procedures and processes to include additional considerations in selecting projects for funding. Although we requested that DHCR officials provide us with the basis for selecting these 11 projects, they were unable to tell us what circumstances had changed or what additional factors were considered in their selection. DHCR officials added that it is unreasonable to expect that a commissioner will document his or her rationale for choosing a particular project. However, we do not agree. Instead, we believe it is even more important to document the rationale for decisions that are reached outside of the well-defined, formula-driven process than those decisions which are reached by following the process.

As indicated, DHCR records show that the demand for funding to develop housing exceeds the amount DHCR has available to award. Yet, in spite of these fiscal limitations, DHCR has awarded funds to projects that did not meet the funding criteria it has established. Making such funding decisions could result in worthy projects being overlooked for funding while less deserving projects receive the funding. In addition, by continuing to make such funding decisions, DHCR will be unable to implement its strategy for the next funding round, which is to provide the most, quality low-income housing opportunities that are possible within cost and time limitations. DHCR officials disagree that these projects were funded at the expense of other, more worthy projects. However, DHCR records show that other projects were determined to be feasible and could have been selected to receive the funding. For example, three projects requiring a total of $4 million in funding were deemed feasible by the technical units, but were placed on a waiting list due to insufficient available funding. As of May 1996, these projects had yet to receive funding from DHCR.

Recommendations

3. Adhere to the criteria designed to guide funding decisions so that projects selected for funding will most efficiently provide low-income New Yorkers with quality affordable housing opportunities in a timely and cost-effective manner.

   (DHCR officials responded that funding only those projects that meet DHCR's established funding criteria would preclude the Commissioner from meeting unanticipated needs.)

4. Document the reasons for any executive staff decisions to fund projects which do not adhere to established criteria at the time of funding award.

   (DHCR officials responded that they believe their new unified funding process will better document those instances where a project which is considered to meet an unanticipated need is recommended for funding.)

Major Contributors to This Report

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GEORGE E. PATAKI, GOVERNOR
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October 28, 1996

Mr. Frank Houston
Audit Director
Office of the State Comptroller
270 Broadway
New York, New York 10007

Dear Mr. Houston:

Attached is the Division of Housing and Community Renewal's response to the draft version of the Office of the State Comptroller's audit report on "Selecting Housing Projects for Funding" (Report 95-S-119).

The Division appreciates the opportunity to respond to the report.

Sincerely,

John J. Solodow
Internal Control Officer

Attachment

cc: J. Lynch
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L. Roehler
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Division of Housing & Community Renewal
Response to OSC Draft Report 95-S-119
Selecting Housing Projects for Funding

DHCR disagrees with the basic premise of the draft report, that applications should be evaluated based on the greatest need of the locality in which a project is proposed, and that we should collect the data needed to make that judgement. By placing too great an emphasis on *greatest local* need or *highest local* priority, the statutory requirements of the programs may be ignored. As we disagree with the basic premise of this audit, we also disagree with the recommendations. There is a wide variety of needs to be met, and DHCR is constantly examining its project selection processes and making improvements with each round.

Selection of Projects for Funding

Throughout the course of the audit and through the preliminary findings phase, we have discussed our concerns about this audit's assumptions. Many of the comments in this response were contained in our responses to the preliminaries and were echoed in meetings with the auditors. We strongly believe that the auditors do not fully understand or appreciate the breadth and depth of what is involved with the data collection effort, what it is that DHCR is responsible for addressing (statewide priorities, not individual locality need), or the significant differences between the types of funding programs DHCR administers.

The report is tainted by what appears to be a preconceived bias toward greatest local need or highest local priority. This is reflected in way that certain statements are presented. They infer that DHCR is not following criteria which, in reality, require something quite different than what the auditors infer.

In addition, examples of "excessive" costs are presented without any acknowledgement of the type of funding requested, the type of project, the profit status of the developer/ applicant (i.e., for profit or not for profit), or any of the other factors which affect the complex process of project selection.

While low incomes appear to be the greatest factor in the likelihood of households having housing problems, the State's strategy includes preserving and increasing the supply of affordable housing of all types and for all household income levels. Providing a range of opportunities to low- and moderate-income households everywhere serves the State's purposes. By serving mixed-income populations, limited public funds can be leveraged with more private funding and required project operating revenues are more achievable without the extensive subsidies necessary for projects housing only the extremely low-income residents.

Until June 30, 1996, housing programs were used to further the six priorities outlined in the 1994-1998 CHAS. As of July 1, 1996, the objectives of the Consolidated Plan became operative. There are a multitude of needs that require attention and variety of multi-purpose programs that when viewed as a whole attempt to address the State's housing priorities within the limits of dollars allocated to housing programs. No single program can completely

address a priority, and no one program can be viewed in isolation in relationship to the State addressing its CHAS priorities.

Those priorities were:

- To Increase the Supply of Decent and Affordable Housing
- To Address the Shelter, Housing and Service Needs of the Homeless Poor and Others with Special Needs
- To Increase the Ability of New Yorkers to Afford Rental Housing or Home-ownership Opportunities
- To Decrease the Number of Substandard Units
- To Prevent or Ameliorate Community Deterioration in Areas Where Low-Cost Housing is Located
- To Preserve Existing Units in Order to Ensure Their Continued Availability to Low- and Moderate-Income Persons.

The priorities, along with the statutory requirements, drive the selection process.

Selection criteria are clearly identified in State statutes as follows:

HOME - "the extent to which the proposal will serve a demonstrated need; the degree to which the proposal leverages private investment; the likelihood of successful project completion...; and the type of assistance requested." And, as the report notes, there are geographic distribution requirements.

HTF - "preference in the awarding of contracts shall be given to economically feasible projects which contain a substantial number of persons of low income..."

Neither program requires that the selection of projects meet the greatest housing need of the locality in which the proposed project is located. Projects selected under HOME and HTF meet the programs' statutory requirements as well as the priorities outlined in the CHAS and those established by Governor's initiatives. Need is implicit in these programs; *greatest local* need is beyond the requirements.

The auditors believe that DHCR should obtain data that identifies and prioritizes the housing needs of localities throughout the State. We believe this is simply not feasible, realistic or effective. The resources which would be required just within DHCR to do this far exceeds what is available, in addition to the need for on-going cooperation from all of the localities involved. Currently there exist no practical and effective data collection process for continuous updating of the U. S. Census and supplementing it with local factors affecting housing needs. There is no common basis to determine need below the county level on an annual basis.

DHCR does not have the authority to establish priorities for the localities. Without a statutory mandate to evaluate housing need in a specific manner for the respective political subdivisions of the State any such action by DHCR/HTFC could be considered an intrusion into local government affairs. DHCR will have to rely on the applicant and local communities to gather updated information and assign their own priorities should they choose to do so.

We agree that applications which provide the greatest benefits should be identified and funded, given statutory requirements and an equitable distribution of resources to meet needs throughout the State, and our process does that. However, to do this, the feasibility, cost effectiveness, timeliness and meeting *a need* are important concerns. Also, the practicalities of sponsors and resources generally dictate which local priorities are addressed. DHCR/HTFC has included in the application process Community Needs with criteria relating to housing needs [serving lowest income and affordable housing cost], demonstrating where those needs fit into a CHAS or consolidated plan, as well as cost effectiveness and timeliness.

We disagree with the auditors' contention that DHCR has still not "developed a concerted strategy for ensuring that the projects which meet the highest priorities are awarded funds" as it overlooks the policy objective of assisting through limited funds available, the greatest number of lowest income households for the longest period of time. DHCR has in fact adopted a policy matrix which pursues cost effective use of program resources within a context of response-driven evaluations of local community needs. The current rating process provides the highest scores to projects which provide affordable housing to the lowest income households for the longest period at the lowest cost to the State; are integral to a strategy to meet identified community needs; and can be developed in a timely manner.

We believe our process is consistent with the intent and criteria of the statutes under which we operate these programs. The changes to the Unified Funding process reflect what we *can* do to reflect community need in the selection process, by establishing priorities for the use of State funds within the scope of statutory mandates which relate to the effectiveness of funds use and the relationship to locally developed strategies to meet community needs. This was one of the primary objectives of recent changes made to the Unified Funding Process.

The auditors believe that there is available certain information to DHCR on selected localities' needs, and they believe we should use that data in selecting projects. The auditors cite information on the Town of Bethlehem, the City of Albany and County of Clinton. The inference is that the Town of Bethlehem has a greater local need for a particular segment of the population (very low income) than the other entities cited, despite the likelihood that the very low income population in that town may be significantly smaller than that of the other two localities. Again, the auditors are attempting to make information fit their desired conclusion. We disagree with the auditors' interpretation of the data and disagree that it is of adequate benefit in evaluating funding applications. There is a limited amount of time to evaluate the applications. Since the information is not likely to be available for all applicants, there would be an uneven and unequitable evaluation of the applications. We believe the

community needs statement which is now a part of the application is sufficient for determining whether a project meets an appropriate need for its area.

The respective statutes for the programs administered by DHCR/HTFC mandate service to low income persons. The auditors contend that scoring points for providing housing to very low-income households may be inappropriate because very low income households may not be the greatest need of the locality. This conflicts with our statutory mandates.

Feasibility Reviews

Most of this section of the report presents examples of eleven projects which the auditors believe should not have been funded. All of the examples cited, which represent less than six percent of the projects and about four percent of the dollars covered by the audit, were projects selected for funding under the prior administration. These were faulted because program staff in one or more technical units initially rendered the projects as not feasible. Since the previous commissioner chose to fund the projects, conditions were placed to ensure that the necessary requirements either were met or the award would be terminated.

DHCR has instituted a new project selection process which is designed to finance the best housing value for the residents of New York. It gives a priority to the proposals that most efficiently provide the greatest number of quality affordable housing units, for the longest period of time, at the lowest possible cost, that meet community needs and are most ready. We believe the auditors' contention that some projects are more "worthy" than others is a highly subjective comment. With regard to the last recommendation in the report, we believe that the new unified funding process will better document those instances where a project which is considered to meet an unanticipated need is recommended for funding; the Capital Projects manual provides guidance for staff in this area. The technical units are making *recommendations* to management. Only the Commissioner or the HTFC Board makes the decision to fund a project, in most cases reflecting the recommendations of the Deputy Commissioner.

We also have disagreements in the following areas, which received comment in our response to the preliminary finding, but are still misleading statements in the draft report:

- We believe that any process for project selection must be capable of responding to overriding needs that are not always possible to anticipate. Therefore, only funding projects that meet DHCR's established funding criteria would preclude the Commissioner from meeting those unanticipated needs. DHCR's Capital Programs manual provides guidelines for the reallocation of funds to projects that provide disaster relief or demonstration projects that address publicly announced priorities. In addition, DHCR's Commissioner has the responsibility to respond to changing conditions.

whether anticipated or not. The guidelines exist to ensure that staff make their recommendations within certain parameters.

Even in those cases where executive management decided to fund an application which may not have been recommended for funding by one or more technical units, the applicants were still required to resolve all technical issues prior to construction. All of the projects in question were selected for funding under the prior administration, and the incoming administration believed it would be unfair to those applicants and communities to summarily revoke the award letters.

- OCD does document the basis for its funding recommendations. It is unreasonable to expect that a commissioner will document his or her rationale for choosing a particular project and provide that to OCD.

- The "projects" for 78 Restoration and Association for Neighborhood Revitalization are actually HOME Multi-Site *Programs*. For such programs, the initial determination is one of "recommended" or "not recommended," rather than "feasible" or "not feasible." The issues which led to that assessment may well be worked out, or the Commissioner, in his or her discretion, may choose to fund the application so long as statutory and regulatory requirements are met.

- The $4.7 million cited in the report represents a very small portion of the funds. There is no guarantee for any project that it will close by the date anticipated at the time of funding. There is also no guarantee that a project which might otherwise have been funded would indeed turn out to be a "better" or "more worthy" project than those chosen by the Commissioner for funding.

- All projects selected met the priorities of this agency and the priorities as stated in the CHAS. DHCR continues to disagree with the contention that unworthy projects may have been funded at the expense of worthy projects, and believe it is not supported by fact. It has not been substantiated by the audit. It further invades the prerogatives that are clearly those of the Commissioner and this agency. We reiterate our belief that this statement should be withdrawn. DHCR will implement its intended strategy.