



**SIGTARP**

Office of the Special Inspector General  
for the Troubled Asset Relief Program

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HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

**WRITTEN STATEMENT  
OF  
THE HONORABLE CHRISTY GOLDSMITH ROMERO  
SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM**

Before the Subcommittees on Intergovernmental Affairs and Government  
Operations and the Committee on Oversight and Government Reform  
U.S. HOUSE OF REPRESENTATIVES

ON

“Ten Years of TARP: Examining the Hardest Hit Fund”

May 22, 2018

Chairman Palmer, Chairman Meadows, Ranking Member Raskin, Ranking Member Connolly, and members of the Committee, I appreciate the opportunity to discuss The Office of the Special Inspector General for the Troubled Asset Relief Program's ("SIGTARP") oversight of TARP, including TARP's Hardest Hit Fund.

Congress created SIGTARP to protect Americans from fraud, waste, and abuse related to TARP. Accountability through criminal and civil prosecutions is the goal of SIGTARP's law enforcement mission. SIGTARP special agents and investigators work hand-in-hand with federal and state prosecutors. We developed an innovative fraud-detection program that employs technology and intelligence to find crime without waiting for crime tips. There have been **415 defendants charged with crimes including 100 bankers**, 84% of those (349) have already been convicted, and others still await trial. While prosecutions take time, **247 defendants have been sentenced to prison**. The Justice Department has brought **enforcement actions against 11 institutions** as a result of SIGTARP investigations.

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*Protecting taxpayer dollars  
and programs drives  
SIGTARP's mission*

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SIGTARP investigations have resulted in **recoveries of \$10 billion** in restitution, forfeiture, fines, and homeowner relief – a **35 times return on investment** from SIGTARP's annual budget.

SIGTARP also acts as a watchdog over TARP programs and the \$3-4 billion spent in TARP each year. SIGTARP conducts performance audits as well as forensic audits that analyze general ledgers, receipts, and other documents to follow the money. SIGTARP auditors have identified improvements to program effectiveness, mismanagement, millions of dollars in waste, abuse, or other questioned costs for Treasury to recover, and millions of dollars in cost-saving changes.

**Results of SIGTARP's Oversight since March 31, 2017**

- \$90 million recovered for the Federal government
- 38 defendants convicted
- 15 defendants arrested/indicted
- 20 defendants referred to DOJ for prosecution
- 6 jury trials
- \$3 million questioned expenses
- Risks of anticompetitive practices identified
- Risk of asbestos exposure and other demolition risks identified
- Costly mismanagement identified

These recent oversight activities by SIGTARP add to the results of SIGTARP's oversight over the years, including the following:



# SIGTARP

BY THE NUMBERS  
INVESTIGATIONS



415

Criminally Charged



349

Convicted



247

Sentenced to Prison

Including

88

Homeowner Scammers



73

Bank Borrowers



58

Bankers



**\$10 Billion =**

Recovered from Investigations

**35x**

Return on Investment

As of May 14, 2018 | Convictions include three vacated due to death or cooperation | Charges are not evidence of guilt | Many defendants await trial and sentencing  
Recoveries include homeowner relief | Return on investment based on SIGTARP's budget 2010 - 2017



# SIGTARP

BY THE  
NUMBERS  
INVESTIGATIONS

SIGTARP investigations have led to enforcement actions against

# ELEVEN

institutions.



JPMORGAN  
CHASE & CO.

Morgan Stanley



ally

JEFFERIES



WILMINGTON  
TRUST





# SIGTARP

## SIGTARP AUDITS IDENTIFY FRAUD, WASTE AND ABUSE, AND DETER FUTURE WRONGDOING

### RECENT FINDINGS



Nevada's Hardest Hit Fund wasted \$8.2 million while all but stopping admitting new homeowners



Georgia mismanaged the state's Hardest Hit Fund, failing to meet the urgent needs of Georgian homeowners and wasting \$18.6 million



\$3 million in Hardest Hit Fund administrative expenses were squandered by state housing agencies



Blight demolition program faces asbestos exposure, illegal dumping and contaminated soil risks



Mortgage servicers have wrongfully terminated homeowners out of the Home Affordable Modification Program



Most of the Hardest Hit Fund has no federal competition requirements for contract awards



The average cost of demolitions in Michigan and Ohio have skyrocketed in the last few years

**Recent Activity in TARP Housing Programs:** *There has been much activity in TARP over the last year, triggering SIGTARP investigations and audits. SIGTARP conducts investigations and audits of TARP dollars that have been spent. With \$11 billion still available to spend in TARP, we anticipate more oversight in upcoming years.*

**HAMP and related programs (\$27.8 billion program with \$9 billion remaining obligated/committed through September 2023):** Although Congress authorized TARP in 2008, and the largest banks exited TARP in the following two years, Treasury extended the largest TARP housing program known as HAMP again and again. Banks and other financial institutions administer the program that involves modifying (lowering) participating homeowners' mortgage payments. While the homeowner application period terminated in December 2016, Treasury's current contracts to distribute up to \$9 billion through September 2023, to more than 90 financial institutions including some of the largest banks that received TARP dollars in the bank bailout (for example, Bank of America, Wells Fargo, JP Morgan Chase, and Citigroup), in addition to non-banks (like Ocwen and Nationstar), is in

addition to the \$18.1 billion already distributed. For example, Treasury has distributed to Ocwen \$4.8 billion in HAMP and is committed/obligated to an additional \$2.3 billion. Treasury has distributed to Wells Fargo \$3 billion in HAMP, and is committed/obligated to an additional \$1.4 billion. Treasury has distributed to JP Morgan Chase \$3 billion in HAMP, and is committed/obligated to an additional \$993 million. Treasury has distributed to Bank of America \$2.1 billion in HAMP, and is committed/obligated to an additional \$728 million.

Treasury continues to provide billions of TARP dollars to these financial institutions every year and there are nearly one million homeowners in the program today. In the last year (through March 2018), Treasury distributed \$2 billion to these financial institutions. With \$18.8 billion in TARP distributed to more than 100 financial institutions, including some subjects of Justice Department or state attorney general enforcement actions for wrongful conduct related to their customers, and \$9 billion remaining to be spent as detailed in Appendix A, SIGTARP has identified unlawful conduct by banks and other financial institutions in HAMP as TARP's top management and performance challenge. SIGTARP is actively conducting investigations in this area.

***Hardest Hit Fund ("HHF") (\$9.6 billion program with \$2.029 billion remaining as obligated/committed through December 2021):***

The Hardest Hit Fund has provided foreclosure mitigation assistance to 306,100 homeowners in 19 states hard-hit by the crisis (43 percent of the 716,195 homeowners who applied). The program has also provided down payment assistance to 41,317 first-time homebuyers (86% of all homebuyers who applied – double the homeowner applicant admission rate). The Hardest Hit Fund blight demolition subprogram has demolished 23,727 abandoned, blighted houses, with about one-third of those demolitions taking place in 2017. The specific decision of how to use HHF dollars (i.e. principal reduction, unemployment assistance, down payments or blight demolition) is made locally by state agencies that administer the program, and is approved by Treasury.

*SIGTARP's Early Oversight of HHF:* For several years, SIGTARP has reported to Congress each quarter on the performance of the HHF program in each of the 19 states. In these reports, we show how many people have been helped by the program in each state. We also show which state agencies are performing above the national average, at the national average, and below the national average.

In SIGTARP's early audits of the Hardest Hit Fund, we made recommendations based on established best practices for Government programs. Last month, the House Committee on Oversight and Government Reform held a hearing where the Council of IGs reported on the top seven challenges facing the Government, based on common themes identified by each Inspector General. Four top common challenges across Government agencies and programs are:

- (1) Performance management and accountability challenges, including the lack of performance-based metrics;

- (2) Financial management challenges, including weak controls to ensure taxpayer funds are used efficiently and effectively;
- (3) Procurement management challenges, including weaknesses in procurement planning and a lack of oversight over contractors' performance that can place taxpayer dollars at risk; and
- (4) Grant management challenges, including deficiencies in monitoring and measuring the success of grants to ensure that grant investments achieve results, overseeing the use of grant funds to prevent misspent funds, and obtaining timely and accurate financial and performance information from grantees.

These four top challenges for Government identified by Inspectors General align with SIGTARP's findings in the Hardest Hit Fund from 2010 through 2016. In those reports, SIGTARP strived to give Treasury the best recommendations that we could so that Treasury could strengthen the Hardest Hit Fund against these common challenges, and prevent fraud, waste, and abuse. SIGTARP recommended that Treasury conduct risk assessments, and incorporate best practices to mitigate each of these challenges and all risks that Treasury assessed. Incorporating best practices into a program saves Government resources from later dealing with the costly consequences that can result from these common challenges. Although some recommendations were implemented by Treasury and/or state agencies, many of SIGTARP's recommendations were not implemented.

*Recent Activity in HHF:* With the Hardest Hit Fund scheduled to expire in fiscal year 2018, Congress extended the program's deadline in the 2016 omnibus spending bill and provided an additional \$2 billion – dollars that remain available for spending until December 2021, as detailed in Appendix B. In calendar year 2017, Treasury disbursed nearly all remaining dollars to the state agencies and approved significant shifts in the program for how the remaining more than \$2 billion will be spent. This led to significant activity in the program. Since January 1, 2017:

- 114,033 people applied to HHF in 2017. To put that in context, a total of 347,417 people have been admitted to the program since 2010
- 19 state housing finance agencies spent \$1.3 billion
- \$72 million came back into the program from actions like the sale or refinance of houses with an HHF lien
- Eight state agencies announced new programs
- 7,989 abandoned houses were demolished – about one-third all demolitions in the program
- 84 cities/counties only started demolishing blighted houses in 2017
- 1 state and 41 cities/counties have not yet reported starting demolitions

*Recent Oversight by SIGTARP:* SIGTARP has continued to report to Congress each quarter on the performance of the HHF program in each of the 19 states. SIGTARP's April 26, 2018 Quarterly Report to Congress contained 72 pages of state-specific performance data, including each state agency's homeowner admission rate, denial rate, and withdrawn

application rate (as applications are often withdrawn by the state agency), which is compiled in summary as follows:

Hardest Hit Fund Homeowner Admission Rate by State

State	Homeowners Approved	Homeowners Who Applied	Admission Rate
Florida	30,669	138,373	22.2%
Arizona	5,061	21,505	23.5%
Alabama	6,300	26,744	23.6%
Georgia	10,395	32,597	31.9%
Nevada	5,676	16,877	33.6%
New Jersey	7,572	20,733	36.5%
California	73,856	175,700	42.0%
Oregon	13,435	31,176	43.1%
South Carolina	13,023	29,122	44.7%
Michigan	35,669	73,454	48.6%
Rhode Island	2,950	5,088	58.0%
Mississippi	4,457	6,684	66.7%
Illinois	17,992	26,943	66.8%
North Carolina	25,690	38,316	67.0%
Kentucky	9,395	13,455	69.8%
Ohio	25,970	37,015	70.2%
Dist Of Columbia	807	1,075	75.1%
Tennessee	7,356	9,684	76.0%
Indiana	9,827	11,654	84.3%
<b>Total</b>	<b>306,100</b>	<b>716,195</b>	<b>42.7% National Average</b>

## Hardest Hit Fund Homeowner Denial Rate by State

State	Homeowners Denied	Homeowners who Applied	Denial Rate
Arizona	13,987	21,505	65.0%
New Jersey	11,983	20,733	57.8%
Georgia	13,216	32,597	40.5%
Rhode Island	1,707	5,088	33.5%
South Carolina	9,595	29,122	32.9%
Michigan	22,774	73,454	31.0%
California	49,339	175,700	28.1%
Nevada	4,350	16,877	25.8%
Florida	34,842	138,373	25.2%
Mississippi	1,585	6,684	23.7%
North Carolina	7,220	38,316	18.8%
Illinois	4,997	26,943	18.5%
Kentucky	2,297	13,455	17.1%
Dist Of Columbia	181	1,075	16.8%
Tennessee	1,542	9,684	15.9%
Ohio	5,149	37,015	13.9%
Alabama	2,456	26,744	9.2%
Oregon	2,735	31,176	8.8%
Indiana	710	11,654	6.1%
<b>Total</b>	<b>190,665</b>	<b>716,195</b>	<b>26.6% National Average</b>

Hardest Hit Fund Withdrawn Application Rate (Applications are often withdrawn by state agencies)

State	Withdrawals	Homeowners who Applied	Withdrawal Rate
Alabama	17,705	26,744	66.2%
Arizona	2,363	21,505	11.0%
California	49,213	175,700	28.0%
Florida	63,377	138,373	45.8%
Georgia	8,675	32,597	26.6%
Illinois	3,134	26,943	11.6%
Indiana	1,117	11,654	9.6%
Kentucky	1,624	13,455	12.1%
Michigan	14,652	73,454	19.9%
Mississippi	621	6,684	9.3%
Nevada	6,801	16,877	40.3%
New Jersey	526	20,733	2.5%
North Carolina	4,909	38,316	12.8%
Ohio	5,684	37,015	15.4%
Oregon	14,517	31,176	46.6%
Rhode Island	324	5,088	6.4%
South Carolina	6,103	29,122	21.0%
Tennessee	754	9,684	7.8%
Dist Of Columbia	37	1,075	3.4%
<b>Total</b>	<b>202,136</b>	<b>716,195</b>	<b>28.2% National Average</b>

Performance metrics like these can serve as a risk assessment and give SIGTARP analytical insight into where to spend limited resources on a deep-dive audit.

- SIGTARP's HHF Florida audit: In 2015, SIGTARP conducted an audit into the Hardest Hit Fund in Florida as the state agency only admitted 20% of all who applied, which was the lowest admission rate in all 19 states. SIGTARP identified obstacles to program effectiveness. For example, SIGTARP identified that senior citizens faced problems applying for assistance and providing the required documentation. As a result, 46 percent of all seniors who had applied saw their application withdrawn and received no assistance. For those seniors who did receive HHF assistance, it took 9 to 10 months to obtain HHF assistance. SIGTARP made 20 recommendations to remove obstacles to program effectiveness.
- SIGTARP's HHF Georgia audit: In 2017, SIGTARP conducted an audit into why the HHF homeowner admission rate for Georgia homeowners was consistently low compared to other states. SIGTARP found obstacles to program effectiveness including a confusing, online homeowner application system. We found unnecessary red tape such as the state agency requiring homeowners to obtain a tax transcript from the IRS when other state agencies in HHF accept copies of tax returns. The IRS's process to obtain a tax transcript takes more time than the state agency gave homeowners to complete their HHF application. This unnecessary red tape led to the state agency denying people for the program or withdrawing their application. It also resulted in unnecessary processing costs as applications were churned through the denial/withdrawal process because the package was not complete. SIGTARP found that the Georgia agency knew about many of the obstacles but did not remove them, which contributed to SIGTARP finding mismanagement. The Georgia agency reacted to our report positively, and has already begun removing some of these obstacles. The conclusion of this report is contained in Appendix C.

Performance metrics and data analytics in 2015 revealed that HHF in Nevada suffered a steep drop off in homeowners admitted to the program (a 96% drop in homeowner admissions). In the entire year of 2015, only 117 Nevada homeowners were admitted to HHF, despite continued economic factors that showed housing market distress and above average unemployment. Despite the fact that it had all but stopped homeowners from getting HHF assistance, the non-profit administering the program in Nevada known as NAHAC had increased their administrative (operating) expenses charged to the Hardest Hit Fund. This risk assessment led to SIGTARP conducting a deep dive audit into the non-profit's spending.

SIGTARP's HHF Nevada audit: SIGTARP's September 2016 report identified \$8.2 million in waste, and a culture of waste and abuse, in HHF in Nevada that occurred under successive CEOs of NAHAC. The entire conclusion of this report is contained in Appendix C. In summary:

- *SIGTARP found a culture of NAHAC charging the Hardest Hit Fund for expenses that benefitted their employees, for example: annual holiday parties at a casino and country club, monthly birthday celebrations, annual employee family picnics, employee gifts like Visa gift cards, a Massage Envy gift certificate, an Edible Arrangement fruit basket, and a baby blanket, a \$500 car allowance for NAHAC's CEO to drive a Mercedes Benz, country club lunches, a manager's outing at a high-end cocktail bar, and more.*
- *SIGTARP also found that NAHAC charged the Hardest Hit Fund to fix its problems, for example: a \$20,000 severance payment to the CEO who was forced to resign, \$184,319 on legal fees and settlement payments of discrimination claims made by former employees and a Department of Labor investigation into violation of the labor laws, the costs to hire a private investigator related to a former employee, \$26,396 for forensic auditors to reconcile its books due to errors, \$10,812 for an independent auditor to reconcile non-HHF bank accounts, \$100,385 to move to a luxury office building with double the rent, with NAHAC subsequently breaking the lease, incurring legal fees, and paying rent on two offices in Las Vegas for one month.*
- *SIGTARP found that during six months of 2016, NAHAC kept for its own expenses \$1 in Hardest Hit Funds for every \$1 it provided to homeowners.*

Subsequently, Treasury only required repayment of 1% of the \$8.2 million in waste identified by SIGTARP, approximately \$82,000.

SIGTARP's HHF Administrative Expense audits: The Nevada HHF audit triggered additional current and future audits into the administrative expenses of the state agencies and non-profit companies administering HHF. Treasury has budgeted more than \$1 billion for state agency administrative expenses, \$810,312,810 of which has already been spent.

SIGTARP released an audit in August 2017 questioning \$3 million in state agency expenses charged to HHF. The spending that we found by each state agency varied widely. SIGTARP questioned more than \$100,000 charged to the Hardest Hit Fund for barbeques, parties, picnics, celebrations, outings, food and beverages. SIGTARP found no consistency in charges for food and beverages. State agencies in North Carolina, Illinois and Nevada regularly charged for employee food and beverages. For example, the state agency in North Carolina charged the Hardest Hit Fund for parties, catered barbeques with decorations for 50, 60 or 90 people, steak and seafood dinners, and regular meals. In June 2016, the Illinois state agency charged HHF \$549 for a pizza party to "Celebrate HHF Funds officially given from U.S. Treasury and celebrating [employee's] upcoming wedding."

In comparison, the non-profit in California that has the most HHF dollars of any state and has admitted the most homeowners into the program, charged zero dollars for food or parties. The Arizona agency also charged zero dollars for food or parties.

SIGTARP audited these expenses applying the criteria established by Treasury and GAO standards for waste. In 2010, Treasury Secretary Timothy Geithner declined requests by members of Congress to use Hardest Hit Funds for legal aid expenses or broad housing counselor expenses after determining that Congress did not authorize these expenses in the TARP law known as the Emergency Economic Stabilization Act. Secretary Geithner cited to an appropriations law analysis by Treasury's then-General Counsel George Madison. General Counsel Madison determined that to use HHF dollars, appropriations law requires that the charge be "necessary" for a homeowner to receive HHF assistance. Treasury included this "necessary" requirement in its contracts with state agencies in HHF and applied the federal cost principles that apply to grants. The federal cost principles require first and foremost, that an expense be "necessary" for the specific purpose authorized by Congress, second, that the expense also be "reasonable," third, that the expense also be allocable to the Congressionally-authorized activity, and fourth, that the expense also not be specifically prohibited.

In order to determine whether an expense was "necessary" to: (1) comply with the first requirement of federal cost principles; and (2) adhere to Congressional intent in authorizing TARP spending, SIGTARP relied on Treasury General Counsel Madison's analysis applying appropriations law to Hardest Hit Fund expenses. SIGTARP did not question whether the expenses could be appropriately paid from other sources such as state funds. SIGTARP only analyzed whether they were appropriate to be charged to TARP dollars.

In order to determine whether legal aid services were "necessary" for the Congressionally-authorized purpose of HHF, Treasury General Counsel Madison articulated two criteria: (1) legal aid services frequently would result in outcomes other than loan modification, and accordingly, are not by definition necessary for HHF; and (2) borrowers can obtain loan modifications without legal aid services. These were the criteria SIGTARP applied. For example, the fact that homeowners in California and Arizona could obtain HHF assistance without the state agencies charging HHF for parties and food meant that the second criteria articulated by General Counsel Madison was not met, those expenses were not "necessary," and therefore violated the first requirement of the federal cost principles.

Throughout our audit, SIGTARP always kept in mind that Treasury did not authorize legal aid expenses or general housing counselor expenses to be paid from Hardest Hit Funds. Throughout our oversight of TARP, we have learned that often local legal aid offices are the only reason why some homeowners receive assistance. In the audit of Georgia HHF, the Atlanta Legal Aid reported to us in several instances how they assisted the state agency in reconsidering homeowners who had been wrongfully denied, or had faced one of many common obstacles to receiving HHF assistance. Housing counselors also often steer

struggling homeowners to the HHF program. If those expenses were not necessary, than the zoo admissions for housing counselors were also not necessary under that reasoning.

Some of the agencies have started to repay the charges questioned by SIGTARP. SIGTARP has been working with Treasury to assist in their recoveries of these taxpayer dollars. SIGTARP is currently auditing travel and conference expenses, and recent spending in Nevada, and anticipates additional audit work. We hope that these audits and that this hearing deters future misuse of Hardest Hit Funds. Our audits have already led to some state agencies reviewing spending that SIGTARP has not audited, and repaying Treasury, showing the benefit of oversight. We encourage these self-reviews.

SIGTARP audits on competition requirements in HHF: In 2016 and again in 2018, SIGTARP reported on the lack of procurement standards that ensure full and open competition in HHF, including for state agency administrative expenses. Treasury's budget for each state agency contemplates contract awards, including: lawyers, accountants, auditors, consultants, communication professionals, marketing companies, information technology professionals, training professionals, website developers, counseling agencies, and more. However, there are no federal requirements for competition in HHF, unlike those that exists in federal grant programs, requirements that SIGTARP recommended that Treasury apply to HHF in 2016 and in 2018. State rules are inconsistent and may not apply. As reported in SIGTARP's audit, competition can save 20%, curb fraud, waste and abuse, improve contractor performance, deter favoritism, and promote accountability for results.

Although Treasury and state agencies operate HHF much like a grant program, it is not actually a grant program, and therefore the procurement standards that would automatically apply to grants do not apply. After SIGTARP's 2016 audit in which it recommended that Treasury apply the procurement standards that apply to grants, Treasury only added a one-sentence requirement that state agencies ensure full and open competition limited only to the HHF blight demolition subprogram.

#### Top Performance and Management Challenges in the Hardest Hit Fund

Given our audit findings, and the fact that more than \$1 billion is budgeted for state agency administrative expenses, SIGTARP has identified the risk of waste in state agency administrative expenses as a top management challenge in the Hardest Hit Fund. SIGTARP has recommended simple fixes to mitigate this challenge, recommendations focused on accountability and controls.

Two of the other top performance or management challenges identified by SIGTARP for the Hardest Hit Fund relate to the blight elimination subprogram of the Hardest Hit Fund, a program that pays TARP dollars to hundreds of contractors in the demolition industry to demolish blighted houses in 269 cities or towns. We identified those top challenges as: (1) the risk of asbestos exposure, contaminated soil, and illegal dumping; and (2) the risk of corruption, anticompetitive acts (antitrust violations), and fraud.

SIGTARP reports to Congress quarterly on the progress of this subprogram, providing detail on the number of houses demolished by city or county, and the recipients of TARP dollars. About one-third of the demolitions took place in 2017. SIGTARP is also actively conducting criminal investigations and audits into the blight subprogram. Our ongoing investigations remain confidential and law enforcement sensitive. Since 2015, SIGTARP has issued a series of recommendations to counter the challenges in the blight subprogram. SIGTARP has contracted with the Army Corps of Engineers to provide technical assistance, and they have raised significant concerns related to the lack of industry safeguards in the program, which we issued in a recent report. SIGTARP reported in 2016 on the lack of federal requirements for competition that could save taxpayer dollars and protect against fraud. In April 2017, SIGTARP reported to Congress on the rising costs of TARP-funded demolition as the average per house demolition-related costs paid by TARP rose 90% in Michigan and 65% in Ohio. Implementation of these recommendations would serve to protect taxpayers and local residents.

In keeping with the Committee's hearing invitation that the Committee will examine SIGTARP's findings, I have included in Appendix C the full text of some of SIGTARP's recent (2016-2018) reports containing our findings related to the Hardest Hit Fund. I also include a very high-level summary of the 124 SIGTARP recommendations made in these reports, recommendations designed to identify and prevent fraud, waste, and abuse, save costs, recover TARP dollars that we identified, and increase the effectiveness of the program. Given the length of each report, I have only provided the conclusion containing our findings. For greater context, I invite you to review the full reports as well as SIGTARP's quarterly reports to Congress, which provide additional context. Each of these are on SIGTARP's website. I am also happy to provide them to you.

On behalf of SIGTARP, I thank the Committee for supporting SIGTARP and for conducting oversight over the Hardest Hit Fund through this hearing. Implementation of the reforms recommended by SIGTARP will protect taxpayers and TARP.

# Appendix A

## TREASURY CONTRACTS FOR \$27.8 BILLION TO BE PAID TO HAMP MORTGAGE SERVICERS UNTIL 2023 AS OF 3/31/2018

SIGTARP Investigations and Audits	\$4.8 Billion <i>TARP dollars paid</i>		\$2.3 Billion <i>TARP Obligated or Committed to be paid</i>	Future SIGTARP Investigations and Audits
	\$3 Billion <i>TARP dollars paid</i>		\$1.4 Billion <i>TARP Obligated or Committed to be paid</i>	
	\$3 Billion <i>TARP dollars paid</i>		\$993 Million <i>TARP Obligated or Committed to be paid</i>	
	\$2.1 Billion <i>TARP dollars paid</i>		\$728 Million <i>TARP Obligated or Committed to be paid</i>	
	\$1.3 Billion <i>TARP dollars paid</i>		\$899 Million <i>TARP Obligated or Committed to be paid</i>	
	\$1.3 Billion <i>TARP dollars paid</i>		\$878 Million <i>TARP Obligated or Committed to be paid</i>	
	\$719 Million <i>TARP dollars paid</i>		\$225 Million <i>TARP Obligated or Committed to be paid</i>	
	\$429 Million <i>TARP dollars paid</i>		\$108 Million <i>TARP Obligated or Committed to be paid</i>	
	\$330 Million <i>TARP dollars paid</i>		\$199 Million <i>TARP Obligated or Committed to be paid</i>	
	\$274 Million <i>TARP dollars paid</i>		\$197 Million <i>TARP Obligated or Committed to be paid</i>	
	\$1.4 Billion <i>TARP dollars paid</i>	Other Servicers (141 Institutions)*	\$1.1 Billion <i>TARP Obligated or Committed to be paid</i>	
	<b>\$18.8 Billion</b> <i>TARP dollars paid</i>	<b>TOTAL</b>	<b>\$9 Billion</b> <i>TARP Obligated or Committed to be paid</i>	

Sources: Treasury, Aggregate Cap Monitoring Report - Mar 2018; SIGTARP analysis of Treasury MHA data.  
\* A total of 151 institutions have been paid or are eligible to be paid TARP funds through MHA, of which 130 can still receive TARP disbursements subsequent to 3/31/2018.

# Appendix B

STATUS OF \$9.8 BILLION IN HHF FUNDS AVAILABLE TO STATE AGENCIES UNTIL 2021		
Spent	State	Unspent
\$73,378,415	Alabama	\$90,316,214
\$257,718,887	Arizona	\$42,651,614
\$2,103,024,525	California	\$334,986,128
\$19,724,440	District of Columbia	\$10,031,004
\$1,047,075,886	Florida	\$105,316,080
\$260,284,630	Georgia	\$115,159,020
\$531,920,117	Illinois	\$210,467,620
\$220,438,277	Indiana	\$66,788,308
\$170,524,349	Kentucky	\$41,411,911
\$533,923,455	Michigan	\$237,201,507
\$100,805,334	Mississippi	\$44,352,334
\$598,152,160	North Carolina	\$130,338,577
\$325,860,849	New Jersey	\$96,607,448
\$123,763,761	Nevada	\$80,649,003
\$594,619,440	Ohio	\$175,164,211
\$270,588,609	Oregon	\$84,824,396
\$90,892,505	Rhode Island	\$26,903,377
\$262,722,325	South Carolina	\$58,526,768
\$228,812,681	Tennessee	\$77,324,518
<b>\$7,814,230,644</b>	<b>Total</b>	<b>\$2,029,020,037</b>

**SIGTARP  
Investigations  
and Audits**

**Future  
SIGTARP  
Investigations  
and Audits**

Note: Unspent figures include an additional \$243 million in recycled TARP dollars.  
Source: Treasury, response to SIGTARP data call 4/6/2018; SIGTARP analysis of HHF Quarterly Financial Reports.

This chart does not show all of the money to be spent over the next few years in the Hardest Hit Fund. Tens of millions of dollars are recycled back into the program each year from actions like the sale or refinance of a house with an HHF lien. Last year, \$72 million recycled back into the program.

# Appendix C

SIGTARP's Recent Findings on the Hardest Hit Fund

## Waste and Abuse in the Hardest Hit Fund in Nevada

Conclusion of SIGTARP audit issued September 29, 2016

The Nevada Housing Division allowed abuse and waste of \$8.2 million in Hardest Hit Fund dollars instead of helping homeowners at risk of foreclosure.<sup>1</sup> The Nevada Housing Division, the state housing finance agency, outsourced administration of the Hardest Hit Fund to one of its pre-existing components called the Nevada Affordable Housing Assistance Corporation ("NAHAC").<sup>2</sup> Its proposal to Treasury said, "Program leadership will come from the NAHAC Executive Committee....The Nevada state agency's Executive Director, Chief Financial Officer and Chief of Federal Programs constitute the Executive Committee...."<sup>3</sup> Given that the Nevada Housing Division served as the agency responsible under Treasury's HHF contract, SIGTARP will refer to both NHD and NAHAC as "the state agency" or "Nevada state agency."

Hardest Hit Fund programs are targeted to address these significant problems that place Nevada homeowners at risk of foreclosure, but the Hardest Hit Fund cannot be effective in tackling these problems if the TARP funds are kept for administrative expenses and do not get out to homeowners.

SIGTARP found that the state agency took homeowner rescue dollars for itself, at the same time it all but stopped helping homeowners.

- *In 2015, the Nevada state agency kept one TARP dollar for every TARP dollar it gave to a homeowner. It kept for itself more than \$1.4 million of the \$2.4 million in TARP dollars spent in administrative expenses in Nevada that year.*

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<sup>1</sup> For purposes of this calculation, SIGTARP reduced the \$2,241,396 wasted administrative expenses in 2015 by the specific 2015 expenses identified in the report to avoid potential double counting. The specific 2015 expenses totaled \$1,915,465.49.

<sup>2</sup> The state HFA is in contract with Treasury, and information on HHF appears on the state HFA's website. Treasury required that each state HFA use a financial institution to serve as an "eligible entity." NAHAC is the eligible entity. When it launched HHF in 2010, NHD officials comprised a majority of the Executive Committee of NAHAC's board. In 2013, NHD approved changes to the make-up of NAHAC's board that reduced its influence over NAHAC and spun off NAHAC as a component. This is rare in HHF, as most state housing agencies in the Hardest Hit Fund administer the program, either themselves or through a special-purpose eligible entity created specifically for HHF.

<sup>3</sup> By mid-2013, NAHAC's executive committee was no longer comprised of NHD executives. The proposal is published on Treasury's website at <https://www.treasury.gov/initiatives/financial-stability/programs/housing-programs/hhf/Documents/NV.pdf>.

- *For half of 2015, it spent more on itself than it provided to homeowners. The Nevada agency spent \$1.2 million on itself, almost \$250,000 more than it provided to homeowners.*
- *In 2015, it only admitted 117 new Nevada homeowners into the Hardest Hit Fund, a 95% decrease from 2012 and 2013. Although many homeowners in the nation have seen some recovery, many Nevada homeowners remain hard hit by unemployment and underwater mortgages—precisely the problems HHF was designed to address. Demand for the program continued, but in 2015, the state agency only admitted 14.5% of homeowners who applied.*

SIGTARP found that the Nevada state agency abused the Hardest Hit Fund with seemingly, a sense of entitlement and no appreciation for the fact that they were taking funds for themselves that were intended to help struggling Nevada homeowners stave off foreclosure.

- *A car allowance of \$500 per month for the CEO who drove a Mercedes was charged to the Hardest Hit Fund. The Nevada state agency expensed \$11,000 to the Hardest Hit Fund beginning in October 2014, an expense that was not necessary to the administration of HHF, particularly because it was not charged in the past and official travel by car can be reimbursed by mileage.*
- *More than \$10,000 charged to the Hardest Hit Fund for a manager outing at “the nation’s best high volume cocktail bar” Herbs & Rye, a \$105 country club lunch, a \$900 company picnic, a \$100 massage for an employee, a \$124 Edible Arrangement for the accounting staff, a baby gift for an employee, regular staff breakfasts, lunches and perks and a \$4,500 bonus for the CEO, all while the number of homeowners admitted to the program plummeted. These expenses were not necessary for the Hardest Hit Fund as shown by the fact that the Nevada state agency provided HHF help to homeowners in past years without buying meals and drinks and gifts for employees. SIGTARP found the Nevada state agency increased spending on wining and dining and freebies for employees, at the same time it decreased the number of homeowners admitted to the Hardest Hit Fund. The Nevada state agency abused HHF by spending these rescue dollars on its own employees like a private company, but making HHF foot the bill.*
- *December holiday parties for employees complete with holiday gift cards were charged to the Hardest Hit Fund. While not a large sum of money (\$5,811), it was money that could have helped some homeowners pay their mortgage. These parties started in December 2013 at a local restaurant, escalated to a casino in December 2014, and then a country club in December 2015, all while the agency’s HHF help to homeowners plummeted. In the 4<sup>th</sup> quarter of 2015, while holding their holiday party at a country club, the state agency only admitted 24 new homeowners into the program—a meager 8% of the homeowners admitted two years prior.*
- *In July 2014, the state agency moved offices to the gleaming \$130 million City Hall building in North Las Vegas, built three years earlier, without concern that their rent would nearly double, because they charged the full*

*rent to the Hardest Hit Fund. At the same time, the state agency cut their staff, and severely cut homeowner admissions to the program. The New York Times ran a story on November 19, 2011, criticizing city officials from moving into this new building derided by residents still suffering from the economy as “a Taj Mahal,” [http://www.nytimes.com/2011/11/20/us/in-north-las-vegas-new-city-hall-is-a-reminder-of-flush-days.html?\\_r=0](http://www.nytimes.com/2011/11/20/us/in-north-las-vegas-new-city-hall-is-a-reminder-of-flush-days.html?_r=0).<sup>4</sup> The New York Times described the North Las Vegas City Hall building as having a view that stretched for miles, marble floors, granite tabletops, a parking lot covered with solar panels to keep cars cool in the Vegas heat, a wellness center including fitness equipment, and an outdoor concert plaza. Given that one third of the homes in North Las Vegas were in foreclosure, and that houses that were occupied were worth less than half the value from two years prior, the New York Times reported one resident who lost his job as saying about the City Building, “It’s just disrespectful – like they have no idea of what people are going through.”*

*In internal correspondence in 2014, the Nevada state agency discussed that City Hall was “much nicer space” and that it would help with employee morale, but showed no concern for the high rent. City Hall rent was \$11,200 per month, “one of the highest lease rates around,” as described by the former CEO, and nearly double the prior rent of approximately \$6,000. After the board changed in 2015, a new CEO broke the lease, but the state agency never reimbursed the Hardest Hit Fund for the excessive rent, instead continuing to charge the Hardest Hit Fund for costs to move the agency to a smaller more affordable office, lawyers’ fees related to moving, and rent at two offices during their office move in the month of June 2015, for a combined waste total of more than \$100,000.*

Violations of Federal labor laws, employee suits for discrimination, and careless accounting, all served to drive up costs, costs that the Nevada state agency expensed to Treasury.

Lawyers to settle a Federal investigation by the Department of Labor who found that the state agency violated Federal law, employee discrimination lawsuits (block-billed at \$123,217), and for an ethics investigation (block-billed at \$18,160), a forensic auditor to reconstruct the financial books (at \$26,395), an independent auditor to reconcile bank accounts (at \$10,812), and a lawyer and private investigator (at \$12,845), all worked to clean up situations that never should have happened in the first place, and certainly should not have been charged to the Hardest Hit Fund.

This is not a case of mistake or negligence. SIGTARP found a deliberate attempt by the Nevada state agency to charge the Hardest Hit Fund for every expense it could.

1. Chosen to be the conduit of TARP rescue funds from Treasury to Nevada homeowners, the state agency used those same funds to run nearly its entire business. They ran all expenses (HHF and non-HHF) first through the Hardest Hit Fund bank account, and then determined whether to reimburse any items back to that account, often not reimbursing.

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<sup>4</sup> Jennifer Medina, “In Nevada, a City Hall Is a Reminder of Flush Days,” *The New York Times*, Nov. 19, 2011.

2. The Nevada state agency routinely paid their corporate credit card using a check drawn on the Hardest Hit Fund bank account and failed to reimburse the HHF account for non-HHF expenses.
3. Treasury told the state agency in 2014 that it had caught, on a sample basis, charges unrelated to HHF. The state agency reimbursed Treasury for some of those charges. The state agency did not show Treasury other charges that were also not related to HHF. And the state agency continued to charge new non-HHF expenses to the Hardest Hit Fund.
4. An external forensic auditor told the state agency in 2015 that non-HHF expenses were not allowed under Treasury's contract. The state agency continued to use HHF dollars for non-HHF expenses.
5. The internal auditor and the external forensic auditor told the state agency that payroll costs had to be allocated between the Hardest Hit Fund and non-HHF funding sources according to a cost-sharing methodology, which the state agency ignored.
6. The state agency had inappropriate travel and entertainment expenses and unsupported credit card charges caught by Treasury and the forensic auditor of \$23,838. However, the state agency continued to charge entertainment expenses to HHF.
7. The state agency initially shared overhead costs such as rent and payroll between both the Hardest Hit Fund and non-HHF funding, but then stopped that practice, instead charging all to the Hardest Hit Fund. Small and inconsistent reimbursements to Treasury for rent in the Reno office in 2012 of a total of \$2,739, which decreased to \$1,943 in 2013, evidence that the state agency knew that the Hardest Hit Fund should not pay 100% of these costs. However, the state agency charged 100% of the Las Vegas office rent to the Hardest Hit Fund and, in 2014 and 2015, ceased reimbursements for the Reno rent. The state agency reimbursed Treasury nearly \$100,000 for partial payroll in 2012, and about half that amount in 2013. It did not reimburse Treasury for any payroll in 2014, and in 2015 reimbursed a single payment of \$706.

Warnings about inappropriate spending were met with a temporary fix to reverse those charges caught, while continuing the behavior. SIGTARP recently learned that although the state agency essentially terminated the latest CEO in May, who left on June 3, 2016, a two-month severance package of \$20,875 in full pay and benefits (including a fixed expense and automobile allowance of more than \$600 per month) is being paid out of the HHF bank account. This has no purpose in HHF. SIGTARP finds that all of the deliberate behavior constitutes waste and abuse.<sup>5</sup>

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<sup>5</sup> According to GAO, waste is defined as the act of using or expending resources carelessly, extravagantly, or to no purpose. Abuse involves behavior that is deficient or improper when compared to behavior that a prudent person would consider reasonable and necessary. This includes the misuse of authority or position for personal gain or for the benefit of another.

The Hardest Hit Fund was not intended to be a cash cow for participating state agencies, and the state agency must pay these wasted expenses back. Treasury’s HHF contract limits administrative expenses to only those “necessary to carry out the services.” SIGTARP will report in the future on additional amounts this state agency must pay back. As President Obama has said in an Executive Order, the American people must be able to trust that the Government is doing everything in its power to stop wasteful practices and earn a high return on every dollar that is spent. The role of SIGTARP, like other Offices of Inspector General, includes reporting on wasteful spending and abuse so that Federal agencies can act to stop the waste and abuse, and seek repayment. SIGTARP is an independent watchdog protecting taxpayer dollars. Every dollar wasted translates to one less dollar to help the homeowners Congress intended TARP to assist. A failure to seek and obtain repayment of these wasted federal dollars would only harm those people who HHF intended to serve.

Sometime over the last three years, this state agency lost sight of the fact that they are only in this program to be the conduit through which Treasury provides TARP rescue funds to Nevada homeowners to help them stay in their homes. NAHAC stopped performing under Treasury’s contract, and the Nevada Housing Division allowed that to continue. Both state agencies seemingly had no regard for the squandered opportunity to help Nevada homeowners this program intended to assist, at a time when those homeowners needed it most. As a result, Nevada homeowners have not had fair access to these Federal funds. They have been treated differently and unfairly than homeowners in other participating states, all because of a low-performing state agency that engaged in waste and abuse.

The Nevada Housing Division allowed the waste and abuse to occur unchecked. That arrangement is rare as typically state housing finance agencies themselves administer the Hardest Hit Fund in their state. The most recent termination of NAHAC’s CEO and greater involvement now by the Nevada Housing Division over NAHAC is not enough to protect this program against continued waste and abuse. Management and the board have changed many times over—four CEOs in the span of three years—and this pattern of waste and abuse continued under the Nevada Housing Division’s nose.

## 28 UNIMPLEMENTED PRIORITY RECOMMENDATIONS

*Reflecting cost savings and recoveries of \$62.2 million*

*Treasury should recover \$8.1 million in waste from Nevada contractor.*

*Treasury should remove contractor NAHAC that wasted TARP dollars.*

# Unnecessary Expenses Charged to the Hardest Hit Fund

Conclusion of SIGTARP audit issued August 25, 2017

State agencies will spend \$1.1 billion in administrative expenses to distribute \$8.5 billion in TARP's Hardest Hit Fund. Every dollar spent on administrative expenses is one dollar less for homeowner assistance or one dollar saved for taxpayers. At the beginning of the program, then-Treasury Secretary Timothy Geithner determined that Treasury's authority under the Emergency Economic Stabilization Act did not allow TARP to pay for unnecessary state agency expenses, including legal aid or counseling programs. In Treasury's contracts with state agencies, TARP dollars spent on expenses must be "necessary" to modify homeowner loans through HHF, which is the authority in EESA for HHF. To give state agencies notice as to which expenses Treasury considered "necessary," Treasury included in each contract a list of "Permitted Expenses."

SIGTARP is conducting a series of audits on state agency expenses in HHF, initially prompted by poor performance and rising costs in HHF in Nevada, and, subsequently, by a request from Chairman Charles Grassley. In SIGTARP's first audit in this series released in September 2016, SIGTARP identified \$8.2 million in wasted TARP dollars in HHF in Nevada on expenses like parties, gifts, excessive rent, and legal costs to defend against Federal investigations and lawsuits. The chief executive officer of the Nevada agency was given a monthly allowance of \$500 to drive a Mercedes, and was paid \$20,000 in severance after he was fired— all charged to TARP.

In this second report in the series, SIGTARP identifies nearly \$3 million in state agency expenses that violate Treasury's contract, including TARP dollars spent on barbeques, parties and celebrations, food and beverages, employee bonuses and gifts, payments to former employees, employee gifts, employee gym memberships, and employee transportation perquisites. This also includes \$258,333 for avoidable data storage costs, and a 2016 build-out of a state customer center that was charged 100% to TARP despite most people using the center for non-TARP programs. This is the second center TARP paid for in that state. SIGTARP found no consistency in charging TARP for expenses. Some state agencies were far more egregious than others. In addition to violating Treasury's contract, the most egregious wasted TARP dollars.

The North Carolina Housing Finance Agency was particularly egregious in charging TARP for unnecessary expenses, including:

- \$10,000 for employee parties, celebrations, and outings, for example:
  - 4 barbeques with Treasury employees with 50, 60 or 90 people in attendance: \$2,587
  - Steak and seafood dinner for 18 employees when HHF opened in 2010 (ribeye, prime rib, grilled tuna, salmon, shrimp and grits, and a gratuity): \$734

- Barbeque for employees working on Treasury audit: \$660
- Barbeque after reaching a milestone on the number of people helped: \$290
- Holiday lunches, holiday breakfasts, employee farewell ice cream party, birthday cake
- Family picnic with piñatas and candy: \$348
- Valentine’s Day celebration with red velvet cake, flowers, and a “V-day Mailbox”:\$277
- Employee gifts including:
  - Land’s End shirts with the agency logo: \$1,113
  - Visa gift cards, other gift cards, flowers, balloons, chocolates: \$715
- Gym memberships for six employees at \$30 per month each: \$8,880
- \$30,00 in food and beverages for employees, and sometimes as hospitality with others
  - Employees regularly charged TARP for restaurant meals, and to deliver food to (or carry food into) the office, for example:
    - Seafood lunches at restaurants were regularly charged as “working lunches”
    - One employee charged TARP for a “working breakfast” at IHOP and a “working lunch,” ordering seared tuna and crab cakes on the same day
    - Two employees even charged \$4.72 for Dunkin Donuts coffee as a “working breakfast”
    - Even a single water bottle bought at CVS for \$1.81 was charged to TARP
  - In a \$5,590 dinner to celebrate housing counselors, agency employees and counselors ate tilapia, chicken, and pork chops drank virgin cocktails at a cost of \$400; finished it off with mini cupcakes at a cost of \$200; and paid a \$770 gratuity, all charged to TARP
    - \$35,000 in costs for an annual housing counselor conference and other counselor events
    - \$18,000 in employee cash bonuses

The North Carolina agency had a culture of treating TARP as a windfall. TARP dollars were 38 times the total grants the agency previously received. Calling TARP a “game changer,” the agency regularly charged TARP for unnecessary expenses that other state agencies were not charging. Many of these charges also constitute waste.

Some of these charges by agencies in North Carolina and other states were low in dollar amount. However, every taxpayer dollar matters. Spending decisions on small purchases set the tone for spending decisions on larger ticket items. In addition to state agencies in Nevada and North Carolina, other state agencies charged TARP for parties (an employee retirement party in Illinois), picnics (a picnic with food trucks in Kentucky), and employee celebrations (employee appreciation day in Michigan). This is not what Congress intended in authorizing TARP or Treasury intended in its contracts. These charges constitute waste.

In 2016, after Congress approved an additional \$2 billion for HHF, employees at two state agencies became the first recipients of these TARP dollars in celebrations. The North Carolina agency charged TARP for a \$50 gift card for an employee in recognition of getting new HHF funding. The Illinois Housing Development Authority charged TARP \$549 at a pizza restaurant to celebrate getting new HHF funds and an employee's upcoming wedding.

The Alabama agency also threw a barbeque for Treasury employees and state agency employees, charging hundreds to TARP for the barbeque and catered lunches with Treasury employees. The Kentucky and Oregon agencies also charged TARP for catered lunches with Treasury employees.

In conducting this review, SIGTARP applied Treasury's contracts and Treasury's public interpretation of what is "necessary," each of which state agencies have had notice of since 2010. Treasury's contract limited expenses to only those expenses "necessary to carry out the services." The "services" were the specific HHF programs defined in "service schedules" attached to the contract. Treasury even included a list of "Permitted Expenses" in the contract that could be necessary to carry out the services. State agencies also knew that, in 2010, then-Treasury Secretary Geithner turned down multiple state requests to spend TARP on legal aid or counseling programs because it was not authorized by EESA.<sup>6</sup> Treasury's contracts applied a strict test, as explained by Treasury's then-general counsel, that all expenses must be necessary to "facilitate loan modifications to prevent avoidable foreclosures," the EESA authority for HHF. Treasury applied two criteria: (1) that legal aid services frequently would result in outcomes other than loan modifications, and accordingly, they are not-by-definition necessary or essential to loan modifications in HHF; and (2) that if borrowers can obtain loan modifications without the legal services, they were not necessary expenses. Applying this test to each of the expenses that SIGTARP questions in this report leads to the conclusion that these are unnecessary expenses.

It is critically important to limit spending to what Congress intended when it authorized TARP. In 2010, Treasury's then-general counsel George Madison stated in a memorandum that became public:

*Here, one could argue that a general statutory purpose of EESA is to prevent foreclosures and that any expenditure reasonably related to that purpose are permissible. We believe that such an interpretation sweeps too broadly. It would authorize an almost unlimited number*

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<sup>6</sup> Secretary Geithner wrote public letters to 35 Members of Congress explaining Treasury's analysis of appropriations law and Treasury's interpretation of the authority provided to Treasury under EESA. Subsequently, some of these Members introduced bills in the House and Senate to allow this TARP spending. The bills did not receive the votes necessary to become law. In its contracts, Treasury limited TARP dollars for counseling to file intake, decision costs, successful file, and key business partners ongoing.

*and variety of government expenditures – i.e. anything that is reasonably related to preventing foreclosures. It also would render meaningless the express provisions in EESA that together provide authority for the Hardest Hit Fund: Section 101 authorizes the Secretary to purchase “troubled assets from any financial institution,” and 109(a) authorizes the Secretary to use “loan guarantees and credit enhancements to facilitate loan modifications to prevent avoidable foreclosures. Lastly, such an interpretation would be contrary to how Treasury implemented EESA.*

SIGTARP identified a number of state agency expenses that may be reasonably related to foreclosure prevention, but violate Treasury’s contract because they are not necessary to modify loans in HHF. Each of these expenses is not listed in Treasury’s list of Permitted Expenses. Each of these expenses frequently could have successful outcomes other than in HHF, and for each there were state agencies that modified loans in HHF without charging TARP for the expense.

- *Food and beverages of more than \$100,000 (including in North Carolina), sometimes for their own employees, other times as hospitality for others were charged to TARP. The California state agency, which is allocated the most TARP dollars in HHF, and the Arizona state agency, each modified loans in HHF without charging TARP for food and beverages.*
- *Unlike other state agencies, three state agencies charged TARP for employee transportation perquisites. These perks included \$330,000 in “free parking” for Michigan state employees charged to TARP, \$114,000 charged to TARP for Rhode Island agency employees to each receive an extra \$105 each month in their paycheck to defray parking costs, and \$113,000 to buy every Ohio agency employee a \$90-110 monthly bus pass or parking.*
- *Unlike other state agencies, the South Carolina agency charged TARP for a senior official to have exclusive use of a state leased car for more than 4 years.*
- *Nearly \$1 million in cash bonuses or employee gifts by eight state agencies, settlements or litigation with former employees who had wrongful termination or discrimination complaints by three state agencies, severance payments to resigning or former employees by three state agencies, and unemployment payments to former employees by five state agencies, were all charged to TARP. To the extent that these state agencies are either required or choose to pay these expenses, they should do so using state funds as they are not necessary to modify loans in HHF. Other state agencies modified loans in HHF without charging TARP for these payments.*

Particularly egregious was the Nevada state agency that paid more than \$43,000 in bonuses (including severance) to the CEO who was fired by the board, despite the fact that homeowner admissions to HHF had dropped 94%. Also egregious was more than \$100,000

in bonuses to Florida agency employees, including bonuses to senior Florida officials that doubled and tripled after SIGTARP issued an audit in December 2015 on the state agency's severe underperformance in HHF. The executive director of the Florida agency was asked to resign by the governor in December 2016 for state-funded bonuses and a lavish dinner, while Floridians were waiting for foreclosure prevention assistance. Bonuses at both agencies constitute waste.

SIGTARP also questioned two large state expenses. Lumped into the "Miscellaneous" category of Permitted Expenses, SIGTARP found that the Rhode Island agency had charged TARP \$351,958 in 2016 to build out and start up a new customer center, including building a new kitchen and new furniture. TARP had already paid for the build-out of an office in 2010.<sup>7</sup> In 2016, when Treasury allocated new TARP dollars to the Rhode Island agency, Treasury did not provide for any further permitted expenses for "one-time/start-up" expenses such as "building," "equipment," and "technology." The agency charged 100% of build-out/start-up costs, and then \$116,219 in operating expenses to TARP despite the center also being used for non-HHF services. From June 2016 to May 2017, the percentage of homeowners visiting the center for HHF programs was only 29% versus 71% for non-HHF programs. Additionally, even though the Rhode Island agency had not charged TARP for any space for files and staff in their own building for 3 years when the program was closed, in 2015 the agency back-dated a "rent" charge of \$96,590.

Additionally, in 2015, the Washington, D.C. agency charged TARP \$258,333 in avoidable storage costs. The Washington, D.C. agency paid this amount to Counselor Direct, an online application system contractor, for 5 years of data storage when the program was closed to homeowner applications. With many of the agencies contracting with Counselor Direct, taxpayers could end up paying \$50,000 per month or more for each state agency for years of data storage. These costs should be mitigated, as TARP was not meant to be a windfall for one IT contractor.

Taxpayers have paid more than they needed to for state agency expenses in HHF and state agencies have spent TARP dollars not as Congress and Treasury intended. SIGTARP found an elevated risk of fraud, waste, abuse, and overpayment because state agencies are lumping unnecessary expenses into "Permitted Expense" categories, limiting transparency, and shielding these expenses from oversight.

Treasury did not hold state agencies accountable to the requirement in Treasury's contract that expenses must be necessary for the specific services in HHF. In 2012, GAO reported on rising administrative expenses in HHF, warning, "Treasury's rigorous oversight of spending decisions throughout the life of the program will be critical to helping ensure that funds are spent as intended."<sup>8</sup> Treasury regularly reviewed state agency expenses, but only on a small sample basis with minimum dollar thresholds. These reviews appear to be focused on compliance with Federal cost principles (OMB A-87). Cost principles do not authorize Federal spending, but instead, as Treasury's contract states, serve as an additional

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<sup>7</sup> In its 2010 contract, Treasury included "permitted expenses" of \$274,253 for one-time, start-up expenses, which Rhode Island Housing used to build out a new location. Rhode Island Housing used the location for only 2 years when HHF was open in the state.

<sup>8</sup> See GAO, "Further Actions Needed to Enhance Assessments and Transparency of Housing Programs," July 2012, <http://www.gao.gov/assets/600/592707.pdf>.

limitation.<sup>9</sup> For example, after SIGTARP’s 2016 audit identified waste in HHF including a \$20,000 severance payment to the fired CEO in Nevada, Treasury officials did not recover this payment, despite that it was not necessary to modify loans in HHF. Treasury officials appear to not even be applying Treasury’s own test under the contracts—whether the expense was necessary to modify loans.

Responsible stewardship by state agencies and rigorous oversight are needed to protect taxpayers. With more than \$1 billion in taxpayer dollars on the line, state agencies must limit their expenses to only those necessary to modify loans in HHF. That has always been what Treasury’s contracts require. The expenses SIGTARP questions in this report are out of \$733 million already spent, and SIGTARP will conduct future audits of spent TARP dollars. Treasury should recover every dollar in unnecessary charges to TARP identified by SIGTARP in this report.

This report should deter future unnecessary spending when state agencies can see that other state agencies modify loans in HHF without charging TARP for these same expenses. However, the responsibility to stop TARP spending on unnecessary expenses rests with Treasury. SIGTARP can only make recommendations to Treasury and cannot recover TARP dollars spent in violation of the contract or force Treasury to right the ship. To ensure that TARP dollars are used only as Congress and Treasury intended, and that taxpayers do not spend more than is necessary, Treasury should enforce the terms of its contracts for the \$373 million that Treasury has allocated for future state expenses in HHF.

## 30 UNIMPLEMENTED PRIORITY RECOMMENDATIONS

*Reflecting recoveries and cost savings of \$4,378,914*

*Treasury should recover squandered TARP dollars from state agencies.*

*Treasury should perform more rigorous oversight of the state agency spending.*

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<sup>9</sup> Treasury’s contract states, “...the administrative expenses necessary to carry out the services (the “Permitted Expenses.”)...Additionally, all administrative expenses paid with HHF program funds shall be accounted for and are subject to OMB Circular A-87.”

In summary:

***North Carolina state agency: \$107,821***

\$2,830 spent on four catered barbeques and other food with Treasury employees, one served 90 people, another 60 people, and two more served 50 people; \$8,219 on parties, picnics, celebrations, and outings, including, for example, a Valentine's day party with décor and food, steak and seafood dinners, regular employee meals, and balloons, candles, cakes and cupcakes to celebrate the milestone of the number of homeowners helped; \$18,091 on employee cash bonuses; \$1,965 on VISA gift cards and other gifts including \$1,113 on customized Lands' End shirts and a \$50 CVS gift card to recognize new HHH Funding in 2016; \$8,880 on gym memberships, \$14,124 for employee breakfasts, lunches and dinner sometimes with external parties; and \$53,712 for food and other costs at events with housing counselors, including a 'celebration' of counselors that included \$400 in virgin cocktails, \$200 in mini cupcakes and a \$770 gratuity.

***Rhode Island state agency: \$1,238,228***

\$1,031,310 spent for the full cost -- despite the centers use for non-HHF programs -- to build out a new customer center with a new kitchen and furniture, backdated 'storage' costs in the agency's own building while HHH was closed; \$114,596 on a monthly \$105 payment to each employee to defray parking and transportation costs; \$14,994 on severance to former employees; \$75,703 on unemployment payments to former employees; and \$1,625 on food and beverages, including at meetings with lenders and trainings with counselors.

***Nevada Affordable Housing Assistance Corporation: \$240,677***

\$194,294 spent on private investigators, settlement payments for discrimination, and severance payments to former employees; \$43,497 spent on bonuses, of which nearly all went to the CEO who was later terminated; and \$2,886 on two employee picnics and other celebrations and food.

***Florida state agency: \$107,864***

\$106,774 spent on bonuses approved by the now terminated executive director; \$636 on gift certificates to employees; and \$454 for a barbecue, an all employee lunch, and a lunch with Bank of America.

***District of Columbia's state agency: \$259,017***

\$258,333 spent to prepay for five years of avoidable online storage access and data two years after the HHH program was closed to homeowner applications; \$202 for a continental breakfast with Treasury employees; and \$482 on breakfast and snacks during a training.

***Illinois Housing state agency: \$114,408***

\$14 spent on Treasury employee breakfast; \$98,305 spent on employee cash awards; and \$16,089 supplies, parties, celebrations, food and beverages, (including for a contractor to deliver coffee and water), lunch at a pizza restaurant to "to celebrate getting new HHH funds and an employee's upcoming wedding," and an employee retirement party.

***Michigan state agency: \$337,349***

\$77 spent on refreshments and meals for Treasury employees; \$330,575 spent to provide free parking to employees; \$6,642 in parties, celebrations or other food and beverages, including cupcakes, ice cream sandwiches, balloons, and pizza; and \$55 on employee gifts from Bed, Bath & Beyond.

***Alabama state agency: \$705***

\$341 spent on meals and other food for Treasury employees, including a barbeque; \$198 in other food, including meals with Bank of America staff; and \$166 on Visa gift cards and fruit baskets.

***Kentucky state agency: \$49,150***

\$159 spent on catered lunches with Treasury employees; \$46,811 spent on severance payments for three employees; \$654 spent on gift certificates and cash bonuses, and \$1,526 spent on food and beverages, including a picnic with food trucks, an employee gelato outing.

**Ohio state agency: \$204,522**

\$127,932 spent on cars and a \$90-110 monthly payment to employees for transportation; \$63,432 on unemployment payments to former employees; and \$13,158 on events with housing counselors, including paid admission at one zoo and breakfast and lunch at three other zoos.

**South Carolina state agency: \$49,402**

\$20,627 spent on an executive's use of a car for more than three years; \$12,735 for food and beverages at annual meetings with legislative staff and at training events; and \$16,040 on employee bonuses.

**Oregon state agency: \$165,995**

\$430 on restaurant lunches with Treasury employees, including coffee, pastries and desserts, and twice for lunch for their staff to celebrate after Treasury's audit; \$84,256 spent to settle a former employee's wrongful termination litigation and the legal claims of two other terminated employees; \$79,742 spent on unemployment payments to former employees and \$1,567 on food and beverages, including lunch at Newport Seafood Grill with Bank of America staff.

**Tennessee state agency: \$5,985**

\$5,558 spent on unemployment benefits; and \$427 on food and beverages during a training.

**Georgia state agency: \$6,813**

\$6,813 spent on a contractor to deliver breakroom beverages, including water, coffee, tea and hot cocoa.

**Indiana state agency: \$46,658**

\$45,100 spent on employee bonuses; and \$1,558 on water for employees.

**Mississippi state agency: \$8,111**

\$369 spent on restaurant lunch for 30 people, including Treasury employees; \$5,343 spent on unemployment benefits; and \$2,399 on training lunches with counselors.

**California state agency: \$7,017**

\$4,644 spent on contractor parking; and \$2,373 to a contractor's laid-off employee to avoid the cost of litigation.

**Arizona state agency: \$2,244**

\$2,244 spent on an employee bonus.

**New Jersey state agency: \$1,585**

\$1,585 spent on food and beverages, including \$472 at Land & Sea Restaurant and \$1,113 at Italian Peoples Bakery.

# The Hardest Hit Fund Lacks Standard Federal Requirements for Competition

Conclusion of SIGTARP interim audit issued March 8, 2018

Competition in the \$9.6 billion Hardest Hit Fund is critical to protecting federal taxpayers, with 19 state housing finance agencies awarding and disbursing millions of dollars in contracts. The Office of Management and Budget said in 2007, “Competition is the cornerstone of our acquisition system. The benefits of competition are well established. Competition saves money for the taxpayer, improves contractor performance, curbs fraud, and promotes accountability for results.” Competition also deters favoritism.

SIGTARP found that most of the \$9.6 billion Hardest Hit Fund has no federal requirements for competition, despite millions of dollars in federal contracts being awarded and disbursed by state housing finance agencies.<sup>10</sup> Uniform federal procurement standards that require competition for grants (contained in 2 CFR 200, Subpart D) do not automatically apply because Treasury did not structure HHF as a grant.

Federal taxpayers that fund the Hardest Hit Fund should receive no less protection because Treasury engaged in a legal construct to fit the program within its authority under the TARP law (the Emergency Economic Stabilization Act), rather than call it a grant program. Federal uniform procurement standards prevent fraud, waste, and abuse, and ensure full and open competition that gives taxpayers the best value.

Despite not structuring the Hardest Hit Fund as a grant, Treasury operates the program much like a grant, but without all of the standard protections of grants for taxpayers. HHF has the benefits of grants in achieving solutions that are flexible and targeted to local problems, which is a worthwhile goal. However, federal agencies issuing grants partner that flexibility and desire for local solutions with protections for federal taxpayers through “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” contained in 2 CFR Part 200. Subpart D of the regulation includes requirements for competition in procurements.

Treasury should explicitly apply those federal procurement standards for competition contained in 2 CFR Part 200, Subpart D. Treasury has already explicitly applied the federal cost standards contained in Subpart E of the regulation. These cost principles, which do not discuss competition, are insufficient protection for taxpayers against anticompetitive actions.

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<sup>10</sup> In June 2016, SIGTARP issued an audit on the then-\$622 million Blight Elimination subprogram of HHF and recommended that Treasury explicitly apply the uniform procurement standards, but Treasury did not do so. Instead, in December 2016, Treasury added one-sentence guidance on competition, requiring state agencies to ensure full and open competition, limited to the blight subprogram, a program that has now increased to \$800 million. This one sentence is progress, but is not sufficient to protect taxpayers. Treasury should implement SIGTARP’s remaining recommendations in that audit to apply standard federal procurement standards that require competition.

Because Treasury and state agencies operate this program much like a grant, HHF dollars should have the same federal taxpayer protections of a grant. Flexibility from state stewardship is a worthwhile goal, as long as the program is protected with federal requirements that prevents fraud, waste, and abuse, deters favoritism, levels the playing field, and save taxpayer dollars. The Department of Commerce Office of Inspector General recently reported on government-wide studies that indicate that using competition rather than noncompetitive procedures may result in 20% in savings.<sup>11</sup>

With more than \$2.354 billion in spending until December 2021, there is time to take action to prevent fraud, waste, and abuse and save taxpayer dollars. The uniform federal procurement standards requiring competition that already protect federal taxpayers in grant programs, prevent fraud, waste, and abuse, and promote good stewardship of federal taxpayer dollars, can have the same benefit for HHF.

The uniform federal procurement standards for competition are the strongest protection for taxpayers funding this program. Reliance of state laws, which may or may not apply, is not the strongest protection. In some instances state procurement laws do not apply, and policies requiring competition are not enforced. As an example, in Nevada HHF, the contractor running the program is not subject to state procurement rules. SIGTARP found that Nevada HHF awarded contracts in 2016 and 2017 without following its policy to conduct a request for proposal for contracts over \$25,000. Some of the contracts were awarded to former colleagues of those running the HHF Nevada program. This example shows why federal standards provide taxpayers the strongest protection.

## UNIMPLEMENTED PRIORITY RECOMMENDATIONS

*In order to prevent fraud, waste, abuse, and ensure that taxpayers achieve the protection of full and open competition, including obtaining the best value and cost savings, Treasury should apply the uniform procurement standards (contained in 2 CFR 200, Subpart D) to the Hardest Hit Fund just as it has already applied Subpart E.*

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<sup>11</sup> See Commerce Office of Inspector General, “Awarding of U.S. Census Bureau Noncompetitive Contracts Did Not Consistently Follow Federal Acquisition Regulations and Commerce Acquisition Policies,” September 25, 2017, citing to Healey, P.A. et al. Naval Postgraduate School, “The Value of Competitive Contracting,” September 2014.

# Treasury's HHF Blight Elimination Program Lacks Important Federal Protections Against Fraud, Waste, and Abuse

Conclusion of SIGTARP audit issued June 16, 2016

SIGTARP found that the Federal government funds two main programs for the demolition of blighted houses, but only the U.S. Department of Housing and Urban Development's ("HUD") program has Federal requirements to protect the Government against substantial risks inherent in contracting for demolition work—Treasury's Hardest Hit Fund does not. SIGTARP found that blight elimination under Treasury's Hardest Hit Fund lacks very basic Federal requirements that govern HUD's blight elimination program. While TARP-funded demolition of abandoned houses has great potential benefit to communities, the absence of Federal requirements specific to the risks inherent in blight elimination like those that exist in HUD's blight elimination program puts Treasury's program at great risk of fraud, waste, and abuse. At least one city mayor seeking funds under Treasury's program stated publicly that these funds come with no stipulations—a perception that will only change when Treasury creates Federal stipulations to mitigate substantial risk. Right now, the risks of HHF blight elimination continue unregulated and unchecked for more than half a billion Federal dollars.

Treasury followed HUD's lead in creating a Federally-funded blight elimination program, but made its program bigger (nearly \$622 million compared to HUD's \$300 million) and without blight-specific Federal requirements designed to protect against the risks inherent in this activity. While Treasury conducted a written analysis of the benefits of expanding HHF to include blight elimination, there is no Treasury written analysis of the risks. It should have been obvious to Treasury that demolition activities and the flow of Federal dollars through hundreds of individuals, companies, and other non-Federal entities carry far greater risk to the Federal Government than providing Federal funds to unemployed or at-risk homeowners, which had previously been HHF's sole activity. Treasury could have used HUD as a model for Federal requirements needed to mitigate risks inherent in blight elimination, but it did not—instead only amending its contract with participating state agencies with 2-3 pages of provisions in large type that are insufficient to protect against risks inherent to contracting for demolition and other activities.

Treasury's Hardest Hit Fund program is significantly vulnerable to the substantial risks of unfair competitive practices and overcharging, either of which could lead to fraud, waste, and abuse. The most glaring difference between the two Federal blight programs is that HUD requires: (1) full and open competition (and other competition requirements); and (2) that demolition and other costs must be necessary and reasonable. Treasury requires neither.

Treasury's program is at far greater risk than HUD's program given that Treasury has zero Federal requirements for competition. Unlike Treasury, HUD does not leave competition to chance. Without similar requirements to HUD, Treasury is not conducting any oversight

over whether there is competition in the solicitation or awarding of Federal funds or whether costs are necessary and reasonable. This means that more than half a billion in Federal dollars contracted with nearly 280 local partners, each who may have contractors and subcontractors, is being expended with zero Federal requirements for competition, and no requirement that demolition costs be necessary and reasonable.

There is a substantial public interest in having Federal requirements for competition in this TARP program. Federal requirements for competition are designed to keep programs fair. The Administration has said that competition drives down costs, motivates better contractor performance, helps curb fraud and waste, and promotes innovation. Favoritism, undue influence, contract steering, bid-rigging, and other closed-door contracting processes, can result from a lack of Federal requirements for competition.

There is no harm in Treasury creating Federal requirements for full and open competition, and other competition requirements, similar to HUD's program. HUD's program allows for the same locally-tailored solutions and flexibility that Treasury seeks, only with accountability and oversight not present in HHF, and with less risk of fraud, waste, and abuse. HUD protects the Federal Government and the program through 6 pages in small font of Federal requirements for competition, requirements that flow down to state and local governments. By contrast, in the face of Treasury's silence, the state agencies administering Treasury's program have no requirements for full and open competition in this program, with one very small exception. One small agency in South Carolina, which is allocated 6% of total funding for TARP blight elimination, requires "open and free" competition, leaving 94% of this program (nearly \$590 million in Treasury funding) with no requirement for full and open competition. Clearly, HHF South Carolina has determined that there is no harm in requiring full and open competition, just as there would be no harm to the remaining \$590 million in funding through six other HHF state agencies. Beyond HHF South Carolina's single paragraph on competition, HHF Alabama (which is allocated 4% of TARP funding for blight elimination) has a single sentence in its guidelines on competition (requiring two bids), evidencing that there is no harm in competition.

Those running this program (Treasury and state agencies) are essentially allowing the recipients of Federal funds to determine whether to have competition and in what form. This has led to a patchwork of inconsistent or non-existent practices on competition. Treasury does not require that nearly \$622 million in Federal funds will even be bid out at all. Treasury does not require that competition be full and open, prohibit a single quote from a sole source, or prohibit placing unreasonable requirements on firms to qualify. Two small HHF state agencies are the only ones in this program even attempting to set any requirements for competition, which is insufficient to protect nearly \$622 million.

Unlike Treasury, HUD does not allow the recipient of Federal dollars to set the rules on competition, but instead layers on any state or local laws or rules that might apply on top of Federal requirements. Unlike HUD, Treasury's program relies exclusively on state/city laws or rules. Local rules may not even apply to the nearly 280 local partners in Treasury's program because most (87%) of them are not municipalities or public agencies, but instead include nearly 100 individuals, 8 for-profit companies, 105 non-profit entities, and 33 land banks. Any rules that may apply are varied, leaving the Federal Government substantially at risk compared to HUD's blight elimination program.

SIGTARP also found that HUD limits Federal dollars for blight elimination to only necessary and reasonable costs, but Treasury does not, leaving HHF at risk of overcharges, waste, and fraud. Treasury has a cap of \$25,000 or \$35,000 per property, which is not sufficient to protect the Federal Government from paying for costs that are not necessary and reasonable. Treasury's cap far exceeds the average cost of demolition, reflective of worst-case-scenarios. Treasury's Blight Elimination Program is leaving the analysis of what is necessary and reasonable to the recipients of Federal funds. HUD does not place such trust or hope in recipients to protect the Federal government.

At the very least, Treasury's program should have the same protection as the other Federally-funded blight elimination program. The requirements of a grant program (at HUD) should be the bare minimum for a TARP program. HHF does not have to be a grant for Treasury to protect it. That would be form over substance. Federal grant funds are not the only Federal funds that should be protected. TARP funds are bailout funds that Congress designed to be accompanied by accountability. TARP funds should have more accountability and oversight than grant programs. Treasury should make its own requirements to protect the program.

The Hardest Hit Fund is a homeowner bailout program fought for by Congress, which rejected TARP at first. It is not a bailout of cities, no matter how good the intentions, or developers, construction companies, non-profits, for-profits, land banks, or individuals who are not at-risk homeowners. This program has a lot of self-interests involved and with that come risks and vulnerabilities that need strong protection—protection that exists in HUD's program, but not in Treasury's program.

TARP funds for demolitions of abandoned properties were taken from programs that directly gave TARP money to homeowners, primarily in the form of unemployment and underemployment assistance. Every dollar that pays a demolition contractor for costs that are not necessary or reasonable is a dollar taken away from a homeowner. Every dollar that pays a demolition contractor for costs that are not necessary or reasonable is a dollar taken away from demolishing an abandoned house that causes safety concerns for a neighborhood. That is why it is so important that Treasury create Federal rules to protect this program and these bailout funds, and why it is so important that everyone with oversight of TARP keeps this new use of TARP for razing homes tightly focused and protected.

## 18 UNIMPLEMENTED PRIORITY RECOMMENDATIONS

*Reflecting Cost Savings of \$161 million*

*Treasury should require state agencies to implement standard Federal contract requirements that ensure full & open competition for blight demolition beyond the one sentence Treasury added on competition.*

*State agencies should establish an independent determination of demolition costs that are necessary and reasonable for each city (using independent experts, third party fair market value quotes and current/historical costs).*

*State agencies should benchmark claims against the state agencies' independent determination of which costs are necessary and reasonable.<sup>6</sup>*

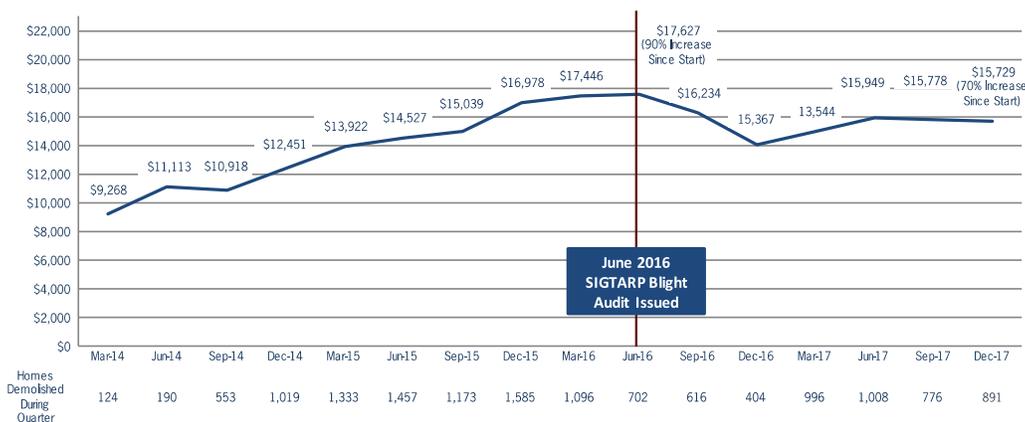
# Implementing SIGTARP's Recommendations is Critical Given That Demolition Costs Continue to Rise

Quarterly Report to Congress April 2017, updated April 26, 2018

In April 2017, SIGTARP found that demolition-related costs funded by TARP dollars rose significantly in Michigan and Ohio, which account for nearly half of all TARP-funded demolitions. The costs decreased after news reports on SIGTARP's June 2016 audit or after SIGTARP's April 2017 report warning about rising costs.

The average per house demolition-related costs funded by TARP in Michigan rose by 90%, then dropped after SIGTARP reports.

## MICHIGAN AVERAGE HHF DEMOLITION-RELATED COSTS



Source: SIGTARP analysis of data from Michigan Housing Finance Agency

In Ohio, the average per house demolition-related costs funded by TARP rose 65%, then declined after SIGTARP's April 2017 report on rising costs in Ohio.

### OHIO AVERAGE HHF DEMOLITION-RELATED COSTS



Source: SIGTARP analysis of data from Ohio Housing Finance Agency

These rising cost chart highlight the need for implementation of SIGTARP's recommendations on HHF's blight subprogram.

# Risk of Asbestos Exposure, Illegal Dumping, and Contaminated Soil From Demolitions in Flint, Michigan and Other Cities

Conclusion of SIGTARP evaluation issued November 21, 2017

The Hardest Hit Fund’s blight elimination subprogram has the potential to fulfill its mission to stabilize neighborhoods suffering from “eyesore” abandoned houses, but only if the demolitions do no harm to Americans living in these towns. The U.S. Army Corps of Engineers conducted July 2017 field inspections of multiple properties in various stages of demolition and a document review of one completed demolition in Flint, Michigan. The Corps identified for SIGTARP three high-risk areas for demolitions: 1) proper removal and storage of asbestos and other hazardous material; 2) proper dumping of all debris and waste in appropriate landfills or recycling facilities; and 3) filling in the demolition hole with only clean soil. These high-risk areas not only threaten the goal of neighborhood stabilization, but also carry a high risk of fraud, waste, and abuse.

The people of Flint, Michigan, require more than trust that these demolitions will not harm them—particularly after their contaminated water. The Corps identified that Treasury does not require the Michigan state agency to have any oversight to ensure these high-risk areas are handled properly through safeguards and quality assurance. This would likely be the same with all eight state agencies in the program, including agencies in Ohio, Illinois, Indiana, Tennessee, South Carolina, Alabama, and Mississippi. In the absence of Federal requirements, the Corps identified that the Michigan state housing agency’s requirements do not adequately cover these high-risk areas. Absent state agency requirements, the Corps found that the local partner in Flint, Michigan—the Genesee County Land Bank Authority—is not doing enough to mitigate these high-risk areas, and failing to ensure that contractors meet all safety and environmental laws and standards.

The Corps found that the Land Bank and its contractors may have allowed undue risks to keep the total project costs under the \$25,000 cap, and that all agreements and documentation in the program were lacking in quality assurance. In the one completed demolition the Corps reviewed, asbestos was mismanaged, there was no proof of inspection to determine if debris was removed from the hole, and there was no proof of inspection to determine that the material placed in the hole was clean and from an approved source. There was no confirmation that the debris removed from the site went to an appropriate waste facility.

The Corps’ findings identify risks that could extend to any demolition site in the 248 participating cities and/or counties. Given the seriousness of these risks, SIGTARP is making recommendations for Treasury and state agencies to mitigate them, and to prevent harm, fraud, waste, and abuse. Now is the time for Treasury and state agencies to mitigate the risks of asbestos exposure, illegal dumping, or demolition debris or other unclear material buried in the ground. Failure to implement SIGTARP’s recommendations—which are industry standards—could result in violations of environmental and safety laws and

regulations; lead to fraud, waste, and abuse; and inflict long-lasting harm on these already hard-hit neighborhoods.

Treasury's desire for state flexibility in the Hardest Hit Fund cannot eliminate the need for appropriate constraints. Treasury should place on state agencies the responsibility to ensure that asbestos removal, dumping, removal of debris, and filling in the holes is conducted properly, without harm to neighborhood stabilization—the goal of the program. Treasury must require state agencies to: 1) set technical requirements for all involved; and 2) confirm that all technical requirements have been met before any payment of TARP dollars.<sup>12</sup> Treasury should require state agencies to hold local partners and contractors accountable to ensuring that all parts of the demolition process proceed safely, appropriately, and in compliance with all applicable environmental and safety requirements and standards, and without fraud, waste and abuse. Taxpayers and people living in hard-hit neighborhoods deserve nothing less.

## United States Army Corp of Engineers' Executive Summary

This review encompassed the Blight Elimination Program agreements from the Department of Treasury (Treasury) with the State of Michigan (State), from the State to the Genesee County Land Bank Authority (Land Bank), and from the Land Bank to various contractors involved with the demolition process. Documents reviewed were for demolition of one home at 2725 Kellar Avenue in Flint, Michigan which was awarded in 2014. A USACE led field inspection of multiple properties in various stages of demolition by the Land Bank in Flint, Michigan was also conducted.

Significant findings include:

- Asbestos removal appears to have been mismanaged by the Land Bank, Global Environmental Engineering, DMC Consultants, and LA Construction.
- It's unclear whether the material placed in the hole was clean and provided in accordance with the State and contract requirements.
- On properties with significant quantities of hazardous materials, Partners and Contractors may have allowed undue risks in order to keep total project costs under the \$25,000 cap.
- All of the agreements and execution documentation were lacking in quality assurance.
- The State, City, and Land Bank performed redundant inspections of winter grade and final grade, and no other physical inspections were documented.

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<sup>12</sup> If a local partner and/or contractor does not follow the state agency requirements that the Corps and SIGTARP recommend, they should not be paid, and they should remediate the problem at their own cost. If the state agency suspects that a contractor is not in compliance with laws and regulations, it should refer the matter to SIGTARP for investigation.

## UNIMPLEMENTED PRIORITY RECOMMENDATIONS

*Treasury and state agencies should preclude from participation all contractors charged/fined for violations of environmental or safety requirements.*

*Treasury should require state agencies to install industry-standard, common sense safeguards that protect against risk of asbestos exposure, illegal dumping of debris, and contaminated material filling the demolition hole.*

*Treasury should require state agencies to conduct oversight over asbestos removal including not paying TARP dollars until after confirming that inspection documentation and other documents show appropriate removal of asbestos and other hazardous materials.*

*Treasury should require state agencies to determine approved sources of fill dirt, and not pay TARP dollars until after confirming that an inspection of the open hole showed that all debris was removed, and that the hole is only filled with clean material from an approved source.*

*Treasury should require state agencies to determine a list of approved waste facilities, and not pay TARP dollars until after confirming that all debris was disposed of at an appropriate waste or recycling facilities, as documented by landfill receipts, waste manifests, and truck weight tickets.*

# Improving TARP's Investment in American Workers

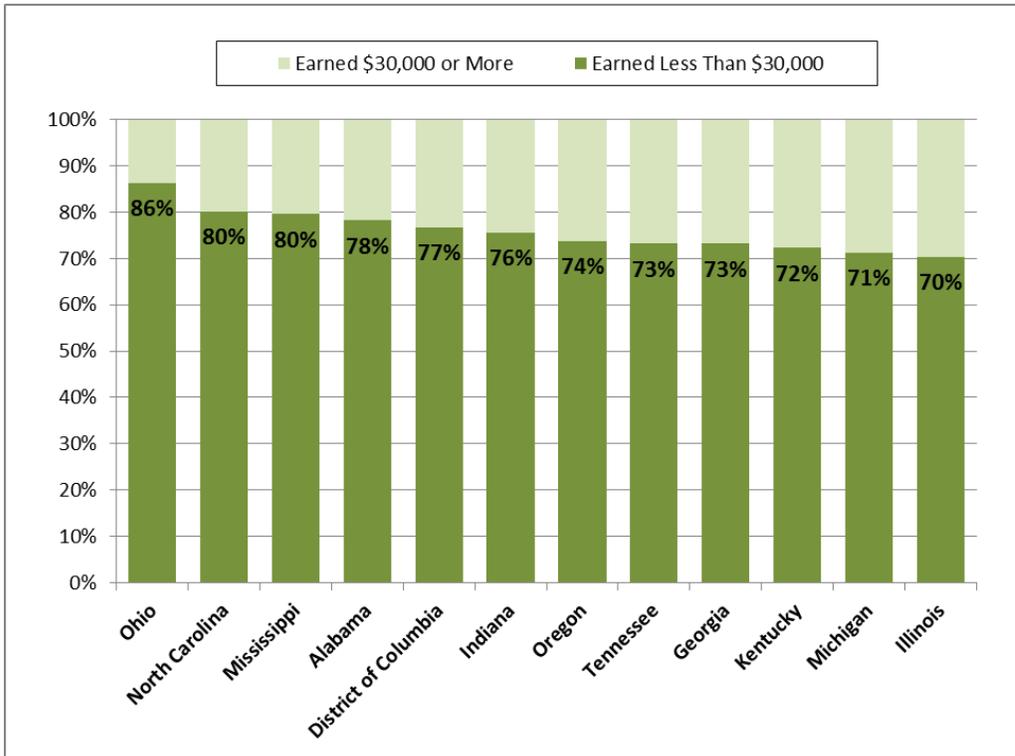
Conclusion of SIGTARP evaluation issued January 11, 2017

As an investment in American workers, TARP's Hardest Hit Fund provides a temporary safety net to save the homes of now-unemployed or underemployed workers in the rust belt, south, and other hard-hit areas of the country. The program has helped more than a quarter of a million people, but there has been no reporting on the people denied entry into the program. SIGTARP has found that most of the homeowners who were denied Hardest Hit funds earned less than \$30,000, calling into question whether the program is effective in reaching those hardest hit. In six states (including Ohio, North Carolina, and Indiana) three out of four people denied entry into the Hardest Hit Fund made less than \$30,000. Nearly three out of every four people in six other states (including Michigan, Georgia, Illinois, Kentucky, and Tennessee) who were denied entry into the Hardest Hit Fund made less than \$30,000.

TARP was a bail out for companies like General Motors in areas like Detroit, Cleveland, and Flint, but Congress also required that TARP funds go to homeowners, including American workers who continue to feel the effects of the financial crisis and the recession that followed. In many states, the money has been slow to flow. The need for the program is so great that a bipartisan effort by Congress added an additional \$2 billion in December 2015. Treasury extended the program three years until December 2020. More can be done to make sure those American workers who are hardest hit get this help.

SIGTARP found that 84,965 out of 160,015 people denied for Hardest Hit Fund dollars earned less than \$30,000 a year, including 64,979 people who made less than \$20,000 a year. In 12 states, mostly in the rust belt and south, 70 percent or more of the people turned down for the Hardest Hit Fund made less than \$30,000. At the same time, nearly 20,000 people who made more than \$70,000, including 6,000 people making more than \$90,000, received Hardest Hit Fund dollars.

**Percentage of Denied Homeowners Who Earned Less Than \$30,000, by State**



Out of 19 states, with the exception of highly-populated California and Florida, Treasury set aside the most dollars for Ohio and Michigan. While the program has helped many in Ohio and Michigan, those are two states where high percentages of people turned down made under \$30,000—86 percent in Ohio and 71 percent in Michigan.

**Percentage of Denied Workers Who Earned Less Than \$30,000, by City**



SIGTARP found high percentages of people turned down for the Hardest Hit Fund who earned less than \$30,000 in cities where General Motors—which received \$50 billion in TARP funds—or its suppliers closed plants or laid off workers:

- 82% of the people in the Detroit area turned down made less than \$30,000—that amounts to 4,829 people
- 89% of the people in the Cleveland area turned down made less than \$30,000 (619 people)
- 84% of the people in the Flint area turned down made less than \$30,000 (407 people)
- 83% of the people in the Saginaw area turned down made less than \$30,000 (266 people)
- 91% of the people in the Dayton area turned down made less than \$30,000 (238 people)

The expectation for a program that targets unemployed and underemployed workers should be that many struggling to save their homes will have lower incomes. The fact that so many turned down had lower incomes requires a deeper look into why they were turned down.

State agencies' records provided to SIGTARP were non-existent, missing or incomplete about why the state agencies turned down these people making less than \$30,000. There may be valid reasons why some of these people were denied, but it is impossible to know when state agencies managing this program do not keep records that detail specifically why each person was denied. That oversight is unjustifiable and should be remedied so appropriate action can be taken to get this money to the working class still feeling the impact of the crisis and recession.

This program has a lot more potential to provide a safety net in certain communities until full-time jobs return, but that potential needs to be unlocked now. Despite GM returning to profitability, GM and others have closed plants in the past year, and more than 2,000 GM workers will be laid off at plants in Michigan and Ohio.

The best way to unlock the full potential of the program is to remove too-stringent criteria that: (1) do not reflect the reality of the working class in that state; or (2) do not apply to homeowners in other states to get these funds. For example, a Michigan worker should not be turned down for the Hardest Hit Fund just because they received unemployment benefits (or saw their paycheck cut) more than 12 months ago, when a California homeowner does not have that same restriction for entry into the Hardest Hit Fund. There should be a level playing field for homeowners seeking help through this program. This 12-month timing restriction is also inconsistent with the new normal of unemployment—that it lasts a long time—and it does not reward a responsible Michigan homeowner who made ends meet for more than a year after receiving unemployment benefits, but has now run out of options.

SIGTARP found other criteria in certain states for this program that are more restrictive than others. For example, a requirement in Michigan and some other states to show a 20%

pay cut in order to qualify as “underemployed” is either lower or non-existent in other states for this same program. SIGTARP also found criteria in certain states for this program that do not match the reality of unemployed workers. For example, a requirement that the person make sufficient income to afford their mortgage in the future may not be realistic now. The reality is that this is temporary help while the person looks for a full-time job, at which point the hope is that they will make enough income to afford their mortgage. Program criteria like these and others may have been well-intentioned, designed to ensure there was enough money to spread around. Nearly seven years later, with billions of dollars left, and the money slow to flow, state agencies should determine whether each program criteria is really necessary.

Even good programs can be better. The Hardest Hit Fund can be more effective and efficient so that the state agencies can help more of America’s working class save their home. That is a goal worth striving for, but it takes change, including unlocking the full potential of this program by deleting unnecessary restrictions.

## PRIORITY RECOMMENDATIONS

*Eliminate unnecessary criteria that may preclude lower-income workers from HHF Unemployment Bridge*

*Maintain detailed records of why each person was denied HHF Unemployment Bridge*

*Allow workers facing upcoming layoffs to be eligible for HHF before becoming past-due on their mortgage*

# Eviction and Uprooting of Evansville, Indiana Residents to Qualify as Vacant Houses for TARP-Funded Demolition to Move a Ford Dealership to the Location

Finding in Alert Letter Issued December 14, 2015

Despite Treasury's contract with Indiana's HFA limiting the TARP program [the HHF Blight Elimination program] to the demolition of vacant, abandoned, and blighted properties, Indiana's HFA approved lived-in residences to be included in the TARP program. SIGTARP found that Indiana's housing finance agency selected and approved lived-in homes on the desired relocation site of a car dealership in Evansville, Indiana, under the TARP program and used TARP funds to reimburse their demolition despite the presence of other abandoned properties in the city. Indiana's HFA allowed TARP's Hardest Hit Fund to be used as part of a plan that selected and approved live-in homes for demolition under HHF, which would require evicting or otherwise uprooting people from their homes. This was not the intent of HHF. Indiana's HFA may be following a strategy that might be permissible under HUD's NSP program, but unlike TARP, HUD's program imposes substantial legal requirements and protections on the acquisition of occupied properties. This puts TARP at great risk of abuse.

## PRIORITY RECOMMENDATIONS

### IMPLEMENTED

*Treasury should immediately direct state housing finance agencies that they should not allow the Hardest Hit Fund to be used strategically to select lived-in residences for demolition, and should instead be used solely to select zombie properties for demolition.*

### UNIMPLEMENTED

*Treasury should claw back all Hardest Hit Fund monies used for lived-in residences that were selected for the blight elimination program, including TARP payments of \$246,490 for 18 lived-in residences in the neighborhood of Area 55, in Evansville, Indiana, and recycle those funds to demolish abandoned zombie properties.*

# Mismanagement of the Hardest Hit Fund in Georgia

Conclusion of SIGTARP audit issued October 13, 2017

There are two TARP housing programs that operate in Georgia. The Making Home Affordable Program, a national program administered by Treasury, has provided TARP dollars to 80,026 Georgians. The Hardest Hit Fund administered by the Georgia Department of Community Affairs (the Georgia agency) has provided TARP dollars to only 9,061 homeowners over more than 6 years, while \$164 million, which is more than half of the available HHF dollars, remains unspent. Upon a request by Congressman John Lewis, SIGTARP audited the Hardest Hit Fund in Georgia to determine whether it had adequately served counties in his district, and to identify improvements. SIGTARP found that TARP's Hardest Hit Fund program has not adequately served those most in need in Georgia counties in Congressman Lewis' district in Atlanta and surrounding areas.

The mission of the Hardest Hit Fund is to preserve homeownership, something that hard-hit homeowners in Atlanta and surrounding areas greatly need. This mission is accomplished by state agencies providing Hardest Hit Fund aid to families through local programs tailored to the urgent needs of the communities. If the state agency does not provide the aid, it cannot effectively address local needs.

Homeowners in DeKalb, Clayton, and Fulton counties fit the definition of hard hit. So many in these three counties are hard hit not because of anything that is their fault, but instead because of where they live. These are Georgians caught in a pocket of slow recovery compared to other cities. Neighborhoods like Forest Park, Lakewood Heights, and Lithonia have been the subject of nationwide and local reporting on pervasive poverty and an uneven housing market. Many in these counties owe more than their house is worth. There are not enough jobs.<sup>13</sup> The jobs that do exist often do not pay enough to cover the mortgage and other bills. There has been, and continues to be, a need for the Hardest Hit Fund.

The need for the Hardest Hit Fund has always been urgent in DeKalb, Clayton, and Fulton counties. Nearly one quarter of all Georgia homeowners who lost their home to foreclosure since 2008 lived in DeKalb, Clayton, or Fulton County. Foreclosures in Georgia can be very fast because banks do not have to go to court to foreclose on a Georgia homeowner. Treasury's promises that the Hardest Hit Fund would provide "urgent," "immediate," help "as soon as possible" meant that the program had an opportunity to prevent these fast foreclosures. Along with need, there was interest in the program, and many hard-hit Georgians applied. There were 29,750 Georgians who applied for the program, 9,516 from DeKalb, Clayton, and Fulton counties.

SIGTARP found that the Hardest Hit Fund did not meet the urgent local needs affecting the housing recovery of Georgia homeowners living in DeKalb, Clayton, and Fulton counties.

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<sup>13</sup> All three counties have above-average unemployment. Clayton County has a 5.9 percent unemployment rate compared to the national 4.5 unemployment rate. DeKalb County and Fulton County also have above average unemployment rates at 4.9 percent each.

The Georgia agency turned away two-thirds of Georgians living in these counties for the Hardest Hit Fund—6,200 people—while more than one hundred million dollars sat idle.<sup>14</sup>

The Georgia agency turned away thousands who could not afford to be turned away. In Fulton County, 75% of all applicants that the Georgia agency turned away earned less than \$30,000 per year. In DeKalb County, 77% of all applicants that the Georgia agency turned away earned less than \$30,000 per year and, in Clayton County, 81% of all applicants that the Georgia agency turned away earned less than \$30,000 per year. Most turned away in these counties earned less than \$20,000.

The problems that SIGTARP found with the Hardest Hit Fund extended beyond these three Georgia counties to the entire state. Year after year, the Georgia agency ranked among the least effective state agencies in disbursing Hardest Hit Funds to homeowners to preserve homeownership—the goal of the program. SIGTARP reported on the severe underperformance of the Georgia agency 25 times in 5 years. Twice, U.S. Congressmen from Georgia wrote to then-President Obama to change or redirect the program.

- Rather than respond to the most pressing problems of their communities, the Georgia agency turned away two of every three (20,051 of 29,750) Georgians who applied for Hardest Hit Funds, one of the worst rates nationwide.
- Three out of every four turned away earned less than \$30,000, most earned less than \$20,000, while millions of TARP dollars sat idle.
- In 2010, the Georgia agency told Treasury that it planned to distribute Hardest Hit Funds to 18,625 homeowners (9,000 homeowners in the first year, and 9,500 homeowners in the second year). However, it has taken more than 6 years for the Georgia agency to provide Hardest Hit Funds to 9,061 Georgia homeowners.<sup>15</sup>
- The Georgia agency has provided less than half of the available dollars (\$173.8 million out of \$370.1 million) to homeowners.
- Despite Georgia experiencing one of the highest levels of underwater homeowners in the nation, which is a contributing factor to Georgia's slow recovery from the crisis, the Georgia agency failed to provide underwater home HHF assistance for 6 years.
- Despite Georgia having one of the largest populations in the United States of military and veterans, the Georgia agency turned away 2,310 veterans—71% of all veterans who applied for the Hardest Hit Fund.

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<sup>14</sup> The Georgia agency turned away 2,476 DeKalb County residents, 2,342 Fulton County residents, and 1,382 Clayton County residents who applied. There were 95,232 homeowners in these counties losing their home to foreclosure since September 2008.

<sup>15</sup> As of March 31, 2017, the latest data available as of the drafting of the report.

Finding statewide ineffectiveness and inefficiency of HHF in Georgia, SIGTARP shifted the audit to determine the source of the problem, and how to fix it.

SIGTARP found mismanagement by the Georgia agency paid by Treasury to provide this urgent aid to Georgia homeowners, and by Treasury in not holding the Georgia agency accountable.<sup>16</sup> The Government Accountability Office (GAO) defines mismanagement as “creating substantial risk to an agency’s ability to accomplish its mission.” The mission of HHF is to preserve homeownership. The mission is accomplished by state housing finance agencies like the Georgia agency, providing aid to families through local programs tailored to the urgent needs of the communities. Conversely, the mission is not accomplished, given that the Georgia agency withheld aid.

The Georgia agency’s mismanagement of HHF included that it:

- ***Failed to act with urgency in distributing this Federal aid, and withheld it from Georgians.*** While some families received the aid, the Georgia agency did not provide this aid with any urgency, and did not provide it to enough families. The Georgia agency did not meet its own target of providing assistance to 18,500 Georgians in the first 2 years (by September 2012). Instead, after 2 years (as of September 30, 2012), the Georgia agency provided this aid to less than 10% of that target—assisting only 1,708 homeowners. The Georgia agency withheld this aid to Georgians over the years, meeting less than 50% of its own target as of March 31, 2017 (the latest data available during the drafting of this report). By withholding this aid, and slow walking the aid it did distribute, the Georgia agency cut off Georgians’ access to these funds, leaving thousands at risk of foreclosure without help available to homeowners in other states with similar situations.
- ***Designed overly strict and unnecessary criteria for the HHF unemployment program that made it harder for a Georgia homeowner to receive this assistance than homeowners in other states.*** In this audit, SIGTARP provides 10 examples of overly strict criteria. For example, when in 2012, the Georgia agency required that a homeowner be no more than 6 months delinquent on their mortgage to qualify, people all but stopped applying. For the HHF unemployment/underemployment program, the Georgia agency did not recognize common hardships like illness, disability, divorce, and military orders that can lead to unemployment or underemployment. These hardships are recognized in the other TARP housing program (Making Home Affordable), and for HHF by other state agencies. A Georgia worker has to show they lost their job in the last 3 years (later expanded to 4 years), when homeowners in other states do not have this limitation. The Georgia agency disqualifies a homeowner who resigned from their job from getting HHF assistance, even if it was due to illness,

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<sup>16</sup> Treasury did not hold the Georgia agency accountable to the targets set by the Georgia agency of 9,000 homeowners assisted the first year, and an additional 9,500 homeowners assisted the second year. Treasury also did not hold the Georgia agency accountable to targets Treasury set in April 2012 of 250 new homeowners funded each month.

disability, or age. The Georgia agency accepts only severe underemployment of a 25% pay cut when other state agencies accept 10%. These and other criteria are not required by Treasury and far stricter than some other state agencies require in HHF.

- ***Failed to eliminate overly strict criteria despite repeated warnings and recommendations.*** The Georgia agency's mismanagement disadvantaged Georgia homeowners, making it harder for a Georgia homeowner to gain access to this Federal aid than homeowners in other states. The Georgia agency was repeatedly warned, and there were many recommendations to eliminate overly strict criteria. These recommendations came from Congressman Lewis, Congressman Henry "Hank" Johnson, SIGTARP, Treasury, and local non-profit groups.
- ***Required significant red tape, had a confusing online application, provided very little in-person help to apply, and had burdensome document requirements.*** The online application was confusing, and there was little personal assistance available. More than 8,000 Georgians started the application but did not finish it and produce requested documents within 30 days, an artificial and unnecessary cutoff, so the Georgia agency withdrew their HHF application. This may have been due to the Georgia agency's burdensome document requests, for example, 4 years of tax transcripts stamped by the IRS, 2 years of payment history generated by their mortgage servicer, and a separation letter from the prior employer showing that the homeowner lost their job through no fault of their own.

The question SIGTARP was left with was, "what are they waiting for?" The mismanagement of the Georgia agency appears to be rooted in its desire to provide aid to only its overly restrictive view of what is a "Responsible Homeowner." The Obama Administration defined an irresponsible homeowner as someone who took out more of a loan than they could afford, and Treasury capped the mortgage for a homeowner receiving this Federal aid to the GSE conforming limit—around \$424,100 for a single-family house in Georgia. Of the Georgians turned away, 99% had a mortgage below this cap. The Georgia agency added far more limitations and red tape than Treasury required or that existed for homeowners in other states for these same funds, putting Georgians at a disadvantage.

The Georgia agency set a very high bar for Georgians to receive Hardest Hit Funds, and a very low bar for itself to receive these funds. The Georgia agency ran this program "guarding" the dollars and adding "precautions." This made the Federal funds last, which is contrary to the urgent nature of this program, but continues to keep the Georgia agency funded while other state agencies wound down operations. The Georgia agency has kept \$32 million for itself to pay its salaries and other expenses. SIGTARP has serious concerns given that the Georgia agency has distributed only less than half of the funds earmarked for homeowners, but kept 70% of the fund earmarked for its own expenses. If held to its own "responsible" standard, the Georgia agency should not have been paid when it did not meet its targets or Treasury's targets for the number of homeowners assisted. The Georgia agency's track record is so poor that while other states took advantage of an additional \$2 billion that Congress approved starting in 2016 for HHF, Treasury turned down Georgia for

\$33.5 million, out of concern that the Georgia agency would not spend the HHF dollars already set aside for Georgians.

The Georgia agency's mismanagement is a significant lost opportunity for Georgians, but a window of opportunity still exists with \$164 million remaining available in the program. This opportunity should not be lost. It will take wholesale changes in the Georgia agency, and in Treasury's oversight, to stop the mismanagement and change course. SIGTARP makes 30 recommendations for improvement, and implores the state agency and Treasury to adopt these recommendations fully and immediately.

If the Georgia agency reacts defensively to this report and sticks with the status quo, Georgians will continue losing a crucial aid that can speed their recovery from the housing crisis—aid that homeowners in other states have had access to for years. If mismanagement continues, Federal taxpayers will continue paying for underperformance and mismanagement, and Georgia homeowners will be on their own, without effective access to this Federal foreclosure prevention aid. Georgians have been disadvantaged by the Georgia agency for far too long.

## PRIORITY RECOMMENDATIONS

*Mismanagement Cost Taxpayers \$18.6 million*

*Georgia agency should remove impediments to Georgia homeowners receiving Hardest Hit Funds such as overly strict criteria and unnecessary red tape.*

*Georgia agency should fix a broken and confusing online application system.*

*Georgia agency should conduct outreach to assist homeowners in applying counties.*