



## OFFICE OF THE SPECIAL INSPECTOR GENERAL

FOR THE TROUBLED ASSET RELIEF PROGRAM

1801 L STREET, NW, 4<sup>TH</sup> FLOOR

WASHINGTON, D.C. 20220

SEP 2 2014

Secretary Jacob J. Lew  
Office of the Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

Dear Secretary Lew:

As part of our continuing oversight of the Troubled Asset Relief Program (“TARP”), the Office of the Special Inspector General for the Troubled Asset Relief Program (“SIGTARP”) is conducting an audit of the Results of Treasury’s Use of Capital Surveys to and Responses from Recipients of Funds from the Troubled Asset Relief Program, including the Capital Purchase Program (“CPP”) and the Community Development Capital Initiative (“CDCI”). As communicated in our engagement memorandum, dated June 21, 2013 (SIGTARP Audit 030), our audit objective is to assess the U.S. Department of the Treasury’s (“Treasury”) surveys and recipient responses covering the period 2009 through 2012. During audit fieldwork, SIGTARP identified issues that warrant Treasury’s immediate attention.

According to Treasury, the purpose of the annual Use of Capital Survey is for Treasury to obtain insight into the lending, financial intermediation, and capital building activities of all CPP and CDCI fund recipients. The surveys not only provide Treasury with valuable information on the financial stability of TARP recipients, but the surveys also provide transparency to the American taxpayer concerning how these institutions used the billions of TARP dollars provided to them. One of SIGTARP’s first recommendations when it opened its office in December 2008, soon after TARP was established, was that Treasury require all TARP recipients to report periodically on their use of TARP funds. Treasury rejected this recommendation. SIGTARP then sent its own survey to all TARP institutions and received responses from 100% of the institutions. These responses are posted on SIGTARP’s website for the public to view. SIGTARP reiterated its recommendation in a July 2009 audit report<sup>1</sup> and again in a December 2009 audit report.<sup>2</sup> It was not until 2010 that Treasury began issuing annual surveys to TARP financial institutions on how they used TARP funds. Treasury requested that the institutions complete the surveys that addressed eight key elements including, but not limited to, increased lending activities, capital restoration, and increases to the reserves. In March 2010, SIGTARP recommended that Treasury require quarterly reporting by all CDCI recipients on their use of TARP funds in an effort

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<sup>1</sup> SIGTARP audit report titled “SIGTARP Survey Demonstrates that Banks Can Provide Meaningful Information on Their Use of TARP Funds” (SIGTARP-09-001), dated July 20, 2009.

<sup>2</sup> SIGTARP audit report titled “Additional Insight on Use of Troubled Asset Relief Program Funds” (SIGTARP-10-004), dated December 10, 2009.

to encourage lending to their underserved communities. Treasury rejected this recommendation, saying that the annual surveys would provide sufficient transparency.

In June 2013, SIGTARP initiated an audit to report on the results from these surveys to bring transparency to TARP financial institutions reporting to Treasury on how they used TARP funds. Although Treasury sends the surveys each year to CPP and CDCI institutions, while conducting our audit fieldwork, SIGTARP discovered areas in the survey process, tabulation, and reporting that raised concerns that warrant immediate attention and corrective action by Treasury, which we wanted to bring to your attention.

**SIGTARP Finding 1:** As an integral part of SIGTARP's audit, our review of the surveys and responses for years 2009 through 2012 indicated several deficiencies in Treasury's processing of the Use of Capital Surveys. First, we discovered that the surveys posted on Treasury's website are not the original documents submitted by the institutions that received TARP funds. Rather, Treasury posts surveys that are created from the survey data. We identified errors in the survey data, made during the conversion process, which resulted in omissions and/or inconsistencies between what the institutions reported and what Treasury posted on its website. We were also informed by the Treasury official responsible for this conversion that Treasury modifies some of the data reported by the financial institutions during this conversion process. The impact of that modification is unclear. However, any modification can present a risk of inaccurate reporting. Second, Treasury summarizes the information provided by the institutions. However, SIGTARP found that Treasury's summary contains mathematical errors, Treasury's narrative contains inaccuracies, and Treasury-converted data for the institutions contain errors and/or omissions. Also, SIGTARP attempted to reconcile the number of institutions shown as providing survey responses on the Treasury website with the number of respondents Treasury shows in the summary section of the website, and the numbers do not match. Therefore, SIGTARP is unable to support the veracity of the survey responses posted on Treasury's website. The American public, SIGTARP, and other oversight agencies rely on the information on Government websites for the truth and transparency. At present, the Treasury website for CPP and CDCI institutional data provides neither.

**SIGTARP Finding 2:** As long ago as December 2008, SIGTARP recommended that Treasury begin collecting information from CPP recipients. According to Treasury, because Treasury had already entered into contracts with some CPP recipients, Treasury decided not to add a requirement that CPP participants submit an annual survey. Instead, Treasury requested that CPP recipients voluntarily respond to the surveys.<sup>3</sup> However, the CDCI program, which the Administration announced as a means of boosting credit and spurring lending to small businesses

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<sup>3</sup> If Treasury had implemented SIGTARP's recommendation when it was made in December 2008, Treasury could have included this requirement in agreements for those financial institutions that received CPP funds after December 2008, which included hundreds of financial institutions.

in the hardest hit rural and underserved communities, was not initiated until 2010. As part of the requirement to obtain funds under this program, CDCI participants are required under their contractual agreements with Treasury to submit annual surveys. SIGTARP's Quarterly Report to Congress dated April 30, 2014, raised serious concerns that, despite this requirement to submit surveys, there has never been 100% compliance from the CDCI recipients. Since CDCI began, never have all of the institutions in the CDCI program complied with this mandatory requirement to submit a survey. In fact, eight banks and credit unions have never responded to Treasury to inform it how they used the CDCI funds. The eight institutions that never submitted surveys were listed in SIGTARP's April 30, 2014, Quarterly Report. As a result of the publication of these institutions' names, one credit union contacted Treasury and submitted the past due surveys and notified SIGTARP of its actions.

SIGTARP found that Treasury does not appear to take any action if a CPP institution or CDCI institution fails to respond to the survey each year on how it is using TARP funds, despite the fact that these institutions remain in TARP. Treasury sends a Use of Capital Survey letter with the surveys to CPP and CDCI institutions. Treasury's letter to CDCI institutions states that the institutions are required to submit the survey; however, Treasury does not appear to take any action for CDCI institutions that fail to comply with their contractual requirement. In Treasury's letter to CPP institutions, Treasury requests the completion of the survey and explicitly states that institutions that do not comply with the request will have the institutions' names published on the Treasury website. According to the Treasury archives on the website, a list of noncompliant institutions was compiled and posted to the Treasury website for the 2011 survey. However, SIGTARP is unable to verify Treasury's publishing of the names of noncompliant institutions for 2009, 2010, and 2012, because the list of those institutions that have failed to report on their use of funds is not currently posted, further harming transparency to the American taxpayer, who funded these institutions and has not been paid back in full. If Treasury does not enforce its requirement that CDCI institutions report on the use of TARP funds, or take additional effort to get CPP institutions to report on the use of TARP funds, Treasury is not implementing what SIGTARP recommended, which was designed to bring significant transparency.

**SIGTARP Finding 3:** SIGTARP's fieldwork revealed that Treasury does not have an adequate review process during or after the survey process. Treasury officials told SIGTARP that there was no oversight concerning whether or not the changes from the institutions' data should have been made, nor did Treasury follow up with the institutions to ensure the changes reflected accurate data. According to Treasury officials, the only review provided by Treasury supervisors was a cursory review of the summary table and the text posted on the website prior to the submission to the Treasury official responsible for coordinating the posting. A cursory review without researching the underlying documents may not have revealed many of the deficiencies that SIGTARP found.

However, SIGTARP found errors that even a cursory review should have detected – errors that any member of the public would have encountered. For example, of the eight categories of use of TARP funds presented in Treasury’s summary for 2009, only two categories were presented correctly. Moreover, all eight categories presented in Treasury’s summary for 2011 and 2012 were incorrect. Additional obvious errors that should have been detected, including misspelled words and the omission of information that should have been included in the narrative section of the website, went undetected and were posted on the website. In addition, on Treasury’s website, under the caption “Survey Results,” Treasury’s website states that there are eight categories of use of TARP funds. However, only seven are listed, and the one that is missing is “increase lending or reduce lending less than otherwise would have occurred,” arguably the most important use of TARP funds. As another example, in the 2012 surveys, SouthFirst Bank has two surveys listed under its name. However, only one of those belongs to that institution. The second survey is data on Pulaski Financial Corporation. A taxpayer looking for information on Pulaski Financial Corporation who went to Treasury’s website under the “P” listing of institutions would find no survey for Pulaski Financial Corporation. In one more example, the surveys for 2011 were posted under the headings for financial data while the financial data were posted under the headings for surveys.<sup>4</sup>

**Conclusion:** The financial crisis of 2008 had a detrimental impact on the financial industry. Through their tax dollars, American taxpayers funded the efforts to support institutions that were on the brink of financial ruin. Simply put, the American public has a right to know how taxpayer dollars in TARP are being spent. Instead, Treasury, as well as CPP and CDCI recipients, have left them in the dark. Treasury must ensure that full disclosure is made concerning how the CPP and CDCI recipients used these funds in Treasury’s efforts to help the financial system recover from the financial crisis. To provide transparency to the American public of the financial stability of the banking industry, Treasury must begin by providing direct transparency to institutions’ reporting on their use of TARP funds, and accurate Treasury summaries of the institutions’ use of funds. In addition, because Treasury’s stated purpose of the Use of Capital Survey is for Treasury to obtain insight into the lending, financial intermediation, and capital building activities of all CPP and CDCI fund recipients, Treasury does not have that insight if the TARP institution does not report annually. Without that information, Treasury misses an opportunity to monitor CDCI effectively, prevent fraud, waste, and abuse, and ensure that small businesses in struggling communities get the loans CDCI was meant to provide. In this respect, Treasury’s oversight responsibilities to ensure this occurs accurately and timely are of paramount importance.

**Recommendations:**

To improve transparency and oversight, SIGTARP recommends:

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<sup>4</sup> Only after SIGTARP brought the error to Treasury’s attention, as part of this audit, Treasury corrected the error. Treasury officials should have caught this obvious error.

- (1) Treasury should post the original surveys received from CPP and CDCI institutions on how they used TARP funds for each year to the Treasury website. The original surveys and responses should not be subjected to any manipulations or changes to calculate survey results.
- (2) Treasury should develop written repeatable operating procedures for submitting and receiving survey responses from CPP and CDCI recipients on how they used TARP funds. The procedures should include the functional roles and responsibilities and automated and manual process steps involved, such as documenting and determining the survey population, compiling and analyzing the responses, verifying and validating the data, resolving discrepancies, and posting the responses on the Treasury website.
- (3) Treasury should take aggressive action to enforce its requests that all CPP institutions report annually on their use of TARP funds, and its requirement that all CDCI institutions report annually on their use of TARP funds. At a minimum, Treasury should draft a letter to each CPP and CDCI institution that fails to report each year, and follow up on that letter with the institution. Treasury should exercise its rights to compel reporting on use of TARP funds by CDCI institutions.
- (4) Treasury should fix all errors and/or deficiencies, which SIGTARP previously provided to Treasury, and submit documentation to SIGTARP confirming the correction/elimination of these errors.
- (5) Treasury should perform a thorough review of any and all submissions by TARP recipients on their use of TARP funds prior to posting the surveys on the Treasury website, and follow up with the institution for any missing information or information that is inconsistent or has an obvious error.
- (6) Treasury should publicly report on all CPP and CDCI institutions that have not submitted a survey response on their use of TARP funds for prior years and continue that reporting in future years.

On August 27, 2014, Treasury provided a response to a draft of this letter, in which it stated that it generally agreed with each of the recommendations and that it would keep SIGTARP apprised of its actions to address the recommendations (Treasury's response is included as an attachment). Treasury must address the deficiencies SIGTARP identified by fully implementing each of SIGTARP's recommendations, so that the American taxpayer can be better assured of basic transparency through accurate information about how TARP institutions are using TARP funds, and to give Treasury insight into these TARP institutions.

Secretary Lew  
September 2, 2014  
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Sincerely,

A handwritten signature in blue ink, appearing to read "C. L. Romero", with a long horizontal flourish extending to the right.

Christy L. Romero  
Special Inspector General  
for the Troubled Asset Relief Program

Attachment



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

August 27, 2014

Hon. Christy L. Romero  
Special Inspector General  
for the Troubled Asset Relief Program  
1801 L Street, NW, 4<sup>th</sup> Floor  
Washington, D.C. 20036

Re: Treasury Response to SIGTARP Draft Interim Audit Letter

Dear Ms. Romero:

I write in response to your Draft Interim Audit Letter (Draft) related to the Department of the Treasury's (Treasury) Use of Capital Surveys in the Office of Financial Stability's (OFS) Troubled Asset Relief Program (TARP). To date, taxpayers have recovered approximately \$226 billion on the \$204.5 billion originally invested through TARP's bank programs, including the Capital Purchase Program (CPP) and the Community Development Capital Initiative (CDCI). We appreciate the insights of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP), and we thank you for the opportunity to review the Draft letter. This letter provides our official response.

Treasury is committed to determining the effectiveness of all OFS programs, including that of CPP and CDCI. To this end, Treasury collects and reviews information from different sources, including the annual Use of Capital Survey. The purpose of the Use of Capital Survey is to obtain insight into the lending, financial intermediation, and capital building activities of all recipients of government investment through CPP and CDCI funds. This survey is designed to capture representative information of CPP and CDCI fund usage without imposing burdens on institutions, especially smaller community banks and Community Development Financial Institutions.

We typically send the annual surveys to the applicable CPP and CDCI institutions early in the year. We monitor the responses as they come in to Treasury, and we follow-up with institutions that do not respond. To maximize transparency in our programs, we post the survey responses — as well as summaries and financial data tables — to our website each year, usually in June.

Thus far, we have reformatted the responses before posting to our website so that the information cannot be manipulated by a third-party once posted online. In addition, we provide a summary of the results, which sometimes requires additional formatting. For example, where an institution provides a narrative response but does not check the corresponding survey box, our summary nevertheless reflects that the institution responded (whereas an unchecked box with no narrative response would be reflected as a non-response in our summary). We have provided SIGTARP past survey responses, as well as our written policies and procedures, and multiple narrative descriptions of our process.

The Draft letter includes six recommendations designed to improve the efficiency and accuracy of our processes for the Use of Capital Survey. We generally agree with each of the recommendations contained in the Draft letter, and we have already begun to implement many of them. We look forward to keeping SIGTARP apprised of our work in those areas.

Thank you for bringing to our attention different ways to improve our processes, and we appreciate the opportunity to review the Draft letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Timothy J. Bowler".

Timothy J. Bowler  
Deputy Assistant Secretary  
Office of Financial Stability