Office of the special inspector general
For the Troubled Asset Relief Program
1801 L Street, NW, 4th floor
Washington, D.C. 20220

June 24, 2021

Ms. Danielle Christensen
Director, Office of Financial Stability
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Ms. Christensen:

I am writing you to recommend that Treasury take corrective action to require an important fraud and waste prevention control in Michigan, and other states, that will continue to spend taxpayers' dollars under the Hardest Hit Fund ("HHF") blight elimination program, through at least the end of 2021. We recommend:

> ***To prevent fraud and waste under the Hardest Hit Fund blight elimination program, Treasury should require state agencies to substantiate the actual price contractors paid for any materials used in the demolition process before releasing any reimbursements with TARP funds. At a minimum, substantiating demolition-related costs should involve reviewing invoices that include the contractors' cost to purchase the materials. Treasury should also require state agencies to conduct reviews to determine if their blight partners reimbursed local contractors for invoices without substantiating the actual costs of the materials used, identify the cost of those materials, and recoup any excessive payments they identify.***

Our recommendations are borne out of SIGTARP's review of reimbursement files for the HHF blight demolition program in Detroit from 2017 through 2019. Our review found that the invoices contractors submitted during this time for certain demolition-related materials did not include the price they paid for the materials. Specifically, SIGTARP determined that the Michigan state agency paid approximately $13 million in backfill (i.e., dirt) costs to contractors without documentation to substantiate those costs. Although some portion of the $13 million was likely spent on legitimate backfill costs, it is unclear how much due to the lack of sufficient documentation. Absent this important information, the Michigan and other state agencies cannot verify the accuracy of contractors' reimbursement claims, and taxpayers have no assurance that contractors are not inflating reimbursement requests for demolition materials to exceed their actual costs.

Under the HHF blight elimination program, Treasury provided TARP funds to state agencies to administer the removal of blighted homes from hard hit neighborhoods throughout their states with the goal of increasing home values and preventing foreclosures. To perform the work, state agencies enlist local blight partners (e.g., land banks, municipalities, and nonprofits) that arrange blight removals in their areas of operation using local contractors. These blight partners generally pay the local contractors for their services out-of-pocket, then the partners submit a claim to their state agency requesting reimbursement for their out-of-pocket expenses.

In June 2016, SIGTARP raised concerns that the blight program was vulnerable to local contractors charging excessive fees for blight removal services.[1] Later, in December 2016, in response to SIGTARP's report, Treasury distributed instructions to state agencies to only reimburse blight partners for costs that are both "necessary and reasonable" for the completion of blight elimination activities.

In early 2017, Michigan's state agency alerted its blight partner in Detroit that the state agency believed local contractors had requested excessive payments, specifically relating to backfill fees for blighted properties.[2] As a result, the Detroit blight partner committed to "substantiate" its contractors' backfill payment requests and added the following language to its service contracts awarded starting in May 2017:

> At the time of invoice, the Contractor will be required to substantiate all costs associated with backfill (dirt) and must provide any and all documentation related to backfill (dirt) costs. Documentation must include, but is not limited to, invoices and trip/load tickets.

From May 2017 through 2019, the Detroit blight partner paid local contractors approximately $13 million in backfill costs for demolitions that occurred in Detroit. All the demolitions occurred under contracts containing the new requirement for contractors to provide documentation to substantiate backfill costs. SIGTARP reviewed 100 reimbursement files the local contractors submitted during this time and found that none of the submissions contain

[1] *See* SIGTARP, "Treasury's HHF Blight Elimination Program Lacks Important Federal Protections Against Fraud, Waste, and Abuse," June 16, 2016.
[2] The Michigan State Housing Development Authority is Michigan's state agency for HHF, and the Detroit Land Bank Authority is its blight partner in Detroit.

invoices that show the actual amount the local contractors paid for this material.[3] Absent this critical information, the Detroit blight partner could not properly substantiate that backfill payment requests were necessary and reasonable, and it raises questions about how thoroughly the partner reviewed the contractors' submissions. As a result, an indeterminate amount of the $13 million the Detroit blight partner paid to its local contractors during this period may have been the result of inflated payment requests. Furthermore, by extension, taxpayers have no assurance that the Michigan state agency did not overpay contractors for blight demolition costs.

In addition to Michigan, as of April 2021, four other HHF states—Indiana, Mississippi, Ohio, and Tennessee—still had ongoing blight elimination programs, three of which are projected to continue through at least December 31, 2021.[4] Requiring these state agencies to substantiate contractors' costs for backfill and other demolition materials before reimbursing them is critical to ensuring that TARP funds are spent on costs that are both reasonable and necessary to achieving the blight elimination program's goals. Furthermore, clawing back prior payments that exceed the contractors' actual costs makes more funding available to HHF to continue assisting homeowners in need, something even more critical during the ongoing pandemic.

SIGTARP's observations demonstrate the need for additional protections to protect taxpayer funds spent in HHF and prevent fraud and waste. I am happy to discuss this, or any of SIGTARP's work, further with you.

Sincerely,

Gabriele A. Tonsil

Gabriele A. Tonsil
Assistant Deputy Special Inspector General
Audit and Evaluation

[3] With respect to backfill costs, the submissions only included a "Contractor Backfill Details & Documentation" form and trip/load tickets, none of which showed the actual price the contractor paid for the backfill.
[4] SIGTARP received the most recent data available on active HHF blight elimination programs in April 2021.

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

November 19, 2021

Gabriele A. Tonsil
Assistant Deputy Inspector General
Special Inspector General
for the Troubled Asset Relief Program
1801 L Street NW, 4th Floor
Washington, DC 20036

Dear Ms. Tonsil:

I write in response to your letter of June 24, 2021, in which you recommended that Treasury impose additional requirements on state housing finance agencies (HFAs) that operate blight elimination programs using funds provided by the Hardest Hit Fund (HHF). SIGTARP specifically recommends that Treasury require HFAs to change their existing procedures to increase the review of costs of materials used in blight elimination by contracted entities. This would include Treasury imposing new requirements for HFAs to determine whether local partners have sufficiently substantiated demolition-related costs, to assess whether any costs are "excessive," and to recoup such costs. Your letter recommends that Treasury impose these additional requirements through the termination of the HHF program, which occurs at the end of this year.

Treasury established HHF in February 2010 to help prevent foreclosures and stabilize housing markets in areas hardest hit by the housing crisis. HFAs in 18 states and the District of Columbia have used these funds to design and implement more than 90 programs tailored to the specific needs and conditions of their respective communities.

The HHF program is now nearly concluded, with a deadline of December 31, 2021, for HFAs to disburse remaining HHF funds. On April 24, 2020, Treasury announced that it would extend the HHF underwriting deadline – the date by which all state HFAs were required to finalize any decisions about assistance that they would provide under their HHF programs – by six months, from December 31, 2020 to June 30, 2021. No state requested that Treasury further extend any deadlines, and each state has closed its mortgage assistance application portals to new applicants.[1] The two states with the largest blight elimination programs – Michigan and Ohio – have completed all demolitions, reimbursed all local blight partners, and closed their programs.

Treasury supports SIGTARP's mission to prevent fraud, waste, and abuse in the HHF program and other TARP-funded programs. However, there are significant impediments to implementing your letter's specific recommendation that Treasury impose new reporting, review, and recoupment requirements for the HHF program. The underwriting deadline of June 30, 2021, has

[1] In a recent evaluation, SIGTARP recommended that Treasury extend this deadline an additional time. Treasury responded that it would consider extending the underwriting deadline upon the request of any HHF state. No states operating blight programs requested an extension of the underwriting deadline.

elapsed. As a result, all state HFAs have finalized all remaining decisions about disbursement of remaining HHF funds. Only three states that have operated blight elimination programs are still in the process of making final reimbursement payments and closing their programs. Although Treasury does not have specific knowledge of the particular contracts between HFAs, local partners, and their contractors, it is reasonably likely that imposing what could potentially operate as new conditions on receiving HHF reimbursements could impact existing contractual terms and performance obligations. Attempting to obtain new invoices or substantiation for completed contracts, or to recoup past reimbursements, also raises practical and legal concerns. The timeline for Treasury to formulate and implement the proposed recommendation is a further challenge, as the HHF program will conclude next month.

Thus, imposing new requirements on the few remaining active contracts between HFAs and third parties faces significant practical impediments and could potentially subject Treasury or the HFAs to legal risk. Treasury is also concerned that implementing this recommendation would not use the remaining HHF program resources, which are nearly exhausted, in an efficient manner. Given these concerns, Treasury respectfully declines to implement this recommendation.

We look forward to continuing to work with SIGTARP on the remaining TARP-funded programs.

Sincerely,

Christopher Dove

Christopher Dove
Director of Homeownership Operations
Office of Financial Stability