



SIGTARP

Office of the Special Inspector General
For The Troubled Asset Relief Program

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MOST OF THE \$9.6 BILLION HARDEST HIT FUND HAS NO FEDERAL COMPETITION REQUIREMENTS FOR CONTRACT AWARDS

The only federal competition requirement in HHF, a one-sentence December 2016 Treasury requirement for the \$800 million blight subprogram, is insufficient protection for fraud, waste, and abuse

Full and open competition for contracts involving federal dollars plays a critical role in protecting taxpayers against fraud waste and abuse. Recognized studies estimate that competitive procedures for contracts can save 20 percent.¹ Competition saves money for taxpayers, improves contractor performance, curbs fraud, and promotes accountability for results. Competition also deters favoritism and levels the playing field among potential recipients.

SIGTARP found that most of the \$9.6 billion Hardest Hit Fund (HHF) has no federal requirements for competition, even though millions of dollars in contracts have, and will be awarded. Treasury has dedicated \$1.1 billion of the program to operating and administrative expenses, including contracts for lawyers, accountants, auditors, consultants, and providers of equipment, information technology, communications, risk management, training, and marketing. Treasury has also dedicated millions of HHF dollars for contracts for counseling website development, and translation. There are hundreds of demolition-related contractors in the \$800 million blight subprogram.

“SIGTARP found that the contractor running Nevada’s HHF program recently awarded six figure contracts without request for proposals—a violation of the contractor’s own policies,” said Special Inspector General Christy Goldsmith Romero. “Further analysis found that Treasury has no competition requirements for contracts awarded with HHF dollars, except for a recently added one-sentence guidance applicable solely to the blight subprogram. The federal government has a long history of protecting federal taxpayers that fund grants administered by state agencies. With \$2.35 billion available for spending by 19 state agencies until December 2021, Treasury should apply these same taxpayer protections—federal procurement standards—to the Hardest Hit Fund, just as it applied the cost standards for grants. Given that HHF operates much like a grant program, and has the same vulnerabilities of a grant program, taxpayers should receive the same federal protections against fraud, waste and abuse that exists with grants.”

¹ See, for example, 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 operates the program like a grant program, but rather than call it a grant, engaged in a legal construct to fit HHF within TARP law. Federal procurement standards that require competition for grants (contained in 2 CFR 200, Subpart D) do not apply. From 2010 through December 2016, Treasury had no competition requirements in place. In December 2016, after SIGTARP recommended that Treasury apply the federal procurement standards to HHF's blight elimination subprogram, Treasury implemented one-sentence guidance that state agencies should ensure full and open competition. One sentence is not sufficient to protect federal taxpayers from fraud, waste, and abuse.

Uniform federal procurement standards that accompany grants (2 C.F.R. § 200 Subpart E) would provide the strongest protection for taxpayers. They are designed to ensure full and open competition by requiring documented procurement procedures, eliminating unfair competitive advantages, mandate written statements of work and invitations for bids or proposal, and set specific methods for procurement, and other requirements.

Uniform procurement standards would require the organizations managing the state HHF programs to perform cost analyses, maintain records of the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. These taxpayer friendly requirements also make oversight more effective, since records are created detailing the preparation and rationale for contract selection.

Treasury has already applied to HHF Subpart D of the same regulations that apply to costs under grants and could easily apply Subpart E of those regulations— the procurement standards. Sole reliance on state laws, which may or may not apply, or individual policies of the organizations managing the state HHF programs, unnecessarily puts federal taxpayers at risk. For example, in Nevada and California the state agencies contracted out the administration of HHF to third parties not subject to state competition requirements. SIGTARP found that despite the Nevada contractor having a policy that all contracts over \$25,000 would be conducted through a request for proposal, the non-profit bypassed this requirement in awarding several six-figure contracts in mid-to-late 2016 and 2017. Some were to former colleagues of the non-profit's CEO. This audit was opened based on concerns raised by U.S. Representative Dina Titus of Nevada.

About TARP's Hardest Hit Fund

HHF is a \$9.6 billion dollar TARP program to preserve homeownership in 19 hard-hit states. HHF programs are open in every state. In the 2016 appropriations, Congress expanded HHF by \$2 billion. While Treasury recently made a large disbursement of the funds to the state agencies, state agencies keep dollars as cash on hand. There remains more than \$2.354 billion in state agency spending until December 2021. Every year, tens of millions of dollars are recycled back into the program when houses are sold prior to an HHF lien expiring (\$54.9 million in 2017, \$63.7 million in 2016, \$44.3 million in 2015).

About SIGTARP

The Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) is a federal law enforcement agency that targets crime at financial institutions or in TARP housing programs and is an independent watchdog protecting the interests of the America people. SIGTARP investigations have resulted in the recovery of \$10 billion and 237 defendants sentenced to prison. SIGTARP audits have identified wasteful spending to help the Government recover taxpayer funds, and identified abuse and vulnerabilities that put Federal dollars at risk and jeopardize the mission of TARP programs.

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