DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

October 26, 2016

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Grassley:

Thank you for your letter regarding the Hardest Hit Fund (HHF). The HHF program was created in February 2010 under the Emergency Economic Stabilization Act of 2008 to provide assistance to the District of Columbia and 18 states (together, "states") designated "hardest hit" because they had experienced the nation's steepest home price declines and most severe unemployment after the financial crisis of 2008. Treasury shares your desire to make sure that HHF provides meaningful assistance to homeowners, and below we describe how HHF funds are used for that purpose.

Your letter asks about certain information related to HHF. It is important to note that the premise of HHF is that state and local governments have the best understanding of the conditions in their respective communities and housing markets. The program leverages this knowledge by giving the states – generally through their housing finance agencies (HFAs) – the ability to develop innovative foreclosure prevention and housing stabilization programs that respond to specific local needs and conditions. Currently, the 19 participating states operate 80 unique programs. As of June 30, 2016, they have assisted more than 260,000 homeowners.[1]

HHF programs vary from state to state and include programs that: provide monthly mortgage payment assistance and/or cure arrearages for homeowners who have experienced a financial hardship; provide principal reduction to struggling homeowners through a modification, recast or lien extinguishment; assist struggling homeowners looking to transition out of their homes with a short sale or deed-in-lieu of foreclosure; provide funding to facilitate the elimination of blighted homes, which can drag down neighborhood home values and increase foreclosures of neighboring homes; and provide down payment assistance to first-time homebuyers who purchase homes in targeted, distressed neighborhoods.

As part of its commitment to transparency, Treasury makes every HHF contract and amendment thereto publicly available. Contracts explicitly identify the HFA or designated entity that administers HHF programs in the participating state, and include detailed information pertaining to program requirements and permitted expenditures, including operating and administrative

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[1] See "Hardest Hit Fund Program Performance Summary Q2 2016," available at: http://www.treasury.gov/initiatives/financial-stability/reports/Pages/HHF.aspx.

expenses.[2] Further, each participating state is required to maintain a website that provides, among other things, information about HHF program performance and expenditures. Links to each state website are publicly available at www.treasury.gov/hhf.[3]

Your letter asks about performance metrics in HHF. Treasury requires each state to set specific goals for its programs and expects steady progress toward meeting these goals. Treasury collects information from the states in order to assess operational and performance status, works with the states to identify and address barriers to meeting their goals, and allows the states to modify their programs as needed to better address the needs of their communities, subject to Treasury approval. This flexibility has enabled the states to adapt as local economic conditions change, and to address specific problems that remain in the wake of the financial crisis. Treasury reviews the information collected and publishes quarterly reports that outline each state's program performance across a variety of operational and performance metrics.[4]

Your letter also asks how Treasury ensures that funding is used as intended. The states have the responsibility and are provided funds to design, administer, and monitor their programs, subject to the terms of their contracts with Treasury. Treasury's contracts with the states require the states to monitor their programs and to implement a system of internal controls to minimize the risk of fraud, mitigate conflicts of interest, and maximize operational efficiency and effectiveness. Treasury's role includes approving program design (and subsequent modifications as needed), encouraging collaboration and sharing of best practices among states, and monitoring performance. Treasury also requires the states to provide an annual independent verification of the effectiveness of its HHF internal control program.

In addition, Treasury conducts regular on-site compliance reviews of the states. From 2011 through September 2016, Treasury's compliance office conducted 85 on-site compliance reviews across the participating states. These reviews assess the states' compliance with contractual requirements and program guidelines. Specifically, the reviews test—on a sample basis—the effectiveness of internal controls and critical state HHF functions including underwriting activities, program disbursements, administrative expenses, financial reporting, and other control functions. Treasury regularly updates its compliance approach to address new HHF programs.

Your letter also references recent findings presented by the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) as part of its September 9, 2016 Audit Report of Nevada's HHF program. Treasury has responded in writing to SIGTARP's report, a copy of which is enclosed for your convenience. As our letter states, the administrative expenses of states must meet the requirements of the Office of Management and Budget (OMB) Circular A-87,

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[2] See "Latest Amendment" for each state at: http://www.treasury.gov/initiatives/financial-stability/TARP-Programs/housing/Pages/Program-Documents.aspx; prior amendments and contracts are available at: http://www.treasury.gov/initiatives/financial-stability/TARP-Programs/housing/hhf/Pages/Archival-information.aspx?Program=Hardest+Hit+Fund.

[3] Specifically at: http://www.treasury.gov/initiatives/financial-stability/TARP-Programs/housing/Pages/Program-Documents.aspx.

[4] See Housing Finance Agency (HFA) Aggregate Reports, available at: http://www.treasury.gov/initiatives/financial-stability/reports/Pages/Housing-Finance-Agency-Aggregate-Report.aspx; for individual state reports, see "Most Recent Quarterly Report," available at: http://www.treasury.gov/initiatives/financial-stability/TARP-Programs/housing/Pages/Program-Documents.aspx.

which sets forth principles and standards for Federal funding provided to state and local governments.

We are committed to seeing to it that TARP funds are utilized for the purpose for which they are intended, and appreciate SIGTARP's efforts to protect against waste, fraud, and abuse. We are continuing our review of SIGTARP's recommendations relating to Nevada's administrative expenses. In the course of that review, we will evaluate whether HHF funding has been improperly spent and should be recouped, and will inform both your office and SIGTARP of our response.

We also remain committed to assisting homeowners in these hardest hit communities, and would welcome the opportunity to brief you and your staff on improving HHF oversight and performance at your convenience. Should you have any additional questions, please contact me or have your staff contact Drew Colbert, Office of Legislative Affairs, at (202) 622-1900.

Sincerely,

Thomas Patrick Maloney
Senior Advisor, Office of Legislative Affairs

Enclosure

cc: The Honorable Patrick J. Leahy
The Honorable John Boozman
The Honorable Christopher A. Coons
The Honorable Patrick J. Toomey
The Honorable Jeff Merkley
The Honorable Christy Goldsmith Romero

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

September 8, 2016

The Honorable Christy L. Romero
Special Inspector General
for the Troubled Asset Relief Program
1801 L Street, NW, 4th Floor
Washington, DC 20036

Dear Ms. Romero:

I write in response to the Special Inspector General for the Troubled Asset Relief Program's (SIGTARP) draft report of August 24, 2016 (Draft). The Office of Financial Stability (OFS) thanks you for conducting this review. As you are aware, OFS issued a memorandum in December 2015 expressing concern about the performance of the Nevada Hardest Hit Fund (HHF) program. We look forward to working with SIGTARP as we continue to support the programs under the Housing Finance Agency Innovation Fund for the Hardest Hit Housing Markets. This letter provides OFS's official response to the Draft. Pursuant to our customary protocol, we will review all of SIGTARP's recommendations and respond to each one under separate cover at a later date.

I. HHF Background

HHF is one of the housing programs created under the Troubled Asset Relief Program (TARP) pursuant to the Emergency Economic Stabilization Act of 2008 (EESA). It was created in February 2010 to provide assistance to the District of Columbia and 18 states designated "hardest hit" because they had experienced the nation's steepest home price declines and most severe unemployment. HHF provides the greatest possible flexibility to eligible Housing Finance Agencies (HFAs) in designing programs that are responsive to the needs of their specific states. Individual HFAs design, administer, and monitor their own HHF programs, subject to requirements set forth in the contracts they signed with Treasury. The HFAs have designed and currently operate more than 80 distinct programs under HHF, each with their own unique objectives, processes, and requirements. As of June 30, 2016, HHF programs have assisted more than 263,000 homeowners and disbursed more than $5.2 billion dollars for HHF program activities.

OFS takes very seriously its responsibility to monitor HFAs, and requires that HFAs implement internal controls designed to minimize the risk of fraud, waste, and abuse, mitigate conflicts of interest, and maximize operational effectiveness. OFS works with each HFA to develop programs to prevent avoidable foreclosures and stabilize local housing markets. OFS approves, at a high level, program design, funding allocations for individual programs, and an overall budget for administrative expenses. Each HFA is responsible for documenting and approving individual expenses within the limits of the HFA's OFS-approved budget. Administrative expenses must meet the requirements of the Office of Management and Budget (OMB) Circular

A-87, which sets forth principles and standards for determining costs of Federal awards carried out under agremeents with state and local governments.

OFS assesses the HFAs' compliance with Treasury's requirements through regular on-site compliance reviews, which test the effectiveness of internal controls—including the review of administrative expenses on a sample basis. In addition, HFAs are required to provide OFS with an independent verification of the effectiveness of their internal control program on an annual basis.

II. The Nevada HHF Program

The Nevada Affordable Homeowner Assistance Corporation (NAHAC) and the Nevada Housing Division (NHD) are two separate entities. NAHAC is a corporation formed under the laws of the State of Nevada, and it is not a state agency. NHD is a division of the Nevada Department of Business and Industry, which is a state agency. NAHAC is the entity that operates the Nevada Hardest Hit Fund program, and it has not operated any other Nevada state programs since 2013. NHD neither receives nor disburses HHF program or administrative funds; those functions are performed by NAHAC. However, as with all state HFAs in HHF, NHD is required to play an oversight role.

As SIGTARP has identified in the report, NAHAC has experienced significant staffing and leadership changes since 2012. We believe those changes have adversely affected the administration and performance of the Nevada HHF program. In the aforementioned memorandum that was sent to NAHAC and NHD, OFS noted, among other things, that NAHAC's administrative expenses had exceeded HHF program funds expended during the prior two quarters. OFS requested that NAHAC take immediate action to improve its performance. OFS also requested that NHD increase its oversight of NAHAC and the Nevada HHF program. In response to OFS's requests, NAHAC restructured its board in May 2016 to allow NHD a greater role in program administration, and NAHAC began to implement a number of fundamental changes with respect to the Nevada HHF program. Since receipt of OFS's memorandum, NAHAC has appointed a new CEO and made additional staffing changes to better meet its program goals.

OFS is working closely with NHD and the new management at NAHAC to identify key operational concerns, and to modify programs accordingly. OFS is closely monitoring Nevada's efforts to improve its operational capacity and performance, and will continue to work with the Nevada HHF program and other relevant stakeholders to reach homeowners struggling in the wake of the housing crisis.

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OFS appreciates SIGTARP's analysis, and is closely examining its recommendations. We strongly believe that preventing fraud, waste, and abuse is critical to the success of any government program. We will respond to each recommendation under separate cover after careful consideration. We will take appropriate actions to obtain better program performance and to protect the interests of taxpayers.

Sincerely,

Mark McArdle
Deputy Assistant Secretary for Financial Stability