



**DEPARTMENT OF BUSINESS AND INDUSTRY
OFFICE OF THE DIRECTOR**

**Written Comments Regarding the Office of the Special Inspector General for the
Troubled Asset Relief Program Audit Report**

The Department of Business and Industry welcomes the recent audit from the Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP), and wishes to express its intention to work closely with the U.S. Treasury in addressing the concerns raised. In fact, many of these issues have been raised by the Department and its Housing Division for the last two years. (See attached exhibit 1, a letter with attachments provided to the U.S. Treasury in October 2015.)

There are, however, two areas of concern with the SIGTARP audit:

- 1) Nevada Affordable Housing Assistance Corporation (NAHAC) is not a state agency and therefore the ability of the Department's Housing Division to exercise the kind of oversight SIGTARP cited has been severely limited. The Department has taken what steps it could under existing law, including several requests to the U.S. Treasury to take a much harder look at NAHAC practices. This led to the U.S. Treasury issuing a performance memo on December 2, 2015. (See attached exhibits 2 and 3, the U.S. Treasury memorandum and a summary of Housing Division steps taken.)
- 2) Certain NAHAC expenses (such as rent and payroll) cited by the SIGTARP as problematic may be found to be allowable under federal rules, and so the Department is not prepared to accept the total dollar value expressed in the audit report. In fact, the Department believes that no more than \$200,000 ultimately may be in question. It will be up to the U.S. Treasury to determine the final number, and the Department will work closely with the federal government in that regard. Whatever the final number, those responsible should be held accountable.

Despite these two concerns with the audit, the Department and its Housing Division are committed to rectifying the problems we have long pointed out to federal authorities and which are now raised in the SIGTARP report. Based on the audit, we have requested the Nevada Attorney General's Office to immediately open an investigation. We have also asked the Nevada Attorney General to designate the appropriate staff and resources to work side-by-side with the U.S. Treasury and, if necessary, pursue action against those responsible for any misuse of taxpayer funds.

Exhibit 1
STATE OF NEVADA

BRIAN SANDOVAL
Governor



BRUCE H. BRESLOW
Director

Terry Reynolds
Deputy Director

DEPARTMENT OF BUSINESS AND INDUSTRY
OFFICE OF THE DIRECTOR

October 28, 2015

Mr. Mark McArdle
Chief Homeownership Preservation Officer
U.S. Department of the Treasury
Office of Financial Stability
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Transmitted via email to: mark.mcardle@treasury.gov

Dear Mr. McArdle:

The Nevada Department of Business and Industry and its Nevada Housing Division have been expressing concerns about Nevada Affordable Housing Assistance Corporation's (NAHAC) performance for more than a year. Two years ago the money was being used at a much higher rate to help homeowners. Current results show \$333,064 used to help distressed homeowners with first/second principal reduction and loan modifications. This performance is significantly less than the targets presented in the business plan, and NAHAC is not on track to get the money into the hands of families struggling to make their mortgage payments before the program expires in 2017.

Recent data shows there is still a need for assistance with Nevada having the highest rate of negative equity among the hardest hit fund states (20.6% - which is nearly 2 ½ times national average). Additionally, Nevada's unemployment rate ranks in the top three in the nation along with an extremely high underemployment rate. After participating in the September 2015 hardest hit fund session presented by Treasury at the NCSHA conference, and being provided the above statistics, we lack confidence in the ability of NAHAC to turn around operations and be successful.

In an effort to support the success of the Hardest Hit Fund (HHF) program, the Housing Division has attended each biweekly telephone conference, NAHAC board meetings (when allowed), and have regularly submitted reports and recommendations from the HHF advisory committee. We also note very little board meeting time has been dedicated to discussing advice from the HHF advisory committee and NAHAC has not been receptive to the committee's suggestions.

Many of NAHAC's operational decisions are determined at closed board sessions where neither the Housing Division nor the HHF advisory committee are allowed to attend. NAHAC believes itself separate from other State nonprofits, does not subscribe to the Nevada Open Meeting Law, and works without transparency. Furthermore, NAHAC does not make its location available to the public or have a published telephone number.

It has been impossible for the State to fulfill its role of monitoring and tracking the HHF program due to NAHAC's actions. A specific list of our concerns are attached in exhibits A and B.

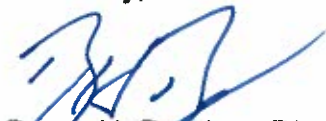
We believe this program is important for Nevada; therefore, we are requesting a meeting in Washington with the Treasury to discuss alternative solutions. These solutions would get Nevada's yet uncommitted Hardest Hit Funds to Nevadans before the program end date in 2017. Although this will require tough decisions and additional work by the Treasury, we believe they are necessary. Such options include moving uncommitted HHF funds to the Nevada Housing Division which could contract with a successful neighboring state agency to administer the remainder of the program. Another alternative is moving the uncommitted HHF funds to a different State and Nevada Housing Division affiliated non-profit. In pursuing these options, the Housing Division would have direct input and oversight to fulfill its contractual role. The Nevada Housing Division would then be in a position to lend our expertise and capacity to ensure programs are as successful as possible.

The Housing Division currently is a signatory to a 3-party agreement with the Treasury and NAHAC. At one point the Division had up to three members on the NAHAC Board and now it has none. The board representation has been replaced by the HHF advisory committee. As pointed out above, the role of this committee does not allow for effective State oversight, and the money is not reaching the Nevadans who need it.

Recently NAHAC proposed to the Treasury a new program to buy distressed notes in Nevada. The State already has a similar program. If NAHAC is allowed to move into this program, it will require creation of new systems and internal processes. Moreover, similar to the other principal reduction program, it will require five years of monitoring, compliance and servicing. The Housing Division is not planning to continue supporting the Hardest Hit Fund or NAHAC past its program end date of 2017.

Please let us know some possible dates we can come to Washington and meet face to face with your team.

Sincerely,



Bruce H. Breslow, Director
Department of Business & Industry



Carla J. Manthe, Administrator
Nevada Housing Division

Exhibit A**LIST OF STATE OF NEVADA CONCERNS****1) Lack of transparency**

- a. NAHAC receives most all of it's funding from governmental sources, yet its legal counsel opined it does not have to follow the Nevada Open Meeting Law. This creates a non-transparent program which doesn't allow for public input and communication.
- b. Many major decisions are made at closed board meetings without involving the Nevada Housing Division and the HHF advisory committee. Examples include:
 - i. Selection of financial auditor
 - ii. Selection of HHF compliance firm, termination of internal compliance staff and closure of Reno office
 - iii. Programmatic HHF changes and recommendations
 - iv. Decision to replace HHF software system
 - v. Relocation of HHF Las Vegas program office
- c. Many key private board decisions have led to the contraction of the program and the inability to disburse Treasury funding at an acceptable rate to address market needs.

2) Poor customer service

- a. The public cannot reach NAHAC staff because they have an unpublished telephone number.
- b. NAHAC's office location is not published or promoted on marketing materials or their website.
- c. Face-to-face communication with borrowers is not encouraged.

3) Complicated intake process

- a. NAHAC requires homeowners to complete lengthy and complex assessment.
- b. Users of NAHAC's web-based application system need advanced technology skills and equipment to scan and upload many documents.
- c. Homeowners are not able to proactively reach out for help in completing their assessment. They must wait for NAHAC to contact them.
- d. Other HHF programs use a short and simple self-assessment to quickly determine potential eligibility.

4) NAHAC has alienated prior working relationships with counseling agencies

- a. NAHAC's decision to remove the counseling agencies from its process has severely decreased the number of applications and referrals.
- b. NAHAC's disbursements were at their highest levels after partnering with these agencies.
- c. Other HHF agencies and the Housing Division pay non-profits for intake, completing transactions and counseling potential clients.
- d. We have concerns that financial counseling normally required through counseling agencies is not being provided.
- e. Counseling agencies are a great source, through their financial counseling and education programs, to increase long-term success rates.
- f. Counseling agencies have reached out to HUD and the Nevada Housing Division to express the difficulties borrowers are encountering with the NAHAC application intake process.
- g. HUD has informed the Nevada Housing Division that it met with NAHAC to discuss these issues, and HUD is concerned NAHAC was not receptive to feedback.

5) NAHAC's leadership is more concerned with its program and funding winding down than its customers and programs

- a. Success of program requires current and dedicated focus on tracking, evaluation, modifying and making ongoing improvements.
- b. NAHAC appears preoccupied with the sunset of the HHF program and how it will continue to exist at the conclusion of the HHF program.
- c. The Nevada Department of Business and Industry and its Housing Division have no interest in continuing the current relationship with NAHAC after the expiration of the HHF program in 2017. The non-transparent nature of NAHAC does not make for a good partner with the State of Nevada.

6) Key staff turnover

- a. NAHAC has lost two controllers in the last year.
- b. NAHAC terminated its Senior Compliance Investigator.
- c. Lack of continuity in key positions has created a loss of institutional knowledge among staff.

7) The Nevada Housing Division is frustrated with the lack of communication from NAHAC

- a. There are many instances where NAHAC communicates directly with the Treasury about program changes without including the Housing Division or the HHF advisory committee.
- b. There has been little to no feedback from NAHAC's management or its board related to HHF advisory committee reports and recommendations.
- c. NAHAC unnecessarily required a great deal of time and effort before providing copies of its board meeting minutes and support documents requested by the Nevada Housing Division.

8) NAHAC has not demonstrated it can meet its mission, goals and timelines

- a. The Department of Business and Industry requested, and has still not received, NAHAC's timeline or schedule of milestones and benchmarks.
- b. An organized and detailed marketing and outreach plan has not been made public.
- c. NAHAC currently ranks last in disbursing funds to distressed homeowners in the recent year (see exhibit B).

Exhibit B

Ranking of National Hardest Hit Funds States Disbursements Program-to-Date and Recent Year

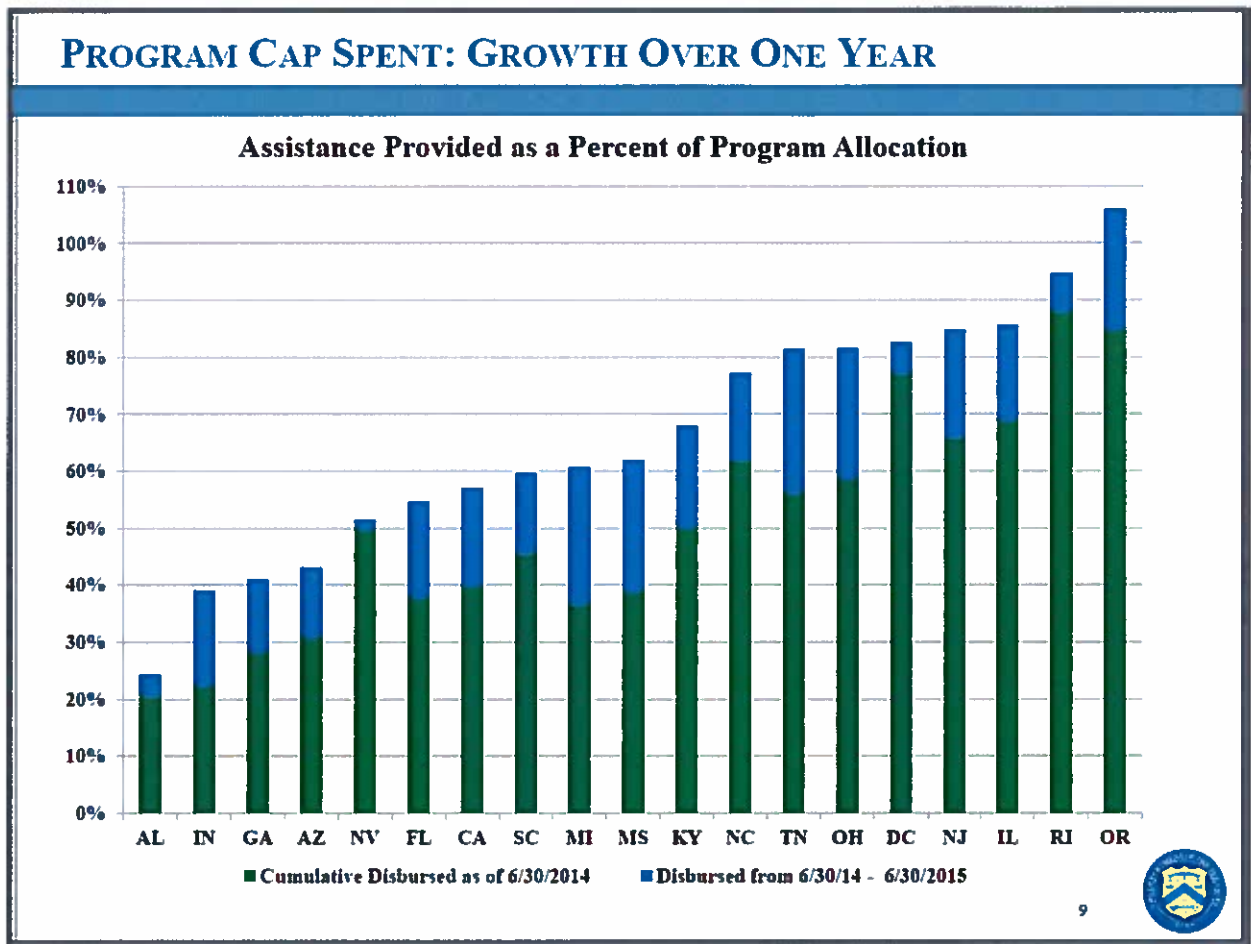


Exhibit 2



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

Memorandum

December 02, 2015

TO: Nevada Affordable Housing Assistance Corporation (NAHAC)
Nevada Housing Division (NHD)

FROM: U.S. Department of the Treasury

SUBJECT: NAHAC Hardest Hit Fund Performance to Date and Request for Formal Meeting

This memorandum requests a formal meeting of the Nevada Affordable Housing Assistance Corporation (NAHAC), its board, Nevada Housing Division (NHD), and representatives from the U.S. Department of the Treasury (Treasury) to address inadequate performance to date and discuss potential solutions that have the support of all parties. It identifies declining performance indicators and highlights several areas of concern. Given the limited time left to deploy funds, Treasury believes significant structural and programmatic changes are warranted to meet the goal of responsibly utilizing these funds before December 31, 2017.

Background: NAHAC was allocated approximately \$194.0 million from the Treasury's Hardest Hit Fund program (HHF) to develop and implement innovative housing initiatives tailored to its local conditions to help prevent avoidable foreclosures and stabilize housing markets in Nevada. Of this amount, approximately \$169.0 million is designated for direct assistance to homeowners (program funds) and approximately \$25.0 million is allocated for administrative expenses. As of September 30, 2015, the most recent quarter for which data is available, NAHAC spent approximately \$87.4 million (52 percent of program funds) and committed \$87.6 million (52 percent of program funds) on behalf of 5,320 homeowners. Based on performance trends, Treasury estimates that NAHAC will not utilize a significant portion of its HHF funds by December 31, 2017. The table below indicates on a program by program basis the program funds spent, the number of homeowners assisted, the targeted number of homeowners NAHAC intends to assist by 2017, and percentage of target achieved as of September 30, 2015:

Program	Program Allocation	Program Funds Spent	Percentage of Funds Spent	Homeowners Assisted	Targeted Number of Homeowners Assisted	Percentage of Target Attained
Principal Reduction Program	\$97,146,322	\$50,180,916	51.7%	1,210	2,550	47.5%
Second Mortgage Reduction Plan	\$35,942,324	\$4,770,545	13.3%	414	1,300	31.8%
Short-Sale Acceleration Program	\$289,179	\$289,179	100.0%	104	100	100.0%
Mortgage Assistance Program	\$34,056,581	\$30,551,451	89.7%	3,693	3,900	94.7%
Mortgage Assistance Program Alternative	\$1,613,278	\$1,609,189	99.7%	226	218	100.0%
Total :	\$169,047,684	\$87,401,280	51.7%	5,320¹	N/A	N/A

¹ Unique homeowners assisted, as reported on Nevada's Q3 2015 Quarterly Performance Report.

While Nevada’s Hardest Hit Fund programs saw strong growth from 2011 through 2013, performance has since fallen behind other HHF states on key measures, including loan approvals, pull-through rate², implementation timelines, and commitment rates. NAHAC closed its Principal Reduction Program (PRP) and Second Mortgage Reduction Program (SMRP) in November 2012. At that time, 60 percent of disbursed HHF funds had been spent under these two programs. The effects of these closures were substantial. As of September 30, 2015, approximately 92 percent of total spent program funds were disbursed prior to December 31, 2013, and 94 percent of cumulative homeowners assisted to date were approved prior to December 31, 2013³. At its peak level of production in the first quarter of 2013, NAHAC disbursed \$22.7 million in program funds on behalf of 1,015 unique borrowers; by comparison NAHAC disbursed only \$450,000 in program funds on behalf of 14 unique borrowers in the third quarter of 2015. Furthermore, during the third quarter of 2015, Nevada’s HHF programs registered a pull-through rate of 14 percent, the third lowest rate among all state HHF programs during that time period. This indicates NAHAC has approved less than one out of every seven applicants for assistance.

Furthermore, as program fund expenditures continue to decline, the portion of funds disbursed for administrative expenses has increased relative to total disbursements quarter over quarter. In the second and third quarters of 2015, NAHAC spent more administrative funds than program funds. This metric raises a concern as to whether funds covering administrative costs are generating an appropriate level of benefit to struggling homeowners in Nevada through the HHF program.

	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Program Funds Disbursed	\$942,723	\$700,902	\$491,899	\$449,727
Administrative Funds Disbursed	\$629,761	\$630,427	\$660,054	\$534,584

Although Nevada’s unemployment rate has declined since the early years of the program (in October 2015 it was 6.6 percent, down from 13.6 percent in June 2010), Nevada still has the nation’s third highest unemployment rate and the highest underemployment rate at 14.8 percent.⁴ Similarly, although Nevada’s housing markets have improved since the nadir of the financial crisis, 20.6 percent⁵ of Nevada homeowners remain underwater, the highest rate in the nation, and 4.6 percent⁶ are more than 90 days delinquent on their mortgages, the tenth highest rate in the nation. These data points show the continued need for additional housing assistance for Nevada homeowners.

In recent months, NAHAC, with the help of Treasury, has attempted to improve its program production. In June 2015, NAHAC reopened their PRP and SMRP programs, which had been closed since 2012. Treasury visited NAHAC’s offices on June 22, 2015, to discuss program performance and request a plan from NAHAC to achieve program targets through 2017. During the site visit, Treasury expressed the view that NAHAC would need to assist an average of approximately 90 new homeowners a month and disburse \$2.9 million on average in monthly assistance in order to spend its full allocation of HHF dollars by December 31, 2017. Unfortunately, according to monthly data

² Treasury defines the pull-through rate as borrowers receiving assistance/ (applications denied + applications withdrawn + borrowers receiving assistance).

³ As reported on Nevada’s Q4 2013 Quarterly Performance Report. Percentage based on production by Q4 2013 and Nevada’s cumulative production to date.

⁴ As reported by the Bureau of Labor and Statistics: <http://www.bls.gov/web/laus/laumstrk.htm>

⁵ CoreLogic Q2 2015 Equity Report

⁶ Mortgage Bankers Association Q3 2015 National Delinquency Survey

provided by NAHAC, production has actually *decreased* since June 2015. In the three months prior to Nevada's June 2015 program changes, Nevada assisted an average of 8 new borrowers per month while providing an approximate average of \$164,000 in monthly assistance. During Q3 2015, Nevada has reportedly assisted an estimated average of 5 new borrowers per month while providing an approximate average of \$150,000 in monthly assistance. To date, Treasury has not received the requested plan establishing program targets or alternate estimations for assistance through 2017.

In response to its continued low production and feedback from Treasury, NAHAC proposed additional changes to the PRP and SMRP programs to expand eligibility and allow more homeowners to receive assistance. These changes were approved by Treasury and went into effect in October 2015. However, Treasury remains concerned that these changes, while necessary, will not be enough to significantly increase performance. At the current rate of assisting 5 new homeowners and disbursing \$150,000 in assistance per month, NAHAC will not fully disburse its remaining program funds by December 31, 2017, and is falling far short of its program goals.

Request for Action: Treasury strongly recommends that NAHAC take immediate action to improve its performance. We believe fundamental structural changes are warranted at this point, and we would like to see a direct oversight role for NHD. The pace of assistance must reach at least \$3 million disbursed per month by the end of the first quarter of 2016 to meet target assistance levels. Possible actions could include leveraging the experience of another state with similar programs to boost performance and utilizing counseling agencies and other state resources to increase outreach. Treasury requests a meeting with NAHAC, the NAHAC board, NHD and other representatives from the federal and Nevada state government no later than January 31, 2016, where a consensus plan (agreed to by both NHD and NAHAC) to improve program performance will be discussed.

The purpose of HHF is to develop and implement programs that prevent avoidable foreclosures in a way that addresses the unique needs of each jurisdiction. Please be advised: If the Nevada Hardest Hit Fund Program fails to significantly improve performance, Treasury reserves the right to exercise its contractual option to declare NAHAC in default of its HFA Participation Agreement. Treasury, NAHAC, and NHD share the goal of ensuring that HHF funds are responsibly utilized while they are still available, in a way that leads to the prevention of avoidable foreclosures and the long-term stability of Nevada's housing market. Collaborative action must be taken to achieve this goal.



BRIAN SANDOVAL
Governor

STATE OF NEVADA
DEPARTMENT OF BUSINESS & INDUSTRY
HOUSING DIVISION
1535 Old Hot Springs Road, Suite 50
Carson City, Nevada 89706

BRUCE BRESLOW
Director

CJ MANTHE
Administrator

Exhibit 3

Steps Taken Since April 2016 to Improve the Nevada's Hardest Hit Fund

The US Treasury Department Performance Memorandum led to the resignation of the majority of NAHAC's Board of Directors. The subsequent restructuring of NAHAC bylaws once again allowed the State of Nevada to have three appointed positions making up the majority of the NAHAC board. This restructuring and changing of the guard has allowed the State and its Housing Division to provide direct oversight of Nevada's Hardest Hit Fund program.

Once the new NAHAC board members were appointed in April 2016, it allowed for these progressive steps to be taken to improve the Hardest Hit Fund program and oversight:

1. Removed previous Chief Executive Officer at May 23, 2016 Non-profit Board meeting with his last date of employment being July 31, 2016. New non-profit board abided by terms of existing employment agreement in providing 60 days' notice of termination.
2. The non-profit board of directors instituted open public meetings. The Board's actions are now transparent and board meetings are conducted in compliance with the Nevada open meeting law.
3. The NAHAC board of directors hired a new Chief Operating Officer at its May 23, 2016 board meeting with her first day of employment beginning June 8, 2016. The newly hired executive is well qualified and has proven track record of managing the Nevada loan mediation program run by the State of Nevada Supreme Court.
4. NAHAC's new management is now welcoming the partnership with the U.S. Treasury and the Nevada Housing Division and their joint mission to quickly distribute the hardest hit funds to those most needy.
5. NAHAC's new board of directors has engaged a Las Vegas CPA firm to replace its former interim Controller to provide professional accounting and financial reporting services in compliance with federal grant regulations.

6. NAHAC has re-engaged partnerships with Nevada based non-profit financial counseling agencies who will assist getting the funds into the hands of those most needing help. These agencies will provide face-to-face counseling sessions, help distressed homeowners apply for the Hardest Hit Fund program and provide support at all stages of the assistance process.
7. The Nevada Housing Division is now working with the new non-profit Chief Operating Officer to develop short-term and long-term action plans to improve Hardest Hit Fund program performance. This includes a revised application intake system which will be easier to use, opening a call center and expanding outreach of program availability.
8. NAHAC is reviewing its Hardest Hit Fund program parameters and processes to improve eligibility and help more Nevada households who are still struggling to make their mortgage payments.