

Written Statement of

The Hon. Kathy Patterson
District of Columbia Auditor

Before the

Council of the District of Columbia
Committee on Housing & Neighborhood Revitalization

Public Hearing on the
FY 2019 Budget for the Housing Production Trust Fund

April 17, 2018

Room 500
The John A. Wilson Building
1350 Pennsylvania Ave., N.W.
Washington, DC 20004

Councilmember Bonds and members of the Committee on Housing and Neighborhood Revitalization, I appreciate the opportunity to share in writing some of the findings of the Office of the D.C. Auditor’s extensive work over the last several years on the Housing Production Trust Fund. It is my hope that our perspective on this important tool to address one of the community’s highest priorities — the need to retain and produce affordable housing — will be useful to you as you make resource decisions for the coming fiscal year. What follows will not be an exhaustive review of our findings and recommendations but will, rather, be a “top-lines” approach to highlight a few areas that might be ripe for Council questions and other follow-up.

To date we have published the following:

- On March 15, 2016, ODCA issued a **Management Alert** to the Department of Housing and Community Development on the requirement for an annual financial audit, and timely filing of quarterly reports.
- On June 30, 2016, ODCA released a report, ***The District of Columbia’s Housing Production Trust Fund: Revenues and Expenditures and 5-City Comparison***. That report included total revenue and expenditures and the number of units produced through FY 2015, as reported by DHCD, and compared the HPTF with other major city-level trust funds on reliability of revenue, output, target populations, and other factors.
- On March 16, 2017, ODCA released an audit report, ***DHCD Should Improve Management of the Housing Production Trust Fund to Better Meet Affordable Housing Goals***. The audit objective was to examine compliance with the laws and regulations associated with the HPTF and evaluate how efficient it had been in providing and creating affordable housing for District residents.
- On August 10, 2017, ODCA issued a **Management Alert** (published on page 37 of the report from March 20, 2018) to the District’s Chief Financial Officer about concerns with information we received from SOAR regarding HPTF transactions and how the OCFO had been collecting and maintaining HPTF financial data.
- On March 20, 2018, we released the audit report, ***Stronger Management of the Housing Production Trust Fund Could Build More Affordable Housing*** concluding that between 2001 and 2016 some \$622 million from the Fund was used to preserve or produce 10,081 units of affordable housing.
- The upcoming case study, ***How Not to Create Affordable Housing: A Cautionary Tale About Disappointed Homeowners and Lost Taxpayer Dollars***, describing problems with a single HPTF project resulting from a lack of due diligence in vetting the developer and consistent oversight as the project proceeded.

Based on the work represented in these reports, we describe below a few of the key areas that we recommend you review during the budget hearings and going forward:

Securing accurate, up-to-date information

One of the reasons our HPTF work took so long was the need to produce accurate, verifiable information going back to FY 2001, which was the first year the Fund received District appropriations. Working through 76,000 lines of transactional data, and utilizing hours of staff time on the part of the Office of the Chief Financial Officer and the Office of the Chief Technology Officer as well as officials at DHCD and ODCA, we built a database of HPTF projects funded from FY 2001 through FY 2016. That information is now on the ODCA website and can be downloaded. But it is not a true database. It is an Excel spreadsheet and while it is searchable, the data is static, and we will not be adding any more information.

At the same time, the Department has produced a fully searchable database, which is available to the public on the DHCD website www.dhcd.dc.gov (under Popular Links and Project Pipeline). We commend the Bowser Administration and the agency's leadership for this work — for the transparency that is represented in a searchable database of housing projects. While it is a robust database in terms of function, it only houses projects funded between FY 2013 and today. We hope that the project information we verified going back to FY 2001 is added to the DHCD database so that it is more complete. We recommend that the Council raise the issue of comprehensive data with DHCD and encourage them to utilize the ODCA work.

Suggested questions:

What plans do you have to add project years and loan agreements to the publicly-available DHCD HPTF database? Are you planning to make use of the FY01-FY16 verified data provided by the D.C. Auditor?

Reconsidering the HPTF as a revolving fund and securing loan repayments

From its introduction in the late 1980s, the HPTF was intended to be funded, at least in part, by the repayment of loans. Our reports have been critical of DHCD for not being sufficiently assertive in seeking loan repayments and for not building into original project documents sufficient leverage to assure repayment. In many instances HPTF financing represents the last dollar in, and banks or other private funders stand in front of the District in line for repayment. We understand that this is by design — that the public funds serve as leverage to be matched with private dollars to encourage the investment of private dollars in the repair or creation of affordable housing. And it is the case that some HPTF loans are not intended to be repaid. They may be for owner-occupied housing in which first-time low-income District homebuyers acquire the unit and the loan and that, over time, the loan is forgiven. In other instances, HPTF loans are to be repaid based on a developer's cashflow. We recommend that the Council and the Committee host a discussion among Councilmembers on the extent to which policymakers wish the HPTF to remain a revolving fund.

We noted in the ODCA report released last month that the Office of the Chief Financial Officer projected in the District’s Comprehensive Annual Financial Report that just 11 per cent of HPTF loans will be repaid, or \$55 million of the \$496 million due as of the end of FY2016. Our 2017 report concluded that DHCD had not been rigorously monitoring loan repayments nor had the agency accurately reported the extent of actual loan repayments. We recommend that to the extent that loans are made with the intention that they will be repaid, that information should be shared on a regular basis with the Council. That was a recommendation made in two of our HPTF reports — that the Council amend D.C. Code § 42-2803.01 to require that DHCD include the amount of HPTF loan repayments due and paid in the HPTF’s annual and quarterly reports. Further, we recommend that this amount included in the reports be certified as consistent with the amount listed in SOAR, the CAFR, and other public documents and testimony.

Suggested questions:

What proportion of HPTF projects approved in FY2017 and 2018 represent loans that you expect to be repaid?

What is the Bowser Administration’s view on the HPTF as a revolving fund, i.e. that loan repayments will make up an increasingly more significant portion of HPTF revenue?

Do you believe the underlying statute should be amended to clarify that a majority of financing will not be repaid based on the nature and the purpose of the program?

Paying for DHCD personnel from the HPTF

In our March 20, 2018, report we document the extent to which the HPTF is increasingly used to pay for personal services costs at DHCD. The share of agency salaries paid from the Fund has risen from 22 percent in FY 2012 to slightly over half in FY 2016. We note that this is not illegal and represents a deliberate decision by the agency to allocate funds in this manner. Our concern is that this allocation is transparent, and that the Council is fully aware and supportive of this use of the HPTF. This may be another issue that the Committee would wish to explore with the agency’s leadership.

Suggested questions:

Is it the administration’s intention to continue to support half or more of the DHCD staff personnel costs from HPTF funds?

Targeting households most in need

While this is not an area we reviewed, we believe it would be valuable for the Committee to review the extent to which HPTF units can be more effectively and efficiently reserved for/filled with targeted households. For example, to what extent are households that are on the waitlists for vouchers matched to new rental units produced through the HPTF? In our 2017 audit we identified a problem with lack of consistent certification of household income on the part of those living in HPTF-funded projects. In our sample of projects, we also found tenants occupying units — including college students — who originally may have met the income limits,

but whose income may have grown to exceed the HPTF income targets. As many households have been on wait-lists for affordable housing for years, even decades, it should be a priority to match those long-time District residents with HPTF-funded affordable units.

Related is what should occur when an individual qualified initially but then begins to earn more than the program's income limits. We recommended that the Council amend D.C. Code § 42-2802.02 to address how to handle tenant income increases above HPTF limits. You may want to engage the DHCD leadership on this issue during budget and oversight hearings.

Suggested questions:

What steps have you taken/will you take to make HPTF units available to District residents on the wait lists for housing vouchers?

What is your recommendation for how to treat HPTF tenants whose incomes have grown beyond the program's income targets?

Transparency in front-end funding decisions

One major area we did not explore in any detail was the selection process for HPTF projects, and this is another topic the Council may wish to discuss with the Executive. In our final report—the case study of a Woodson Heights/Amber Overlook trust fund project — we note the absence of both a delivery date for the housing units and a corporate guarantee. The report notes on the latter point that the private financial institution received full repayment for project financing; the District did not. How to assure protection for the District equal to that for private funders might be a topic for discussion. The Council approves most HPTF projects but the format for the Council's approval does not include the actual loan agreements. You may also wish to revisit what information is contained in the "Council contract summary" insofar as HPTF projects are concerned.

Suggested questions:

As the Bowser Administration continues to improve District government transparency – evidenced by the increasing amounts of information available through data bases and other publicly-facing information – what plans do you have to increase the amount of information shared with the Council as HPTF projects are considered and approved?

Are you considering requiring any additional financial information such as corporate guarantees in selecting projects for HPTF funding?