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ONE HUNDRED ELEVENTH CONGRESS
Congress of the United States
House of Representatives
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May 21, 2010

The Honorable Timothy F. Geithner
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Geithner:

On February 19, 2010, President Obama announced the Housing Finance Agency Innovation Fund for the Hardest Hit Housing Markets (the "Hardest Hit Fund"), his Administration's proposal to turn over $2.1 billion in borrowed bailout funds to state housing finance agencies ("HFAs") in selected states.[1] I am disappointed to learn that the Hardest Hit Fund displays the same opacity, waste, and poor planning as do the other foreclosure-mitigation programs being administered by the Department of the Treasury. The American people have a right to know whether the unprecedented debt spending their government authorized in 2008 is being wasted. Therefore, I am writing to request that Treasury publish basic information about how the projects subsidized by the Hardest Hit Fund will be proposed, evaluated, and assessed.

Treasury required the HFAs to submit detailed proposals describing the programs on which they intend to spend money from the Hardest Hit Fund.[2] Treasury has not published the proposals it has thus far received (though some of the HFAs have voluntarily done so), and has not publicly announced when it will approve or deny the

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[1] The White House, Press Release, "President Obama Announces Funding to Help Address Urgent Problems Facing Families in States with High Unemployment and Where Home Prices Have Fallen the Furthest," Feb. 19, 2010, *available at* http://www.whitehouse.gov/the-press-office/help-hardest-hit-housing-markets. The President's initial statement announced that $1.5 billion originally authorized under the Emergency Economic Stabilization Act ("EESA") of 2008 would be provided to five state agencies; the Administration later announced that $600 million in additional EESA funds would be provided to agencies in five additional states. *See* Department of the Treasury, "Administration Announces Second Round of Assistance for Hardest-Hit Housing Markets, March 29, 2010, *available at* http://www.ustreas.gov/press/releases/tg618.htm.

[2] Department of the Treasury, Guidelines for HFA Proposal Submission, March 5, 2010, *available at* http://www.makinghomeaffordable.gov/docs/HFA%20Proposal%20Guidelines%20--%20030510%20FINAL%20%28Clean%29.pdf.

proposals. As with other foreclosure-mitigation programs,[3] taxpayers are in the dark about how their money will be spent and whether the spending has been effective.

Moreover, the proposals that have been released by HFAs reveal that Hardest Hit Fund monies, if spent as the agencies are proposing, will almost certainly be wasted. The programs being proposed by the HFAs will fail to help many homeowners and likely leave some *worse* off.

For example, the California Housing Finance Agency ("CalHFA") proposes to spend the majority of its $700 million Hardest Hit Fund allocation – over $419 million – on a mortgage principal reduction program that, by design, will assist only 5,500 homeowners.[4] The program will not provide assistance to bring loan to value (LTV) ratios lower than 125%,[5] which means that even the few homeowners assisted will remain deeply underwater, with a high statistical likelihood of default and a strong incentive to abandon their mortgages later.

The experts most qualified to judge foreclosure-mitigation programs are the community organizations that counsel distressed borrowers and help them to navigate the Byzantine regulations of Treasury's and the states' assistance programs. In my district, the Mabuhay Alliance has worked directly with thousands of homeowners, has helped these clients to achieve a far lower-than-average redefault rate in Treasury's Making Home Affordable programs, and has grown to understand which programs work and which do not. The Mabuhay Alliance recently wrote to CalHFA requesting that the principal reduction program be reconsidered:

> ...[T]he principal reduction, even if all goes well (including full matches by the financial institutions), may be the wrong decision for families deeply underwater. It will prolong a futile hope ... [6]

As the Mabuhay Alliance has learned, government assistance that keeps families in homes they ultimately cannot afford is counterproductive.[7] It leads these families to

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[3] *See, e.g.*, Letter from Darrell Issa and Jim Jordan to Timothy Geithner, Feb. 17, 2010; Letter from Darrell Issa and Jim Jordan to Timothy Geithner, March 16, 2010; Special Inspector General for the Troubled Asset Relief Program, Factors Affecting Implementation of the Home Affordable Modification Program, March 25, 2010, *available at* http://www.sigtarp.gov/reports/audit/2010/Factors_Affecting_Implementation_of_the_Home_Affordable_Modification_Program.pdf, at 30 (finding Treasury's primary metric for measuring the success of HAMP to be neither meaningful nor useful).

[4] California Housing Finance Agency, California Submission for HFA Hardest-Hit Fund, April 16, 2010, *available at* http://www.keepyourhomecalifornia.com/proposal.pdf, at 11, 44.

[5] *Id.* at 4-5 ("CalHFA will require that the current first mortgage loan-to-value (LTV), *after principal reduction*, does not fall below 125%" (emphasis added)).

[6] Letter from Faith Bautista, President and CEO, Mabuhay Alliance, to L. Steven Spears, Acting Executive Director, CalHFA, and Diane Richardson, Director of Legislation, CalHFA, May 13, 2010, at II.

[7] *Id.* at VI.

throw away funds on futile mortgage payments – without preventing eventual default.[8] As *The Wall Street Journal* recently reported, the Obama Administration's rush to grant trial mortgage modifications in its Home Affordable Modification Program (HAMP) without first confirming homeowners' eligibility has caused some ineligible homeowners to drain their savings with no ultimate benefit.[9] With its expensive proposed principal reduction program, CalHFA seems poised to make the same sad mistake as Treasury did with HAMP.

California's $700 million spending plan is not only wasteful but also uncoordinated. For example, CalHFA has admitted it has no idea how its programs would be coordinated with existing federal ones, such as HAMP.[10] Apparently, California's bureaucrats do not plan to explain to homeowners how to combine federal and state sources of foreclosure-mitigation assistance, and will leave that complicated task to the overstressed homeowners themselves – and to private nonprofits such as the Mabuhay Alliance.

California's poorly-planned and wasteful spending does not seem to be an exception. The Florida Housing Finance Corporation plans to use part of its deficit-funded federal allocation on a down payment assistance program that will subsidize new home purchases.[11] In other words, Florida plans to encourage new buyers to purchase homes they otherwise could not afford – just like the government policies that, on the federal level, caused the housing bubble in the first place.[12]

Though the Hardest Hit Fund was announced in haste, the state HFAs' programs will not kick in any time soon. Florida admits that it will not finalize strategies for implementing its programs until "*around* late summer / early fall 2010"[13] – at least six or seven months after the President's announcement. This bureaucratic inertia compares very poorly with the ability of private nonprofits like the Mabuhay Alliance to reach borrowers immediately with effective personalized counseling.

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[8] *See also* Oversight and Government Reform Committee minority staff, "Treasury Department's Mortgage Modification Programs: A Failure Prolonging the Economic Crisis," Feb. 25, 2010.

[9] James R. Hagerty, *Loan Aid Leaves Some Worse Off*, THE WALL STREET JOURNAL, May 18, 2010, *available at* http://online.wsj.com/article/SB10001424052748703315404575250463403570640.html?mod=WSJ_Deals_LEFTCarousel.

[10] Carolyn Said, "Federal program will help struggling homeowners," SAN FRANCISCO CHRONICLE, May 10, 2010, *available at* http://articles.sfgate.com/2010-05-10/business/20891847_1_underwater-mortgages-median-income-foreclosure-process.

[11] Florida Housing Fiannce Corporation, Florida Hardest-Hit Fund Frequently Asked Questions, April 16, 2010, *available at* http://www.floridahousing.org/FH-ImageWebDocs/HousingResources/HFAHardest-Hit/Florida%20Hardest-Hit%20Fund%20Proposal%20FAQs-final.pdf, at 4.

[12] *See, e.g.*, Oversight and Government Reform Committee minority staff, "The Role of Government Affordable Housing Policy in Creating the Global Financial Crisis of 2008, updated May 12, 2010, *available at* http://republicans.oversight.house.gov/images/stories/Reports/20100512affordablehousingpolicyandthefinancialcrisis.pdf.

[13] *Id.* at 1 (emphasis added).

These problems are compounded by Treasury's lack of transparency and accountability. Treasury's guidelines for the state HFA proposals call for "innovation," but are vague enough that programs which substantially duplicate existing federal and private ones – as several of California's do – appear to qualify.[14] Treasury has not clarified what it considers to be "innovation," has not published the state HFAs' proposals, and has not solicited or accepted input from the public and Congress on the best use of these taxpayer funds.

The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X. To remedy its lack of transparency and take small first steps toward public accountability to ensure that Hardest Hit Fund dollars are spent on genuinely innovative, locally-driven programs that will maximize the help to borrowers, I request that Treasury provide the following information as soon as possible, but in no case later than 5 pm EDT on Friday, June 4, 2010:

- Publish all state HFA proposals for Hardest Hit Fund dollars on its website;
- Publish a timetable for public comment and Treasury action on all of the state HFA proposals; and
- Publish detailed, objective, and tangible criteria for the ongoing evaluation of the state programs that Treasury approves for Hardest Hit Fund dollars, and describe how Treasury will ensure that the programs are held accountable for meeting the criteria.

The American people deserve to understand what, exactly, will happen to the $2.1 billion in borrowed monies that Treasury has earmarked for the Hardest Hit Fund. Thank you for your cooperation in this matter. If you have any questions regarding this request, please contact Christopher Hixon or Hudson Hollister of the Committee staff at (202) 225-5074.

Sincerely,

Darrell Issa
Ranking Member

cc: The Honorable Edolphus Towns, Chairman

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[14] Treasury's guidelines include a non-exhaustive list of the types of programs that would be eligible for the Hardest Hit Fund; several of these types seem to overlap with programs already being conducted by the federal government and by private servicers. *See* Guidelines for HFA Proposal Submissions, *supra*, at 2.