

QUESTIONS FOR PERFORMANCE OVERSIGHT HEARING

I. Agency Operations and Personnel -

1. Please provide a complete, up-to date organizational chart for each division within the agency including, either attached or separately, an explanation of the roles and responsibilities for each division and subdivision.

- a. Please include a list of the employees (name and title) for each subdivision and the number of vacant positions;-

Response: See Attachment 1a. The organization chart includes the names and titles for each subdivision and identifies vacant positions.

- b. Please provide a narrative explanation of any organizational changes made during the previous year;

Response: See Attachment 1b.

- c. Please describe the major functions and responsibilities of each division and subdivision of the agency.

Response: See Attachment 1b.

2. Please provide a complete, up-to date position listing, in Excel spreadsheet format, for the agency, by program and activity, which includes the following information:

- a. Title of position;
 - b. Name of employee or status of position;
 - c. Date employee began in position;
 - d. Salary and fringe, including the specific grade, series, and step of position; and
 - e. Job status (continuing/temporary/contract)

Response: See Attachment 2.

3. Please explain when and by whom was the most recent staff evaluation conducted?

Response: DHCD employees were evaluated in FY15 by their appropriate supervisor. Evaluations were then routed to division heads and relevant reporting senior staff. As a matter of course, the performance evaluation period for all employees runs from the start of each fiscal year (October 1) to the end of the fiscal year (September 30). Supervisors, the agency head or agency head designee, are responsible for reviewing and approving the annual performance evaluation completed by a rating official. An overall performance rating is a culmination of the ratings assigned to each performance expectation. The overall performance rating indicates the level of an employee's actual performance of assigned competencies and S.M.A.R.T. goals during the performance management period.

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4. Please provide the number of FY16 full-time equivalents (FTEs) for the agency, broken down by program and activity.
 - a. Please provide the number of vacancies at the close of FY15, by program and activity, and current vacancy information.
 - b. For each vacant position, please note how long the position has been vacant and whether or not the position has since been filled.
 - c. How many vacancies within the agency were posted during FY15 and FY16 to date? How many were filled during FY15 and FY16 to date?

Response: See Attachment 4.

5. Please provide the salary for the top 15 earners in the administrative staff and the top 15 earners in the managerial staff. Managerial staff members are those who direct or supervise another employee or a significant component of a project.

Response: See Attachment 5.

6. Please provide the average salary for administrative and managerial staff.

The average salary for Administrative staff for DHCD is \$82,802.96. The average salary for Managerial Staff is \$120,268.44

7. Please provide a list of the top 25 overtime earners.

Response: See Attachment 7.

8. What is the total number and percentage of employees that are District residents within the agency? Please describe the methods used by the agency to increase the hiring of District residents.

Response: DHCD has 90 employees that are District residents, out of 155 active FTE's for the agency. 58 percent of DHCD employees are District residents. DHCD, in accordance with DCHR guidelines, provides 10 preference points during rating and ranking of all District residents claiming residency. This provides an advantage to all District residents in the hiring process and we strongly encourage District residents to apply and highlight residency preference in our recruitment efforts.

9. Please list all employees detailed to or from the agency, if any. Please provide the reason for the detail, the date of detail, and the projected date of return.

Response: DHCD has no staff detailed to or from the agency.

10. Please provide the Committee with:

- a. A list of all employees who receive cell phones, personal digital assistants, iPads, or similar communications devices at agency expense;

Response: See Attachment 10a.

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b. A list of all vehicles owned, leased, or otherwise used by the agency and to whom the vehicle is assigned;

Response: All fleet vehicles are assigned to Laverne Law the fleet manager. See Attachment 10b.

c. A list of employee bonuses or special award pay in FY15 and FY16 to date;

Response: No bonus or special award pay was issued in FY15 or in FY16 to date.

d. A list of travel expenses, arranged by employee;

Response: See Attachment 10d.

e. A list of the total overtime and workman's compensation payments paid in FY15 and FY16 to date.

Response: See Attachments 10e part 1 and 10e part 2.

11. Please describe the agency's performance measurement activities, including:

a. A list of performance measures used by the agency;

Response: See Attachment 11.

b. The procedures used to review and act on results;

Response: Key Performance Indicators (KPIs) are used to track measurable workload statistics to produce a comprehensive and quantitative view of the agency's performance. DHCD senior leadership is responsible for reviewing and acting on the results of the KPI's and ensuring that the agency meets its goals. DHCD submits quarterly reports to the Office of the City Administrator (OCA) with final KPIs (actuals) submitted and published at the end of each fiscal year.

At the end of FY15, DHCD created an internal QuickBase application to improve operations and create a more efficient means for tracking KPIs. Prior to using a QuickBase application, one employee collected data and maintained the information in an excel spreadsheet. In the first few months of use, the application has helped DHCD streamline its KPI reporting, making entering data more user-friendly and reviewing agency performance more accessible and transparent. Everyone at DHCD responsible for data reporting is able to view all indicators, performance progress, and notes pertaining to each measure. Another major advantage to QuickBase is its ability to quickly generate real-time reports and charts comparing the agency's performance from year to year. A last major advantage, which was not possible in Excel, is QuickBase's ability to pull information from other QuickBase applications (i.e., DFD's pipeline application would automatically populate the key performance indicator application). This feature has not yet been developed; however, the agency is currently exploring how to connect multiple QuickBase applications to further increase reporting efficiency.

c. All staff and resources dedicated to performance measurement;

Response: DHCD has two staff members—a Resource Management Specialist and Housing Development Advisor—dedicated to managing and tracking KPI information and compiling

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results from managers. These employees are also responsible for reporting and reviewing results with the Director, and other senior leadership team members. Two other staff members provided technical assistance to create the agency's QuickBase application, and will continue to offer technical support, as needed, throughout the FY16.

- d. The goals and actual results for those performance measures in FY15 and an explanation of any variance between goals and results.

Response: DHCD's FY15 Performance Accountability Report provides an explanation of results and goal variance and is provided to Council by OCA. The document can be accessed at: http://oca.dc.gov/sites/default/files/dc/sites/oca/publication/attachments/DHCD_FY15PAR.pdf.

II. Budget

12. Please provide a chart showing the agency's approved budget and actual spending, by program, for FY15 and FY16 to date. In addition, please describe any variance between fiscal year appropriations and actual expenditures for FY15 and FY16 to date.

Response: See Attachments 12a-c.

13. Please list any reprogrammings, in or out, which occurred in FY15 or FY16 to date. For each reprogramming, please list the total amount of the reprogramming, the original purposes for which the funds were dedicated, and the reprogrammed use of funds.

Response: See Attachment 13.

14. Please provide a complete accounting for all intra-District transfers received by or transferred from the agency during FY15 or FY16 to date.

Response: See Attachment 14.

15. Please identify any special purpose revenue accounts maintained by, used by, or available for use by the agency during FY15 or FY16 to date. For each account, please list the following:

- a. The revenue source name and code;
- b. The source of funding;
- c. A description of the program that generates the funds;
- d. The amount of funds generated by each source or program in FY15 and FY16 to date; and
- e. Expenditures of funds, including the purpose of each expenditure, for FY15 and FY16 to date.

Response: See Attachments 15a-c.

16. Please provide a list of all projects for which the agency currently has capital funds available. Please include the following:

- a. A description of each project;
- b. The amount of capital funds available for each project;
- c. A status report on each project, including a timeframe for completion; and
- d. Planned remaining spending on the project.

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Response: See Attachment 16.

17. Please describe the agency's efforts to utilize federal funding sources and other alternative funding sources.

Response: See Attachments 17.

18. Under D.C. Code § 42-2857.01, it states that no more than 20 percent of the funds deposited into the Unified Fund be used to pay project-delivery costs. The statute also requires an annual report on the fund. Please provide the annual report in Attachment for FY15.

Response: See Attachment 18.

19. Additionally, please provide :

- a. The amount of revenue generated by the Unified Fund in FY15 and FY16 to date.
- b. The amount of expenditures by the Unified Fund in FY15 and FY16 to date.
- c. The amount of Unified Fund spent on personnel costs in FY15 and FY16 to date.

Response: See Attachments 19a-c.

III. Contracting and Procurement

20. Please list, in Excel spreadsheet format, each contract, procurement, lease, and grant ("contract") awarded, entered into, extended and option years exercised, by the agency during FY15 and FY16 to date. For each contract, please provide the following information, where applicable:

- a. The name of the contracting party;
- b. The nature of the contract, including the end product or service;
- c. The dollar amount of the contract, including budgeted amount and actually spent;
- d. The term of the contract;
- e. Whether the contract was competitively bid or not;
- f. The name of the agency's contract monitor and the results of any monitoring activity; and
- g. Funding source

Response: See Attachment 20.

21. Please provide a list of all MOUs currently in place, all MOUs entered into within the last year, and any MOUs planned for the coming year.

Response: See Attachment 21.

22. Please describe the steps taken by the agency to provide oversight and management for contracts. Specifically, how does the agency ensure that its programmatic needs are being met and contracting actions are standardized across various programs?

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Response: Under the Delegated Procurement Authority (DPA) the Office of Contracting and Procurement (OCP) and the Department of Housing and Community Development (DHCD) have placed a Contracting Officer and staff within the agency to provide oversight and management of DHCD's procurement actions.

DHCD works closely with the Contracting Officer to monitor the status of active contracts, to process existing procurements, and to determine future contracting needs. OCP also provides training on policies, procedures, laws, and regulations regarding procurement in the District, thereby ensuring the continual monitoring of a range of contracts and their associated expenditures.

23. What percentage of contracts and total contracting budget at DHCD were awarded to local, small, and disadvantaged business enterprises in FY15 and FY16 to date? What is DHCD doing, if anything, to improve this rate?

Response: DHCD awarded fifty percent of the contracts and total contracting budget to local, small, and disadvantage business enterprises for FY14 and FY15. This is consistent with the identified expendable budget of DHCD that was mandated by the Department of Small and Local Business Development (DSLBD). DHCD is committed to working with the Office of Contracting and Procurement to ensure that all procurements are competed with small and local businesses.

DHCD is improving the rate of awards to Certified Business Enterprises (CBE) by following the guidance of and supporting OCP. DHCD hosted the Ward 8 "OCP in the Wards" vendor meeting that was geared towards CBE's in Ward 8. The "OCP in the Wards" meetings also provided information to non-CBE vendors that want to become a CBE.

IV. Studies, Publications, Audits, Investigations, and Lawsuits

24. Provide a list of all studies, research papers and analyses the agency prepared or contracted for or plans to prepare or contract for during FY15 and FY16 to date. State the status and purpose of each study.

Response: DHCD has not directed or contracted for any studies or research papers in FY15 or FY16 to date.

The agency participated in preparing the Housing Needs Assessment for the District of Columbia: Phase II, completed May 2015. This was the second part of a housing study being completed by the Urban Institute for the Washington, D.C., Office of the Deputy Mayor for Planning and Economic Development (DMPED). The needs assessment measured the need for affordable housing within each ward and neighborhood cluster to help guide investment decisions in affordable housing by the city.

Similarly, the agency participated in the report Pairing Low-Income Housing Tax Credits with Historic Tax Credits, completed in July 2015. This report was prepared by the Office of Planning for housing developers to better understand the supply of historic apartments in the District and how to navigate the historic tax credit program. The report also recommends targeted policy strategies to foster more projects using Historic Tax Credits. The agency responds to numerous data requests and conducts a variety of policy analysis in-house.

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DHCD will begin working on the 2016 Analysis of Impediments to Fair Housing Choice (AI). DHCD is legally required to *Affirmatively Further Fair Housing* (AFFH), i.e., “meaningfully” take actions to address significant disparities in housing needs and in access to opportunity; to replace current and historical patterns of segregation with truly integrated and balanced living patterns; to transform racially and ethnically concentrated areas of poverty and other stressors which harm individuals’ quality of life into areas of opportunity and community assets such as education, transit access, and employment; and to foster and maintain compliance with civil rights and fair housing laws. DHCD will coordinate with other District agencies such as DCHA, DCRA, DCHFA, OP, OZ, DCZC and OHR, and conduct outreach and extensive data analysis.

25. Provide a list of all publications, brochures and pamphlets prepared by or for the agency during FY15 and FY16 to date.

Response:

In FY 2015 – 2016 to date, the DHCD Office of Communications and Community Outreach (OCCO) prepared the following publications, brochures, and pamphlets:

1. The “DHCD Programs and Services” handout, which was revised and updated to include new Mayoral and DHCD Director information.
2. Four “DHCD Stakeholder Reports,” which kept stakeholders informed of programmatic initiatives, upcoming engagements and top priorities.
3. Post card brochures, which served as more convenient and precise ways to distribute information on DHCD’s programs to the public at conventions, community meetings and other events.
4. The 7th Annual D.C. Housing Expo & Home Show Event program, which is a 26-page booklet that served as a guide to the events for thousands of participants.

26. Provide a list of all policy statements issued during FY15 and FY16 to date.

Response: Administrative Order No.: AO-15-01, Dress Code for the Department of Housing and Community Development

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27. Please list and describe any ongoing or completed investigations, studies, audits, or reports on the agency or any employee of the agency, or any investigations, studies, audits, or reports on the agency or any employee of the agency that were completed during FY15 and FY16 to date.

Response: See below.

Table 1: Investigations, Studies, Audits, or Reports on DHCD or any Employee of the Agency

<u>Audits, Investigations, Reports or Studies</u>	<u>Status</u>
Letter from Andrew Meyers to Polly Donaldson dated October 14, 2015 re: Dahlgreen Court (IDIS No. 1729) and Skyland Disposition (IDIS No. 1515) HUD OIG internal audit inquiry	On-going investigation; DHCD completed response related to Dahlgreen Court and is working with DMPED to respond to Skyland Shopping Center disposition questions.
Letter from the D.C. Auditor dated January 7, 2016 to Polly Donaldson re: audit of the Housing Production Trust Fund for fiscal year 2015	On-going investigation; DHCD is submitting requested documentation.
Inquiry from D.C. Inspector General dated February 2, 2016 regarding a HPAP complaint from Aaron L. Treadwell, Sr.	On-going investigation; DHCD has submitted all requested documentation.
Annual audit of HPAP fund by SB & Company dated September 30, 2015	On-going investigation; DHCD is submitting the requested documentation.
Letter from D.C. Office of Inspector General to Polly Donaldson dated December 15, 2015 (Control No. 2015-0319) re: LIHTC award to former Hine Junior High School	On-going investigation; DHCD is conducting an inquiry.
Consolidated Annual Financial Audit (CAFR)	Completed; January 2016
Consolidated Annual Financial Audit (CAFR) - FY 2015	Completed; January 2015
A-133 Annual Single Audit – FY 2015	Completed; June 2015
GAO Review of State Oversight of LIHTC Programs – November 25, 2015	Completed; DHCD submitted response in December 2015

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28. Describe any pending lawsuits involving the agency.

Response: See below.

Table 2: Pending Lawsuits Involving the Agency

<u>Case Name/Case Number</u>	<u>Type</u>	<u>Status</u>
Park Southern Residents' Council/ D.C. v. PSNC, 2014 CA 002646B, 2014 CA 004551B, 2014 CA 005861B	Consolidated Civil actions fraud; breach of contract; D.C. Intervenor seeks appointment of custodian to sell Park Southern	Court entered default against PSNC, parties must appear at hearing on 2/24/16 re: appointment of custodian.
2910 Georgia Avenue LLC v. D.C., 12- cv-01993	Constitutional challenge to D.C. Inclusionary Zoning law as a taking in violation of 5 th Amendment	Cross-Motions for Summary Judgment to be filed by 3/25/16.
Parcel One Phase One Assoc. v. Museum Square Tenants, 15-CV-609¹	TOPA law "Bona Fide Offer of Sale"	Oral Argument held 2/18/16.
Acosta v. DHCD et al., 2012 CA 007712	Whistleblower complaint	Mediation scheduled for 6/7/16.
2015 CA 5981 1325 Montello Ave NE	Tax sale foreclosure	3/9/16 Status hearing.
2015 CA 7984 635 Emerson St. NE	Tax sale foreclosure	5/18/16 Status hearing.
Sq. 4057 Lot 190 Holbrook Terrace	Tax sale foreclosure	5/13/16 Initial conference
Sq. 4296 Lot 41 25th Pl	Tax sale foreclosure	6/10/16 Initial conference.
<u>Fairfax Homes, Inc. v District of Columbia, U.S. District Court (Chapter 11): Case No. 13-00744²</u>	Federal bankruptcy case	

¹ NOTE: D.C. is not a party to this lawsuit but filed an amicus curiae brief in support of Museum Square Tenants Assoc. The District asserts that offers of sale must be based on an objectively fair and reasonable estimate of the property's value to assess whether a property owner has made a bona fide offer where there is no third-party contract, and the property owner cannot establish a unique value for the property's intended use.

² NOTE: This U.S. Bankruptcy Case pertained to a developer who converted a housing accommodation located at 103 Missouri Avenue, NW and incurred conversion fee liability. The declarant declared bankruptcy and the property was sold, at which time conversion fee payments were required. The declarant requested that DHCD waive conversion fees, however DHCD declined. Because of the limited resources in the case, the Office of the Attorney

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V. Information and Technology

29. Please describe how DHCD is currently using its website and social media to help fulfill its mission, including any improvements it has made in FY15 and FY16 to date and plans it has to do so in the near future.

Response: In FY 2015-2016 to date, the DHCD Office of Communications and Community Outreach (OCCO) increased its website and social media activity to provide stakeholders with information on DHCD programs and services, training opportunities, publications, press releases, media alerts, event and community meeting announcements.

FY 2015 Focuses

- Website:
 - Revamped and updated Inclusionary Zoning page.
 - Updated all community-based organization information to make it more concise.
 - Increased responsiveness to all questions directed to our agency.
 - Incorporated more images, testimonials and engagements into the webpages.
 - Updated all materials to include the Director's information.
 - Resurrected Ask the Director.
 - Removed press releases older than 2013.
 - Developed individual pages for:
 - D.C. Housing Preservation Strike Force Meeting
 - DHCD 2016-2020 Five Year Consolidated Plan
- Revamped D.C. Housing Search site.
- Social Media:
 - Linked our social media accounts to our emails and webpage.
 - Twitter: (a) Increased our followers on the Twitter platform by 250 percent and increased our friends on Facebook by 120 percent; (b) cleaned up our follower list to make sure all spam accounts are blocked, and monitor on a weekly basis; (c) retweeted and reposted other agencies' social media posting (e.g., the mayor's office and DMPED) related to housing issues; (d) sent out our tweets to the Mayor's Office of Community Relations, Councilmember offices, government agencies and any other pertinent social outlet regarding our hearing notices and community events; (e) encouraged attendees at community meetings to follow us on Twitter and Facebook; and (f) used more eye-catching hash tags.
 - Live streamed DHCD events from our Periscope account and encouraged those on Periscope to retweet to their followers.
 - Added Flickr account for better display of photo albums for our events.

FY 2016 to Date Enhancements

- Website: Beginning an analysis of the DHCD webpage to make it more user friendly, improve the process for updating content, and enable visitors to get to their information more quickly.
- Social Media:
 - Set up an automatic retweeting process that will increase the amount of housing-related content that appears on our Twitter feed.

General in consultation with DHCD negotiated a settlement payment of \$90,000 which was remitted on October 2, 2015.

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- Made plans to analyze our Twitter and Facebook followers to better understand their needs to target information of most interest to them, and to see where gaps need filling

30. Please identify all electronic databases maintained by the agency, including the following:

- a. A detailed description of the information tracked within each system;
- b. Identification of persons who have access to each system, and whether the public can be granted access to all or part of each system; and
- c. The age of the system and any discussion of substantial upgrades that have been made or are planned to the system.

Response: See Attachment 30.

31. The Council passed the Rent Control Housing Clearinghouse Amendment Act of 2015 in Title II, Subtitle V in B21-0158, which became law effective from October 22, 2015. Please provide in detail a status update of this rent control housing database in context to the timeline as stipulated in the legislation.

Response: DHCD is in ongoing discussions with the Office of the Chief Technology Officer about having Phase 1 completed within six months of the bill's effective date. Phase 1 is complete when a contract or agreement is in place to design and build the data base. Phase 2 will be complete when the system is operational. This is to occur within 12 months of the effective date. Administrative Services Divisions has scanned into the new DHCD Filenet system all RAD registration and rent adjustment documents filed through December 31, 2015.

VI. Agency Programs and Policies

32. Please list each policy initiative of the agency during FY15 and FY16 to date. For each initiative please provide:

- a. A detailed description of the program;
- b. The name of the employee who is responsible for the program;
- c. The total number of FTEs assigned to the program; and
- d. The amount of funding budgeted to the program.

Response: D.C. Housing Preservation Strike Force—Mayor Bowser created the D.C. Housing Preservation Strike Force on June 4, 2015 by Mayor's Order. The purpose of the Strike Force is serving as an advisory group to address actions by or with the District Government to preserve existing affordable housing. The Strike Force has met 8 times since its organizational meeting on September 30, 2015. During the last four months, the Strike Force divided into three working units, Finance, Policy and Operations. The units are hearing from subject matter experts, reviewing data and research and developing recommendations for consideration by the full Strike Force. In February, the Strike Force provide its Interim Report to the Mayor. The Strike Force will submit a Final Report in April and sunset in June 2016. The Mayor appointed Polly Donaldson as the Chair of the Strike Force and Danilo Pelletiere, Housing Development Advisor serves as manager of the Strike Force. Six additional DHCD staff assist with the research, policy development and coordination of the Strike Force's activities. No funds were budgeted for this policy effort. DHCD absorbs the cost of the Strike Force's work within its existing budget and operations

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Interagency Council on Homelessness–DHCD Director continues to serve on the Interagency Council on Homelessness. In addition, the DHCD Director serves as the Co-Chair of the Housing Solutions Committee. The ICH released the Homeward D.C. plan in March 2015. The strategic plan lays out the action steps to end homelessness in D.C. with the goal of making homelessness rare and brief. Director serves as a member of the ICH and is Co-Chair of the Housing Solutions Committee. Danilo Pelletiere, Housing Development Advisor serves as the Director’s designee. Two additional DHCD staff participates and assists with the Housing Solutions Committee’s activities. No funds were budgeted for this policy effort. DHCD absorbs the cost of the Strike Force’s work within its existing budget and operations.

Age Friendly D.C. Task Force–DHCD Director continues to serve on the Age-Friendly D.C. Task Force. In addition, the DHCD Director serves as the Co-Chair of the Housing Domain (committee). The Age-Friendly D.C. Task Force's recommendations are framed by the eight domains identified and defined by the World Health Organization that impact the well-being and quality of life of persons 50 years of age and older, yet are broad enough to reflect the diversity of all who live in, work in and visit the District of Columbia. The District has added two domains that reflect the unique values, issues and challenges of District residents.

The final recommendations for goals and objectives establish a record of the priorities, concerns, and desires of District residents and stakeholders. These goals and objectives serve as the basis for the Age-Friendly D.C. Strategic Plan prepared by the office of the Deputy Mayor for Health and Human Services. The strategic plan will lay out the goals that the District aspires to achieve, the strategies it will take to reach these goals and the indicators by which it will measure success. Moreover, the final goals and objectives will be used to guide the ongoing work of the Age-Friendly D.C. Task Force and District government agencies and partners as we continue on the journey to become and grow as an age-friendly city.

Director serves as a member of the Age Friendly D.C. Task Force and Co-Chair of the Housing Domain. Jose Nunez, Housing Development Advisor serves as the Director’s designee and coordinates the activities on behalf of DHCD. No funds were budgeted for this policy effort. DHCD absorbs the cost of the Strike Force’s work within its existing budget and operations.

33. Please describe any initiatives the agency implemented within FY15 and FY16 to date, to improve the internal operation of the agency, reduce waste, fraud and abuse, or the interaction of the agency with outside parties. Please describe the results, or expected results, of each initiative.

Response: Online applications–For the first time, DHCD allowed applicants to apply for the Housing Production Trust Funds, 9 percent Low Income Housing Tax Credits, Department of Behavioral Health, Department of Human Services, and D.C. Housing Authority Local Rent Supplement Program vouchers, via an electronic application. This innovative use of technology reduces the cost to the applicant and the cost to the District. No longer are 3 to 6 inches of paper required for each submission for local and federal funds. This innovative approach should allow the city to focus its time and energy on the production, preservation and protection of affordable housing and not on the application process.

Dropbox–For the first time, DHCD’s Portfolio and Asset Management Division is allowing current borrowers of DHCD funds (local and federal) to submit reporting documents via Dropbox. This innovative use of technology reduces the cost to the borrower and the cost to the District. No longer are documents mailed or hand delivered between DHCD and the borrowers.

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This innovative approach should allow the city to focus its time and energy on the production, preservation and protection of affordable housing and not on the application process.

To identify, document and address conflicts of interest, pursuant to the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, DHCD employees submitted Public or Confidential Financial Disclosure Statements as appropriate and required by the Act for the period covering the preceding fiscal year.

Financial Disclosure—To identify, document and address conflicts of interest, pursuant to the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, DHCD employees submitted Public or Confidential Financial Disclosure Statements as appropriate and required by the Act for the period covering the preceding fiscal year.

34. Please explain the impact on the agency of any legislation passed at the federal level during FY15 and FY16 to date.

Response: There has not been any new federal legislation in FY15 or FY16 significantly affecting DHCD operations. The “Tax Extenders” bill became law in December 2015. This permanently sets the minimum tax credit rates for housing projects that receive Low Income Housing Tax Credits (LIHTCs) at a fixed 9 percent for new construction and substantial rehabilitation projects retroactive to January 1, 2015. The Community Development Block Grant and HOME programs saw slight increases nationally from FY15 to FY16. At \$950 million, HOME is just shy of its FY14 level of \$1 billion and at \$3 billion CDBG is similarly just below where it stood in FY14 \$3.03 billion.

35. What District legislation has yet to be implemented by the Agency, if any? If legislation has not yet been implemented, please explain why.

Response: The agency has not completed its implementation of the District Opportunity to Purchase Act (DOPA), District of Columbia Tax Credit Act of 2014, and the Home Purchase Assistance Program Amendment Act of 2015.

36. What has the agency done in FY15 and FY16 to date to make the activities of the agency more transparent to the public? In addition, please identify ways in which the activities of the agency and information retained by the agency could be made more transparent.

Response: In FY 2015- 2016 to date, the DHCD Office of Communications and Community Outreach (OCCO) has increased its transparency by updating and expanding the information on the Open Government and FOIA page, which included the addition of the following documents:

- Memorandums of Understandings between DHCD and partner agencies.

In FY15 and FY16, DHCD conducted workshops, hearings, symposiums, outreach engagements, ground breakings and ribbon cuttings to share more of the department’s activities with stakeholders. These activities include but are not limited to:

- DHCD has, in accordance with the new Open Government legislation, published notice for the Housing Production Trust Fund Board (HPTF) meetings in the *D.C. Register*, on public

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- display boards, the DHCD website and on social media platforms. DHCD has also procured an official court reporter to tape and transcribe HPTF meetings and agency hearings.
- DHCD operates a fully staffed Housing Resource Center, which serves as a one-stop shop for information on DHCD programs and other housing resources. The Center also has an active Housing Provider Ombudsman, who serves as a resource for small housing providers.
 - Announcement Regarding RFP Solicitation: Held a Jan. 29, 2016 press briefing in the Housing Resource Center where Mayor Bowser announced 12 projects that will provide more than 800 units of affordable housing in the District.
 - Public Engagement Meetings:
 - Eight Ward by Ward meetings: Designed to solicit the communities input on housing and community development needs in their respective neighborhoods.
 - Approximately five public engagement meetings to discuss the development of the Big K project with the Ward 8 community.
 - A series of five community engagement meetings that gave the public an opportunity to participate in the development of policies and programs in affordable housing, special needs housing, homelessness, homeownership, community development, and public service activities.
 - Workshops and Educational Sessions
 - Lead Education: A Halloween event for local families to educate them on the major health hazards lead paint poisoning can cause in children was hosted by the Lead Safe Washington Health and Fitness Expo-Lead Safe Washington (LSW) program
 - Education Series Session: The Housing Regulation Administration hosted approximately 40 information sessions and stakeholder meetings to give residents the opportunity to ask questions and provide input on programs and services. The sessions included topics such the Tenant Opportunity to Purchase Act (for both tenants and realtors), rent control and rent adjustments.
 - Pre-Solicitation and Capacity Building Workshop Series: Designed to give developers and community-based organizations an overview of DHCD's funding sources and opportunities, property dispositions, and the Request for Proposals process.
 - The 7th Annual D.C. Housing Expo and Home Show. This event provided residents with the opportunity to:
 - Receive free credit reports and credit counseling.
 - Interact with government agencies, nonprofit community organizations, lenders, and realtors onsite.
 - Attend classes and demonstrations geared toward the aging population in the District.
 - Participate in lead prevention and mediation demonstrations.
 - Attend workshops on homeownership, home repair, and financial literacy.
 - Attend sessions on green living and urban gardening.
 - The Fair Housing Symposium: An annual symposium held in April, which focused on fair housing issues and fair housing training sessions geared toward industry professionals and the general public.
 - Ribbon Cuttings and Groundbreakings: DHCD participated in approximately 15 groundbreakings and ribbon cuttings.

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37. Please describe how the agency solicits feedback from customers.

- a. What has the agency learned from this feedback?
- b. How has the agency changed its practices as a result of this feedback?

Response: How Feedback Is Solicited

- In FY15 DHCD held a series of “Community Needs Assessment Hearings” to solicit input on housing and community development needs in the District. This feedback helped to shape the Consolidated Annual Performance and Evaluation Report (CAPER), and the Annual Action Plan.
- DHCD also distributes surveys at each education series session, pre- and post-Housing Expo to seek public comment and feedback.
- Resurrected Ask the Director feature on the DHCD website.
- DHCD responds to correspondence to the Mayor regarding its programs and housing and community development in relation to its mission.
- Lessons Learned/Changed Practices
 - The feedback DHCD receives is also used to help shape strategies and priorities. DHCD also shares what we learn from stakeholders with other development partners to help initiate new discussions and ideas for interagency initiatives and collaboration.
 - Feedback from our Education Series sessions caused DHCD to realign our scheduling to accommodate working residents. DHCD designed the 2016 calendar to include evening sessions and two Saturday College sessions.
 - Feedback from the Housing Expo surveys provided DHCD staff with suggestions on information sessions and speaker selections.

Housing Development Pipeline

38. Please provide the following:

- a. List of all DHCD projects that closed in FY15
- b. List of all DHCD funded projects that came online in FY13, FY14, FY15, the addresses of these projects by Ward, and the number of units in each of these projects by AMI level.

Response: See Attachments 38a-b.

39. Please describe the current underwriting practices of the agency and what changes have been made in FY15 to improve the practices.

Response:

Underwriting Process

Project underwriting comprises the entire process from selection of the project to closing. Projects come into the pipeline in one of several ways:

- Through the twice-annual Request for Proposals (RFP);
- As Tenant Opportunity to Purchase Act (TOPA) acquisitions;
- Through DHCD’s Property Acquisition and Disposition Division (PADD), if funding is requested in conjunction with a PADD property disposition; and
- Recently-funded projects may apply for additional funds as warranted.

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DHCD's Development Finance Division has two teams of project managers who are responsible for underwriting affordable housing projects. Project managers evaluate the project risk and benefit to the District, borrower risk, experience, and capacity, and many other factors. Based on an analysis of detailed construction, development, and operating budgets, as well as supporting documentation about the project and the team, DHCD project managers determine the appropriate loan or tax-credit amount for which the project will be considered.

Project managers present the proposed terms of the assistance package (loans, grants, and tax credits) to an inter-agency Loan Review Committee, which approves or disapproves the proposal. If approved, the project is assigned to a DHCD attorney.

When a project is approved by the Loan Review Committee, the assigned attorney drafts a Conditional Letter of Commitment, which is executed by DHCD and the borrower. The borrower then completes a series of conditions required prior to closing, such as obtaining building permits, letters of commitment from other sources, signing the construction contract, etc. Meanwhile, the assigned attorney prepares loan documents.

Parallel to the process described in the previous paragraph, the DHCD project manager prepares a compliance checklist for the agency's Office of Program Monitoring (OPM). OPM reviews the proposed project for compliance with all applicable Federal and local laws, on subject matter such as fair housing, affirmative action, relocation, green building, and environmental and labor standards.

Prior to closing, projects receiving at least \$1 million in assistance from DHCD are submitted to the Council of the District of Columbia for review. Once the OPM checklist is complete, all conditions precedent to closing have been satisfied, and Council approval has been obtained (if necessary), a closing date is scheduled for the project and DHCD's loan documents are executed and funds are obligated.

FY15 and FY16 to date improvements

The Development Finance Division implemented the following improvements:

- Leadership—The DFD had experienced long-term vacancies in leadership positions. This situation has been rectified with the hiring of a Division Manager and two Deputy Managers. The focus of the new leadership team and the Division is to deliver timely and compliant financing for affordable housing and community development projects.
- Project Management Staffing—DFD has also filled an additional Project Manager position and is in the process of filling a second authorized position. The addition of these team members will position the Division to achieve its timeliness and compliance focused goals.
- Reporting Structure Change—DFD has implemented a team approach. Project managers, support staff and leadership are working closely together to develop process enhancements and accountability. The Working Group approach improves cohesion within the division, allows for utilization and development of best practices and facilitates problem solving enabling efficient functioning throughout DFD.
- Online Application System—For the first time, DFD received applications for financing through an online application system, built in-house. This allowed for a much more efficient review and selection process. It also allows the division to streamline its

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underwriting process, as checklists can be built and moved within QuickBase and shared across divisions and with the borrower.

- Project Database–DFD vastly improved its records and pipeline management by refining and maintaining the QuickBase Project Pipeline Database that it uses to track projects. This database has allowed for better communication across DHCD divisions, across the administration, and with the public. The consolidation of project data also allows for DFD to produce reports and budget projections more accurately and efficiently.
- Problem-solving dated Projects–DFD has conducted a thorough review of dated projects and initiated action along with our applicants to move these projects towards closing.
- Standardization of Loan Terms–Consistent with the previous improvements, DFD has moved towards standardization of loan terms which will assist with workflow and timeliness goals without compromising compliance.

Federal Funding (CDBG/HOME/LIHTC)

40. What are the current fiscal year uses for Community Development Block Grant funds?

Response: DHCD will use its CDBG funding in FY16 for rehabilitation of multifamily housing, public facilities, home purchase assistance under HPAP, acquisition activities under TOPA, and residential and commercial acquisitions under PADD. Additionally, the process is outlined in DHCD's FY15-16 Annual Action Plan.

41. Please describe how Community Development Block Grant funds will be used in FY16, and what changes are being considered for Community Development Block Grant funds?

Response: DHCD will engage in activities as described in Chapter 8 of DHCD's FY15-16 Action Plan, below are some of the activities and projects listed:

- Affordable housing rehabilitation and new construction The redevelopment of the former Walter Reed Army Medical Campus, following the early 2000's decommissioning of the U.S. Army Base Realignment and Closures, for the construction of "last resort" homeless housing, and for 3 month emergency rental assistance for families in section 8 housing threatened by violence.
- Providing housing counseling services and small business technical assistance utilizing DHCD's community based partners.
- Providing financing for the acquisition of properties for rehabilitation purposes.
- District Department of Transportation Street Fortification. This project includes the installation of new curbs, gutters, sidewalks, pavement base, constructing corner cut backs, resetting stone curb, furnishing sewer-water manhole frames and basin tops, constructing wheelchair/bicycle ramps, installing under drain systems, and installing permanent striping on the roadway after the work has been excavated.
- Good Hope Road Stabilization. This project consists of renovations to 1205 and 1209 Good Hope Rd. SE. The renovated structures will receive new roof coverings, doors and floors. The selective demolition for the structure will also require hazardous materials abatement considerations.

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42. What funds will be available from Community Development Block Grant in the 2016 Notice of Funding Availability?

Response: DHCD is currently working to assess the availability of both federal and local sources of funding for the upcoming Notice of Funding Availability (NOFA).

43. Please describe how HOME funds are being used in FY16, and what changes are being considered for HOME funds?

Response: DHCD will use its HOME funding in FY16 for the rehabilitation and construction of multifamily affordable rental housing and homeownership opportunities. DHCD will also fund organizations certified and designated as Community Housing Development Organizations (CHDO) and provide them with Operating Assistance if requested. Additionally, there will be CHDO Reserve funds set-aside for CHDOs who have eligible housing projects (housing to be owned, developed or sponsored by CHDOs) pursuant to 24 CFR 92.300(a).

44. What funds will be available from HOME in the 2016 Notice of Funding Availability (NOFA)?

Response: DHCD is currently working to assess the availability of both federal and local sources of funding for the upcoming NOFA.

45. What are DHCD's plans for using HOME funds as operating funds for Community Housing Development Organizations (CHDOs)? If so, please describe how it has been used.

Response: CHDOs that have eligible HOME projects under 24 CFR 92.208 are allowed to apply for operating assistance as long as the organization has a new HOME CHDO reserve project or an existing HOME CHDO reserve project that is still in its affordability period and can provide the proper documentation that qualifies for assistance. Due to the limited amount of HOME funds available at DHCD, the maximum award amount for CHDO Operating Assistance is \$50,000 per fiscal year.

46. Please provide the Committee with a status update on the District's Qualified Allocation Plan (QAP) and the rules and regulations affecting the use of tax credits.

Response: DHCD is completing the procurement process to hire a contractor to provide LIHTC legal services consisting of:

- Updating the existing Qualified Allocation Plan (QAP) to incorporate changes to the Internal Revenue Code and Regulations and aligning it with District of Columbia's project development and Underwriting; and incorporating District of Columbia Tax Credit Act of 2014 (D.C. LIHTC Act).
- Developing and preparing draft Regulations to implement the D.C. LIHTC Act and developing form documents to implement it.
- DHCD will also schedule meetings with Office of Tax and Revenue (OTR) to discuss the D.C. LIHTC award certification process and documentations required for claiming D.C. Credits.

The updated and revised QAP is expected to be completed and approved by the Mayor at the end of May after a Comment period and Stakeholders meeting.

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47. Which funding sources does DHCD spend first? Federal or local, and how are projects prioritized?

Response: DHCD assesses funding source eligibility, agency priorities and objectives and funding source availability before funding projects, programs and activities. Additionally, DHCD must budget and account for the use of administrative costs, commitment and spending deadlines as part of its analysis in the use of federal funds. DHCD on an annual basis funds small business technical assistance, housing services and the façade program at the start of each fiscal year as a result of a competitive RFP process. In more recent years, DHCD has funded multifamily affordable housing projects through a competitive RFP process using both multiple sources including federal funds, local funds, and funds from sister agencies. DHCD usually issues Letters of Commitment in the late fall or early winter period.

Tenant Opportunity to Purchase (TOPA)

48. How many buildings completed a TOPA purchase FY15 and FY16 to date?

Response: The following 4 projects received DHCD funding to complete a TOPA acquisition:

- Maya Angelou Cooperative (FY15)
- Kenyon House Family Cooperative, Inc. (FY15)
- Luzon Tenant Association (FY16)
- The Barlee Tenant Association (FY16)

49. How many buildings began the process in FY15 and FY16 to date, but has yet to complete the purchase?

Response: The following 2 projects are in the pipeline to receive TOPA acquisition financing in FY16:

- United 2nd Street Tenant Association
- HOPE Cooperative

50. Please describe any issues/problems that have come to your attention regarding the implementation of the TOPA law or apparent attempts by housing providers to circumvent TOPA.

Response: The agency is unaware of housing provider efforts to purposely evade or circumvent TOPA. DHCD has encountered several challenges to TOPA administration and enforcement. First, several housing providers and their counsel may interpret the statute and precedential case law by focusing on imprecise or unclear provisions. Second, the agency receives anecdotes of aggressive or predatory conduct by realtors or developers who induce tenants to assign or sell their right to purchase for nominal consideration and without the benefit of legal counsel. Third, the agency will propose revisions to TOPA to facilitate financing, such as facilitating the exit of LIHTC partners near the expiration of a tax credit financing. Finally, DHCD perceives that the statute must be updated to reflect current real estate and lending markets.

- Statutory Interpretation (Sale): The owner of Museum Square Apartments (401 K Street, NW) took an expansive interpretation of “bona fide offer of sale” as provided in § 42-3404.02(a) of TOPA. Relying on a D.C. Court of Appeals opinion in *1618 Twenty-First Street Tenants’ Association v. The Phillips Collection* (829 A.2d 201 (D.C. 2003)), the owner issued an offer of sale to tenants based on an asking price which may not be an

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objective valuation. The legal question is currently on review before the D.C. Court of Appeals.

- **Statutory Interpretation (Portfolio Transfer):** The Daro family owned nine large Upper Northwest apartment buildings. The family contracted to sell all of the buildings as one portfolio. § 42-3404.02(b) of TOPA provides that the sale or transfer of housing accommodations which are an owner's sole or principal asset is subject to TOPA.

Because the nine buildings were transferred as a portfolio, the transaction was exempt from TOPA, and the Daro family was not required to give tenants an opportunity to purchase.

- **LIHTC Transactions:** TOPA exempts transfers of economic or ownership interests for housing provider entities which admit partners availing themselves of LIHTC investment obligations and benefits. The statute does not exempt the exit of partners when LIHTCs expire, which has the effect of chilling investment. Because the buildings will continue to remain affordable after the expiration of tax credits or in some instances revert to tenant ownership, DHCD perceives that TOPA should be amended to facilitate the entry and exit of capital in LIHTC-funded transactions.
- **Ground Lease Exemption:** DHCD perceives that TOPA should be amended to exempt transactions wherein the District is a ground lease owner and proposes to transfer the underlying ground to the building owner and merge the fee simple estates of the land and building (i.e., the housing accommodation is not being sold or transferred). This legislative amendment will clarify that a transfer of the ground lease will not trigger TOPA rights and give title insurance stakeholders assurance and clarity in underwriting transactions.
- **Predatory TOPA Assignees:** § 42-3404.06 of TOPA provides that tenants may assign or sell their right to purchase or right of first refusal at any time for any consideration deemed acceptable in their sole discretion. DHCD recently became aware of aggressive and predatory tactics by realtors and developers who pursue tenants for the purchase of TOPA rights—often for nominal consideration, without disclosures, assistance for relocating to new housing, and without the benefit of legal counsel. Interested TOPA purchasers now advertise on the Internet, send tenants threatening or misleading correspondence, and approach tenants in their homes. In one egregious instance, the agency found TOPA purchasers whose web-based advertising implied affiliation with the District government. DHCD successfully halted the efforts of one predatory group, but it appears that the sale of TOPA rights may be a new industry.

51. Please provide an update to the Committee on the status of drafting all components of the regulatory scheme to implement the District Opportunity to Purchase (DOPA) Program and a projected first publication date as well as the estimated final effective date.

Response: The agency's working group is focused on completing DOPA regulations. DHCD intends to incorporate recommendations from the Mayor's Housing Preservation Strike Force into the regulations. The agency projects that the proposed regulations will be completed and ready for promulgation by September 30, 2016.

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52. How many properties has DHCD identified that would be eligible to be purchased under DOPA?

Response: The agency has not prospectively identified properties which could be purchased by the District under DOPA. The agency received 31 DOPA notices in FY 2015 and as of February 19, 2016, 22 DOPA notices for FY 2016.

Home Purchase Assistance Program (HPAP)

53. How does DHCD plan to work with the Council and HPAP stakeholders to bring HPAP guidelines more in line with private industry standards? What HPAP processes and guidelines does DHCD intend to change?

Response: The HPAP underwriting guidelines are closely aligned with private industry standards for conventional mortgage financing. In particular, HPAP uses financing criteria set by the Federal Housing Administration (FHA), FANNIE MAE, and FREDDIE MAC.

DHCD continues to work with the Council and stakeholders on improving the HPAP program by making the following changes to the HPAP:

- creating standardized web-based homeownership training for all Community Based Organizations;
- reducing the number of housing inspections from three to one;
- relaxing the savings and interest rate reduction requirements for subordinations; and
- convening an internal working group to assess and make recommendations for legislative changes to the HPAP Program to increase the maximum loan amount from \$50,000 to \$80,000 and relaxing repayment terms for low-income borrowers.

54. Is the underwriting process/guidelines for HPAP available online for the public to see?

Response: The HPAP program is administered by the Greater Washington Urban League (“GWUL”). GWUL posts eligibility criteria, application and underwriting, and loan repayment information on its website.

55. What does DHCD intend to do to improve HPAP loan repayment servicing?

Response: DHCD is working with AmeriNational, its loan servicer, to improve annual residency monitoring and to better track delinquent borrowers, by sending follow up correspondence and calling borrowers who do not return requests for residency information. In addition, DHCD and AmeriNational are developing clearer and more plain language correspondence so that borrowers recognize important mail related to the HPAP program, including making sure the name “Department of Housing and Community Development” is on the front of the envelope and on the letter instead of just AmeriNational’s contact information.

56. How much money are you receiving yearly in HPAP repayment?

Response: In FY 2015, \$5,516,887.56 was received in HPAP repayments.

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57. How much of that money is from monthly repayments and how much is from repayments of the total HPAP amount?

Response: In FY 2015, \$1,947,293.41 was received in monthly HPAP repayments and \$3,569,594.15 was received in HPAP loan payoffs. The repayments were the result of collections from 2159 HPAP loans

58. How long does it take for DHCD to re-subordinate a HPAP or HPTF loan for a regular refinance?

Response: The DHCD review and document preparation process takes 45 to 60 days upon receipt of all required documents from the requesting lender or borrower.

59. If the process is taking longer than usual, who can the borrower appeal to?

Response: Borrowers can appeal to the HPAP Program Manager for HPAP and EAHP subordination loans. Subsequent to HPAP, program manager appeals can be directed first to the RCSD manager and then the Chief Program Officer within DHCD.

60. How does DHCD plan to fix funding issues at the beginning of the fiscal year to ensure that HPAP funding is always available?

Response: DHCD will begin working with the selected program administrator in late spring before the start of the fiscal year to make sure grant agreements are in place. In addition, DHCD will place a premium on making sure that such program administrators have sufficient financial liquidity to close HPAP loans from the start of the fiscal year.

61. What is the max income limit for federal funds? Is it lower than the HPAP income chart? If yes, how will you manage funding to ensure all HPAP borrowers can settle?

Response: The maximum household income limit for federal funds is 80 percent of the current AMI. The maximum household income limit served by the HPAP program is 110 percent of the current AMI. Please find attached a current household income chart. DHCD currently uses both federal funds and appropriated funds to fund HPAP loans. DHCD will continue to use a mix of financing sources to make sure that all eligible households that seek to become first-time homebuyers in the District of Columbia have that opportunity.

See Attachment 61 for more information.

Affordable Dwelling Units (ADUs) for Ownership

62. What is not working in the current ADU settlement process? How does DHCD plan to work with stakeholders to standardize and streamline the ADU settlement process? Please be specific.

Response: DHCD has convened an internal working group that is specifically tasked with revising and updating the ADU settlement process for homebuyers using HPAP to purchase DHCD financed ADUs. In particular, DHCD plans to roll-out new homebuyer guidelines in spring and documents in April that will provide one set of eligibility requirements regardless of the funding source with the exception of HOME financing. These documents will also include notice provisions about Council's HPAP equity recapture law, reduced affordability periods for persons buying in certain "distressed" areas, residency requirements and re-sale procedures.

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Eligibility, underwriting, and loan processing will now be handled by DHCD’s Portfolio and Asset Management Division to eliminate confusion for buyers and developers as to which DHCD staff member or department is responsible for closing units.

63. How many ADUs were sold in the past year? How many are in the pipeline?

Response:

- FY2015: 28 new ADUs sold
- FY2016: 10 new ADUs sold

How many are in the pipeline?

Response: Pipeline: 57 for-sale ADUs (Parkside, Asheford Courts, and Gallery Towns).

64. How many ADU and IZ buyers utilize HPAP?

Response: 18 buyers utilized HPAP to purchase an Inclusionary Unit or Affordable Dwelling Unit.

Table 3 ADU and IZ Buyers Utilizing HPAP

<i>Development</i>	<i>Unit Count</i>
Buxton	6
Village at Dakota Crossing	8
2920 Georgia Ave NW	1
2030AP	1
The Centrie	2

65. Please provide a timeline for the creation of the distressed census tract map that is required for HPTF funded for-sale units.

Response: The distressed census tract map will be part of the 5-year Consolidated Plan and requisite first-year Annual Action Plan submitted to the Department of Housing and Urban Development. DHCD was granted a one-year extension for the submission of its FY2016-FY2020 5-year Consolidated Plan, which was originally due to HUD on August 16, 2015. The extension was needed due to the change in the Mayor’s office and in key personnel that came with it. Both documents are now due to HUD by August 16, 2016.

66. Has a process been set-up for the recapture of HPTF funds used to create for-sale units? How will DHCD work with stakeholders to ensure it is understandable and conforms with lending requirements and practices?

Response: Currently, HPTF loans used for homeownership units are assumed by the home buyers at the closing as a Second Deed of Trust behind the First Trust loan. The loans are forgiven annually over the affordability period for the unit.

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DHCD is working with stakeholders to implement the provisions of D.C. Act 20-482 including the recapture of HPTF used to create for-sale units.

DHCD has convened an internal working group that is specifically tasked with revising and updating the homeownership settlement process for homebuyers purchasing DHCD financed units including units financed with the Housing Production Trust Fund. In particular, DHCD plans to roll-out new homebuyer guidelines in spring and documents in April that will provide one set of eligibility requirements regardless of the funding source with the exception of HOME financing. These documents will include notice provisions about Council's HPTF equity recapture law, reduced affordability periods for persons buying in certain "distressed" areas, residency requirements and re-sale procedures, and will incorporate comments received by the Council and industry stakeholders from a roundtable held in FY15.

67. Last year, the agency submitted a response regarding the resale formula that noted that DHCD did not anticipate simplifying or streamlining the formula. Has there been any changes to this position? Additionally, please provide the Committee a status update on the creation of a web-based resale calculator that was mentioned in the answers last year.

Response: As stated previously, DHCD doesn't anticipate simplifying or streamlining the formula, which was revised in 2013. DHCD continues to work with ADU stakeholders including developers, housing advocates and other District agencies regarding ADU policy. DHCD did not pursue the creation of the web based resale calculator in FY15.

68. Please describe the process of enforcement by DHCD of ADU owners who have defaulted on their loans and/or condo fees.

Response: DHCD has no role in enforcing ADU monetary defaults because DHCD is not a party to the ADU financing agreements between ADU owners and mortgage lenders, nor is DHCD a party to homeowners' association agreements between ADU owners and condominium associations. However, the ADU covenants do provide that the District has the right to purchase an ADU in the event a notice of default or notice of intent to foreclose on an ADU unit is filed by a first trust mortgagee. DHCD has 30 days from the date a notice of default or a notice of foreclosure sale is recorded in the Land Records of the District of Columbia Recorder of Deeds to exercise its option and purchase the ADU. In addition, if an ADU owner violates the terms of the ADU covenants, DHCD will send a written warning notice to the owner to get him/her back into compliance. If the owner continues to violate the ADU covenants, the District will file a civil action seeking a forced sale of the ADU.

Inclusionary Zoning and Affordable Dwelling Units

69. Please provide a timeline for the implementation of the latest proposed regulations.

Response: The agency anticipates the proposed regulations will be completed and promulgated by March 31, 2016. DHCD staff is currently reviewing the proposed regulations and preparing staff to seamlessly implement them for when they are effective.

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70. Currently, there is no way to control rapid condo fee increases after an IZ owner purchases their unit. How does DHCD plan to deal with this issue to ensure that owners do not get priced out of their units?

Response: The current method for protecting IZ owners from rapidly increasing condo fees is to over-estimate the condo fee during the initial purchase. When DHCD sets the maximum purchase price schedule, it includes a condo fee assumption to help determine what a household will have “left over” to pay for principal and interest. (The amount for principal and interest in turn determines the total mortgage and thus the total–maximum–purchase price.)

DHCD analysis shows that the *assumed* initial condo fee for an IZ unit exceeds the *actual* initial condo fee by an average of 84 percent. Removing one outlier property raises the average to 98 percent, meaning DHCD condo fee assumptions are nearly twice what the owners actually, initially pay.

Ultimately, this over-assumption creates an affordability buffer, suppresses the initial, maximum purchase price, and helps the owner afford the IZ unit over a longer period of time (if not for the life of owning the unit).

Property Acquisition and Development Division (PADD)

71. When did DHCD last hold a PADD auction?

Response: Thursday, November 10, 2011.

72. When does DHCD plan to hold the next one?

Response: As a policy shift, PADD has moved towards Solicitation for Offer as a primary means of disposition and does not have any plans to hold an auction in the near term.

73. What is DHCD’s inventory of vacant and/or blighted properties under this program? Please provide a list of addresses by ward and square footage.

Response: Below is a summary table of DHCD’s inventory of properties under the PADD program. For a full list see Attachment 73.

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Table 4 Inventory of PADD Properties

	# of Properties	Total Square Footage	Average Lot Size (in square feet)
Ward 1	2	6,308	3,154
Ward 2	2	2,074	1,037
Ward 3	-	-	-
Ward 4	2	4,905	2,453
Ward 5	11	23,846	2,168
Ward 6	26	20,030	770
Ward 7	41	155,314	3,788
Ward 8	68	321,880	4,804
Total	152	534,357	3,539

Interagency Council on Homelessness (ICH)

74. Please provide a copy of the Permanent Supportive Housing (PSH) production pipeline, a key deliverable from the Interagency Council on Homelessness (ICH).

Response: See Attachment 74.

VII. Housing Production Trust Fund (HPTF)

75. Please attach a copy of the statutorily required HPTF Annual Report for FY13, FY14, and FY15.

Response: The FY13 Report has been reconciled and being produced in ITU. The FY14 will be done in the next 2 weeks.

76. Please provide the amount of money spent on administration of the fund in FY15. Please include the total number of FTEs and a breakdown of expenditures.

Response: See Attachments 76.

77. Please indicate the balance remaining in the HPTF for FY15 and FY16 to date.

Response: See Attachment 77.

78. Please indicate the total amount of funding in the HPTF for FY15 and FY16.

Response: The available funding in the Housing Production Trust Fund is as follows:

FY15: \$84,642,391.44

FY16: \$22,137,664.11

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79. Please identify all sources of HPTF funding and the amount from each source.

Response: See Attachment 79.

80. How many applications did HPTF receive in FY15 through FY16 to date? Please provide a breakdown for each year.

Response: In 2015, DHCD released one RFP and received 29 applications. DHCD has not yet released the FY16 RFP

a. Of these applications, how many applications were approved?

Response: 12 of the 29 applications were selected for further underwriting.

b. How many applications dropped out?

Response: 17 applications were not selected for further underwriting. Of the 12 selected, none have dropped out, to date.

At the very beginning of FY15, on October 8, 2014, DHCD announced 18 selected affordable projects, out of 23 applicants, from the 2014 RFP. The selected projects represented approximately \$142 million from the Housing Production Trust Fund.

81. Please provide the total amount used for:

- a. Preservation
- b. Acquisition
- c. Construction, development, and redevelopment
- d. Permanent Supportive Housing (PSH)
- e. Housing for persons at 0-30 percent of AMI (not including PSH)
- f. Housing for persons at 31-50 percent of AMI
- g. Housing for persons at 51-80 percent of AMI

Response: For FY15, the HPTF amounts are as follows:

a. Preservation

Total funds obligated to projects that preserved existing housing affordable to low income households:

Acquisition	\$ 2,383,139
<u>Substantial Rehabilitation</u>	<u>\$ 27,977,679</u>
Total	\$ 30,360,818

b. Acquisition

Acquisition Loans	\$ 2,383,139
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c. Construction, development, and redevelopment

New Construction	\$ 24,725,702
Substantial Rehabilitation	\$ 27,977,679

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<u>Additional Financing</u>	\$ 4,513,006
Total	\$ 57,216,387

- d. Permanent Supportive Housing (PSH)**
\$ 7,853,802
- e. Housing for persons at 0-30 percent of AMI (not including PSH)**
\$ 14,034,462 (not including PSH)
- f. Housing for persons at 31-50 percent of AMI**
\$ 8,074,077
- g. Housing for persons at 51-80 percent of AMI**
\$ 30,387,184

See Attachment 81 for supporting documentation.

82. Of the units supported by the HPTF, how many were accessible to:
- a. Tenants with disabilities
 - b. Seniors
 - c. Veterans

Response: This data has not traditionally been tracked in DHCD's database. Moving forward, the agency will track more detailed characteristics about the units in all new projects, including details about whom they serve, beyond income levels (which is currently tracked for all projects)

83. When was the last Consolidated Request for Proposal (RFP) issued?

Response: The last Consolidated RFP was issued on July 29, 2015.

84. Of that RFP, what amount of HPTF funding was included?

Response: The Consolidated RFP did not announce a specific amount of funding available; however DHCD budgeted up to \$100 million in total resources, not exclusively HPTF. In total, 12 projects were selected for further underwriting, representing \$82 million in HPTF requests.

85. What is the amount of HPTF commitments? How does this compare to the amount that is available in the fund?

Response: The largest portion of HPTF funds is administered through the Development Finance Division to provide gap financing in the preservation and production of affordable housing. For clarity it is important to establish terms and definitions. When discussing budgeting, use and projections of the Housing Production Trust Fund in real estate development, four (4) basic terms are used. The terms and definitions follow:

Active Requests - This is the amount of funding requests currently in the DHCD Project Pipeline. Based on established benchmarks in the underwriting process, conditional commitments are made. The commitments are conditioned on the availability of funds along with other established criteria. In order to be considered an Active Request an application successfully completed the following:

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- Threshold requirement review—a thorough review of an application compared to established requirements;
- Project scoring—a detail multi-layered scoring process that weighs the application against established scoring criteria; and
- Selection—a high-level review that analyzing available resources, recommended projects and community needs.

Prior to the selection of 12 new projects from the 2015 RFP, the DHCD Project Pipeline had \$159,216,938 in active HPTF requests. The 12 new projects represent \$82,190,610 in additional HPTF requests, bringing the grand total Active Request amount to \$241,407,548.

Available Funds - This is the amount of funds available in the FY16 budget to be obligated to the active request. The current available funds in the FY16 budget are \$112,393,403.

Obligated Funds - This is the amount of funds obligated to specific projects. Obligations occur at the execution of the final legal documents. In cases involving more than one-million dollars of funds, Council approval occurs prior to obligation of funds. To date, \$70,022,558 in FY16 funds are obligated to projects, but not yet expended.

Expended Funds - This is the amount of funds that have been disbursed to projects that have obligated funds. The majority of projects funded by the Housing Production Trust Fund involve complete or substantial construction. Funds are expended over the course of the construction period. To date, \$10,472,197 in FY16 funds have been expended on projects.

86. When will the next Consolidated RFP be released?

Response: The next Consolidated RFP is scheduled to be released on or about Wednesday, March 30, 2016.

87. Please indicate the target populations of the next Consolidated RFP and what amount DHCD will contribute from the Housing Production Trust Fund.

Response: The target populations will be determined to ensure compliance with D.C. Code § 42-2802, Housing Production Trust Fund, sections (b-1) (1), (2), and (3). A continued focus on lower percentages of Area Median Income remains likely.

DHCD staff is in the process of developing precise recommendations for the amount funding for the next consolidated RFP. The standard practice is to combine projected available funding from a variety of sources to total the amount available in an RFP process. As for the upcoming RFP process, the projected available funding (based on current budget assumptions) is expected to be up to forty million dollars (\$40,000,000).

88. Please indicate how much HPTF funding is available for TOPA sales that come about outside of the RFP process.

Response: Historically, TOPA acquisitions have not been budgeted as a separate budget line item. DHCD staff has received input from a variety of sources (the TOPA Working Group, non-profits that assist in the organization of tenant groups, advocates and consultants) on this issue.

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89. Currently, different agencies commit the various funding streams needed for the effective production and service provision of successful supportive housing at different times. Service dollars are the last to become available. What is the plan for paying for approved projects in a timely manner – translating commitment letters to funding contracts efficiently?

Response: DHCD works with its sister agencies (Department of Behavioral Health, Department of Human Services) through an established Memorandums of Understanding for the administration of funds to underwrite projects. DHCD’s quasi-governmental partners (the Housing Finance Agency and the Housing Authority) along with its sister agencies participate in the Consolidated RFP process. Close coordination and communication between agencies is required in the underwriting process. All payment requests are governed by the District’s Quick Payment Act and staff work to ensure compliance. Staff continues to work to improve communication and coordination in the partners’ shared efforts.

The Department of Behavioral Health and the Department of Human Services may be better positioned to directly address ongoing subsidy for supportive housing post-construction.

90. Please state what is the percentage breakdown for each AMI level on HPTF spending for FY13, FY14, and FY15, to date.

Response: The table below shows the allocation of HPTF obligations by fiscal year, across HPTF income categories. This summary is detailed in Attachment 90.

Table 5: Spending on HPTF for FY13, FY14, and FY15 by AMI level (%)

	0-30% AMI	31-50% AMI	51-80% AMI
Required %	At least 40%	At least 40%	Up to 20%
FY13	59%	32%	9%
FY14	13%	19%	68%
FY15	36%	13%	50%
FY16 to date	61%	30%	9%

91. The Deed Recordation and Transfer Tax has come in higher than originally projected. Will the additional funds be available in FY16?

Response: Yes, the additional funds will be available in FY16. The DHCD OCFO will prepare a budget modification request to increase available budget authority based on the revised February revenue estimates when released.

VIII. Rental Housing Commission (RHC)

92. Please provide a list of accomplishments for FY15 and FY16, to date.

Response:

FY15

- Reduce Backlog of Cases on Appeal – Reduced the backlog of cases on appeal, that is, cases for which a hearing has been held but no decision has been issued, from 20 cases to 5, or by 75 percent.

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- Reduced the number of cases that are greater than 3 years old from 4 to 2, or by 50 percent.
- New Staff Recruitment and Hiring – Hired a paralegal (temporary contract) from January to April 2015 to assist in reducing the case backlog
 - Update Commission’s Rules and Regulations – The Commission has the duty under the Rental Housing Act of 1985 (D.C. Law 6-10; D.C. Official Code §§ 42-3501.01 *et seq.*) (Act) to promulgate implementing rules and regulations. During FY15, the Commission met with the Office of Administrative Hearings (OAH) several times and extensively with the Interim Rent Administrator to review and discuss revisions to 14 DCMR §§ 3800-4400. The Commission made substantial progress on drafting revisions to these rules. Please see the responses to Questions 96 and 97 for more detail.

FY16 (to date)

- Reduce Backlog of Cases on Appeal – Reduced the backlog of cases on appeal from 5 cases to 2, or by 60 percent.
- Reduce the number of cases that are greater than 3 years old from 2 to 1, or by 50 percent.
 - Improve Compliance with Open Meetings Act - It was recently brought to the Commission’s attention that the notices posted online on DHCD’s website before hearings did not meet the best practices under the Open Meetings Act because they were not being retained with copies of all related materials. The Commission and its legal and administrative staff worked with the Board of Ethics and Government Accountability’s (BEGA’s) Office of Open Government to quickly adopt new procedures for posting notices, electronic recordings, and decisions on BEGA’s website.

The new procedures will improve the public notice of Commission hearings and other meetings and allow for public posting of meeting materials, including audio recordings and Commission decisions. The Commission’s staff has begun uploading past materials as well, in order to create a public repository of information on the Commission’s activities for the past three years. The Commission has begun coordinating with IT and communications staff at DHCD to redesign the Commission’s page on DHCD’s website to provide a single point of access to hearing and meeting information and a permanent archive of Commission decisions.

- Update Commission’s Rules and Regulations – As of the first week of March, 2016, the Commission has completed a first draft of a rulemaking to revise all of 14 DCMR §§ 3800-4400. This document contains over 160 pages of detailed regulations to implement the Act, as amended, and to govern the petition and appeals processes under the Act. These regulations were meticulously drafted and reviewed by the Commissioners and legal staff, with substantial input from OAH and the Interim Rent Administrator. Please see the responses to Questions 96 and 97 for more detail.

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93. Please list the current members of the Rental Housing Commission, the dates they began serving as commissioners, and the expiration dates of their terms.

Response:

Peter B. Szegedy-Maszak, Chairman (commenced service in 2008)
 Re-Appointed: December 2, 2014
 Term Expires: July 18, 2017

Claudia McKoin Commissioner (commenced service as date below)
 Appointed: January 7, 2014
 Term Expires: July 18, 2016

Currently Vacant

Term Expired: July 18, 2015 (by statute there is a 180 day layover, which expired on Jan. 17, 2016)

94. What is the current number of cases on the docket?

Response: Number of cases on the Docket: 15

95. The Commission is responsible for deciding appeals to decisions of the Rent Administrator and the Office of Administrative Hearings (OAH).

a. What is the current total appeals caseload?

Response:

Table 6: Current Rental Housing Commission Total Appeals Caseload

Appeals awaiting Certified Record (from OAH)	7
Appeals without Scheduled Hearing Date:	5
Appeals Scheduled for Hearing:	1
Appeals Pending Decision:	<u>2</u>
Total:	15

b. How many cases were opened by the Rental Housing Commission in FY15, and FY16 to date? Please include a breakdown of the status of those cases (e.g., number of appeals heard, cases settled, and cases decided)?

Response:

Table 7: Rental Housing Commission Cases Opened FY15, and FY16 to date

	<u>FY15</u>	<u>FY16</u>
Number of Appeals Filed:	18	7
Number of Appeal Heard:	11	3
Cases Settled:	2	0
Cases Decided:	21	5

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- c. Among the decisions issued, how many OAH and Rent Administrator decisions were affirmed/overturned?

Response:

Table 8: Rental Housing Commission Cases Affirmed/Overturned FY15, and FY16 to date

	FY15	FY16
Affirmed:	7	5
Overturned:	6	0
At least one issue overturned:	8	0
Total:	21	5

- d. Were there any trends in the subject matter of decisions that were affirmed/overturned? Please provide the breakdown of the types of cases brought before the Commission.

Response: The Commission was unable to detect any discernible trends in the subject matter of decisions that were affirmed, versus the subject matter of decisions that were overturned. Overall, the most common subject matters addressed by the Commission during FY15 included the standing of tenant associations, the legality of lease option letters, and the 501(f) notice to vacate process. The breakdown of the types of cases in which decisions were issued by the Commission in FY15 and FY16 are as follows:

Table 9 Rental Housing Commission Cases by Type of Case FY15, and FY16 to date

	FY15	FY16
Tenant Petition (TP):	16	5
Notice to Vacate (NV):		1
Hardship Petition (HP):	0	0
Voluntary Agreement (VA):	0	0
Capital Improvement (CI):	2	0
Services and Facilities (SF):	1	0
Show Cause (SC):	1	0

- e. Among the decisions issued, how many RHC decisions were appealed to the D.C. Court of Appeals. How many were affirmed/overturned?

Response: Three new appeals were filed with the D.C. Court of Appeals (DCCA) in FY15 based on decisions or orders issued by the Commission, and five new appeals have been filed to date in FY16. Below are tables outlining the cases from which appeals were taken. Please note that parties have thirty days from the issuance of a decision, or from the granting or denial of a motion for reconsideration, to file an appeal with the DCCA; therefore, the date an appeal is filed with the DCCA may not correspond to the fiscal year in which the final decision was issued by the Commission.

- f. Were there any trends in the subject matter of decisions that were affirmed/overturned?

Response: In affirming the Commission’s decisions, the DCCA consistently holds that it defers to the Commission’s interpretation of the text of the Act and of procedural details of the implementing regulations, and FY15 and FY16 have been no different in that respect. Important

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developments include affirmation of the Commission's interpretation of the Act's statute of limitations that old rent ceiling adjustments are void if they were improperly filed and a housing provider attempts to raise the current rent charged based on the old filing. *United Dominion Mgmt. Co. v. D.C. Rental Hous. Comm'n*, 101 A.3d 426 (D.C. 2014). Additionally, the DCCA affirmed the Commission's decision that improperly filed claims of exemption from rent stabilization are void and cannot be cured by providing late notice to a tenant of the claimed exemption. *Levy v. D.C. Rental Hous. Comm'n*, 126 A.3d 684 (D.C. 2015).

The one decision that was reversed was an order granting attorney's fees in which the DCCA held that the standard historically applied by the Commission in calculating "reasonable" fees was too strict and that a larger award was required. *Tenants of 710 Jefferson St., N.W. v. D.C. Rental Hous. Comm'n*, 123 A.3d 170 (D.C. 2015).

- g. The Commission reported last year that the average time to resolve a case was 30-45 days. Have there been any changes in this timeframe?

Response: The Commission continues to resolve cases within 30-45 days from the date of the hearing.

- h. What were the average number of hours required to resolve each case?

Response: The Commission does not track the hours required to resolve each of its cases. However, given the number of Commissioners and legal and administrative staff that handle a case between the time of its filing and the issuance of a decision, including reviewing the case file, conducting the hearing, performing and compiling relevant legal research, drafting the written opinion, and circulating the opinion for comment, the Commission estimates that the total number of hours required to resolve each case is 160-200 hours.

- i. What additional measures could the RHC to streamline its processing of cases?

Response: There are a number of measures that may be available to the Commission to streamline its processing of cases. First, the Commission's responsiveness to litigants and the public would be enhanced by filling the current vacancy on the Commission with a candidate with litigation, representational or other professional experience in D.C. landlord-tenant law, especially in cases and matters arising under the Act. Such an appointment would enhance the Commission's ability to prepare and complete in a more timely and efficient manner final decisions and orders on the wide variety of legal issues raised by parties in their appeals. Second, the Commission has investigated the purchase and implementation of the E-Court electronic case filing and management system, currently used by the OAH. The E-Court system permits the electronic filing of pleadings and documents, the electronic organization of all case files related to any appeal, the issuance of all orders and decisions related to any appeal through email and e-documents, and the electronic monitoring of the status and disposition of any case, thereby allowing for accurate measurement of performance standards and goal attainment by Commissioners and staff. Finally, as noted in the Commission's response to Question 92 regarding the Open Meetings Act, the streamlining of case processing would be enhanced by the development of a webpage that can be easily and directly updated by Commission staff with information related solely to Commission business, procedures, and operations, including the publication both of notices of hearings and meetings and of final decisions and other orders. This would provide litigants and the public a centralized and accessible source of Commission information and would improve the communications capabilities of the Commission with its stakeholders.

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96. The Commission is tasked with issuing, amending and rescinding regulations required to enforce the Rental Housing Act of 1985. Last year, the Commission was in the process of drafting a comprehensive rulemaking to update all regulations to reflect current law. Please provide a status update on this process.

Response: In FY15, the Commission set a goal of completing its review and revision of its regulations by the end of calendar year 2015, after which a draft rulemaking would be circulated for legal and policy approval. The Commission worked with the OAH and the Interim Rent Administrator while conducting its review because of the central role that each of them plays in enforcing and administering the Act. Although the Commission made every reasonable effort to hold those internal stakeholder meetings to jointly draft revised rules, the press of the Commission's appeals docket, the duties of the other internal stakeholders, and the lengthy time commitments involved in performing a meticulous review of the extensive, current regulations proved to be too great of a scheduling impediment.

After the start of FY16, the Commission determined that, with the input it had received up to that point, it would proceed to complete a draft on its own and circulate that for comment to the internal stakeholders. As noted in the response to Question 92, the Commission has completed a first draft of this rulemaking, as of the first week of March, 2016. This draft is currently being circulated to the internal stakeholders for their review and input.

Based on its experience so far, the Commission currently anticipates that review by the internal stakeholders, joint meetings with representatives from each agency, and finalization of agreed-upon language will run through May of 2016. Allowing at least thirty days for Office of the Attorney General legal sufficiency review and executive policy approval, the Commission's goal is to publish a notice of proposed rulemaking in the D.C. Register for public comments in June or July of 2016.

97. When did the RHC first begin drafting the regulations?

Response: The Commission's staff attorneys, in addition to other duties, have been working on rough drafts since approximately the start of FY15. Review of those drafts, discussion of the issues raised, and revision of the existing and draft language with Commissioners and the internal stakeholders have been ongoing since January 2015.