Determining the "Metrics" for Monitoring the $310 Million Affordable Housing Bond
Citizen's General Obligation Bond Oversight Committee Meeting

July 28, 2016

by Patrick Monette-Shaw

Note: *Text set in **blue font** added as a result of MOHCD's Presentation on July 28, 2016*

Since the November 2015 Prop "A" bond measure is so radically different from any previous bond measure that CGOBOC has been charged with monitoring in the past, careful attention needs to be paid at the very outset. This analysis raises a number of important issues.

CGOBOC has a special duty to be in the "driver's seat" in determining which "metrics" it shall use to evaluate performance on this $310 million Affordable Housing Bond measure.

Particularly worrisome is which metrics MOHCD will be required to use in reports to CGOBOC over the life of the bond. Those metrics need to be developed now — and adhered to going forward — in part because during CGOBOC's January 28, 2018 inaugural hearing on this bond measure, nobody seemed to have had thought about, or had agreed to, which metrics should be included and used.

This analysis is organized in several sections:

Part 1: What Are the Housing Categories MOHCD Will Spend the $310 Million On?

Without a firm commitment from MOHCD by now about how it will spend the $310 million, CGOBOC will face the uncertainty of whether the spending categories will be changed during CGOBOC's oversight timeline, in part because MOHCD has "sole discretion" on how to spend funds that are allocated to the Housing Trust Fund, the separate Affordable Housing Fund, and the $310 million Affordable Housing bond. MOHCD should not be allowed to change planned spending of this bond measure in mid-stream at its sole discretion once CGOBOC became involved.

This is not merely a rhetorical question, given the various iterations of proposed spending on this bond measure. Several documents over the years have painted conflicting planned uses of the bond, which need to be reviewed. Please see the following illustrations that document how the planned uses of the bond have evolved, and may still be evolving, following passage of the bond measure by voters:

Figure 1: Side-By-Side Comparison, January 27, 2015 to February 3, 2015 Charts on Planned Use of $250 Million Bond

Figure 2: Kate Hartley's January 27, 2015 E-mail to Olson Lee on the "Top Loss" Catalyst Fund Category

Figure 3: MOHCD Affordable Housing Bond Report and Executive Summary Presentation to CGOBOC, January 28, 2016, Page1 — High-Level Summary of $310 Million Bond Spending

Figure 4: MOHCD's FY 2014–2015 Annual Report High-Level Summary of $310 Million Bond Spending

Figure 5: MOHCD Affordable Housing Bond Report and Executive Summary Presentation to CGOBOC, January 28, 2016, Page 9 — Detailed Summary of $310 Million Bond Spending

Figure 6: Comparison of MOHCD Executive Summary Presentation to CGOBOC January 2016 vs. January 2015 Plan

Figure 7: Veracity of MOHCD First Responder DALP Data

Figure 1: Side-By-Side Comparison, January 27, 2015 to February 3 Charts on Planned Use of $250 Million Bond

MOHCD's January 27, 2015 Proposed Use of Bond

Value	Use	Units	Income Range
30,000,000	HOPE SF: shorten Sunnydale schedule from 20 years to 17 years	Approx. 140 accelerated	Extremely Low Income
35,000,000	Acquisition of existing rent-controlled housing / land acquisitions	Approximately 150	Extremely low to Middle Income
80,000,000	Affordable housing on Public Sites	Approximately 320	Very Low/Low Income
70,000,000	Middle Income Housing	Approximately 350	61% up to 150% AMI
20,000,000	Catalyst Fund Top Loss	Approximately 100	Low to Middle Income
5,000,000	Teacher Next Door Program	Approximately 250	Up to 200% AMI
10,000,000	Middle Income DALP	50	Up to 200%
250,000,000		Approximately 1360	

Mayor's Budget Director February 3, 2015 Proposed Use of Bond

$250 Million G.O. Bond for Housing in 2015

Uses	$ (millions)	
Accelerate HOPE SF	$	80
Middle Income	$	80
Neighborhood Stabilization/Low Income	$	80
Additional Down Payment Assistance	$	10
Totals	$	250

Source: Mayor's Budget Director PowerPoint Presentation to Mayor Ed Lee on February 3, 2015, file name "Housing Pipeline of 2.3.15.pptx

- In just a one-week period between January 27 and February 3, 2015 the HOPE SF acceleration increased from $30 million to $80 million, and there may be no guarantee that part way into CGOBOC's oversight activities, that MOHCD will ***not*** increase the HOPE SF allocation even further to reduce the schedule from 20 years to 17 years, or to 15 years.
- Between January 27 and February 3, the "Middle Income Housing" category increased by $10 million, from $70 million to $80 million.
- Between January 27 and February 3, 2015 the $20 million "Catalyst Fund Top Loss" category vanished. CGOBOC needs to determine what this "Top Loss" catalyst fund was to be used for, and whether it has somehow been renamed and included elsewhere in the now $310 million bond spending.
- Between January 27 and February 3, the $80 million "Affordable Housing on Public Sites" category vanished.
- Between January 27 and February 3, the $5 million "Teacher Next Door" category vanished, and it is not clear from the side-by-side comparison if the $10 million "Middle Income DALP" category on the left side is the same allocation of $10 million to the "Additional Down Payment Assistance" category on the right side.
- Note that the January 27 table included the approximate number of units to be constructed, saved, or acquired, and that subsequent tables from MOHCD have all but stopped reporting on the number of units in each of the categories of spending of the bond.

Figure 2: Kate Hartley's January 27 E-mail to Olson Lee on the "Top Loss" Catalyst Fund Category

Lee, Olson (MYR)

From: Hartley, Kate (MYR)
Sent: Tuesday, January 27, 2015 5:07 PM
To: Benjamin, Maria (MYR); Lee, Olson (MYR); Yanga, Teresa; Cheu, Brian (MYR); McCloskey, Benjamin (MYR); Motoyama, Lisa (MYR); Hayward, Sophie (MYR)
Subject: RE: Housing Bond Allocations

Thanks, Maria. The new total was actually $260K, so I reduced the middle income multifamily line-item. Also, Olson, per our conversation today on the catalyst fund, I added a top loss funding line.

See below.

Value	Use	Units	Income Range
30,000,000	HOPE SF: shorten Sunnydale schedule from 20 years to 17 years	Approx. 140 accelerated	Extremely Low Income
35,000,000	Acquisition of existing rent-controlled housing / land acquisitions	Approximately 150	Extremely low to Middle Income
80,000,000	Affordable housing on Public Sites	Approximately 320	Very Low/Low Income
70,000,000	Middle Income Housing	Approximately 350	61% up to 150% AMI
20,000,000	Catalyst Fund Top Loss	Approximately 100	Low to Middle Income
5,000,000	Teacher Next Door Program	Approximately 250	Up to 200% AMI
10,000,000	Middle Income DALP	50	Up to 200%
250,000,000		Approximately 1360	

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Note that Ms. Hartley reported to Olson Lee that "per our conversation today [January 27] on the catalyst fund, I added a "top loss" funding line" which has all but vanished from subsequent MOHCD documents.

CGOBOC needs to determine what the so-called "Catalyst Fund" is supposed to be used for and why it is classified as a "top-loss" program.

Figure 3: MOHCD Affordable Housing Bond Report and Executive Summary Presentation to CGOBOC, January 28, 2016, Page 1 — High-Level Summary of $310 Million Bond Spending

Table 1: Program Categories and Funding Ranges for the 2015 $310 Million General Obligation Affordable Housing Bond

Program Categories	GO Bond
Public Housing	$80 million
Affordable Housing (up to 80% AMI)	$100 million
Middle-Income Housing (80% AMI and above)	$80 million
Mission Area Plan	$50 million
Total	$310 million

- Figure 3 is virtually identical to Figure 4, below.

Figure 4: MOHCD's FY 2014–2015 Annual Report — High-Level Summary of $310 Million Bond Spending

The 2015 Affordable Housing Bond proposes four categories of investments, each of which supports a range of incomes:

Program Categories	GO Bond
Public Housing	$80 million
Affordable Housing (up to 80% AMI)	$100 million
Middle-Income Housing (80% AMI and above)	$80 million
Mission Area Plan	$50 million
Total	$310 million

- MOHCD's Annual Report — most probably issued after MOHCD presented to CGOBOC on January 28, 2016 — included on page 20 this high-level table of the four main proposed categories of investments, identical to Figure 3.
- Both Figure 3 and Figure 4 changed the AMI for the "Middle Income" category from being "61% to 150% of AMI" noted for the same category ***in Figure 1 above***, to being "80% of AMI and above," without explaining why it was raised. Figures 3 and 4 do not specify an upwards limit on AMI for the "Middle Income" category, as had the table in Figure 1.

Figure 5: MOHCD Affordable Housing Bond Report and Executive Summary Presentation to CGOBOC, January 28, 2016, Page 9 — Detailed Summary of $310 Million Bond Spending

2015 HOUSING GO BOND SPENDING		
SPENDING CATEGORY	**USE OF FUNDS**	**TIMELINE**
PUBLIC HOUSING: Accelerate Sunnydale Accelerate Potrero	**Accelerate HOPE SF housing and infrastructure long-term development programs** Up to 80% AMI; Likely 30% AMI or less	 **2017-2018** **2018-2019**
Subtotal	**$80 million**	
MISSION AFFORDABLE HOUSING:	**Site acquisition, unit rehab, and predevelopment**	**Site Acquisitions & predev: 2016-2020** **Building Acquisitions & Rehabs: 2016-2018**
Site acquisition, unit rehab, and predev	Up to 120% AMI; likely 50% AMI or 80% AMI targets	
Subtotal	**$50 million**	
LOW-INCOME HOUSING:	**New construction and acquisition/preservation of existing rental housing; focus is low-income families, veterans, seniors**	
New Construction Preservation of Existing Rental Housing	Up to 50% AMI Target 80% AMI, Up to 120% AMI	**2016-2020** **2016-2020**
Subtotal	**$100 million**	
MIDDLE-INCOME HOUSING:	**Educators, Middle-Class Families**	
DALP Loan Expansion Teacher Next Door Middle-Income Rental Program Expiring Regulations Preservation	Up to 175% AMI Up to 200% AMI Between 80-150% AMI Up to 120% AMI	**2016-2020** **2016-2020** **2016-2020** **2016-2018**
Subtotal	**$80 million**	
GRAND TOTAL	**$310 million**	

- Notably, previous planning documents indicated that $100 million would be set aside for "Affordable Housing" for those earning up to 80% AMI (see Figures 3 and 4) but in Figure 5, the $100 million category appears to have been renamed to "Low-Income Housing."
- Also in previous planning documents, the "Middle-Income Housing" category of $80 million (Figures 3 and 4) did not include any sub-categories within the "Middle-Income Housing" main category, but Figure 5 includes four subcategories within the "Middle-Income Housing" category. Of the four sub-categories shown in Figure 5, previous planning documents (Figures 1 and 2 above) showed an allocation of $5 million to the "Teacher Next Door" (TND) program at up to 200% of AMI, and $10 million for "Middle-Income DALP" loans, also at up to 200% of AMI.

> **"Why hasn't MOHCD identified what portion of the $80 million 'Middle-Income Housing' funds will be allocated to each of the four sub-categories?"**

  – However, Figure 5 retains the 200% of AMI for the TND program, but reduces the DALP loan expansion to 175% of AMI (from 200% of AMI).

  – Assuming that the DALP Loan and TND subcategories remain at the same funding level of $10 million and $5 million, respectively, that leaves a remaining balance of $65 million in the $80 million "Middle-Income Housing" main category, but Figure 5 does not indicate how that $65 million will be allocated between the "Middle-Income Rental Program" and the "Expiring Regulations Preservation" sub-categories within the "Middle-Income Housing." ***Why hasn't MOHCD identified what portion of the $80 million "Middle-Income Housing" funds will be allocated to each of the four sub-categories?***

  – Most of the four main categories in Figure 5 have subcomponent programs, but there is no break-out of 1) The amount of proposed funding for each subcomponent, and 2) The number of proposed units for each subcomponent.

Figure 6: Comparison of MOHCD Executive Summary Presentation to CGOBOC January 2016 vs. January 2015 Plan

"MOHCD Executive Summary Presented to CGOBOC on January 28, 2016

	SPENDING CATEGORY	USE OF FUNDS	TIMELINE
PUBLIC HOUSING:		**Accelerate HOPE SF housing and infrastructure long-term development programs**	
	• Accelerate Sunnydale • Accelerate Potrero	Up to 80% AMI; Likely 30% AMI or less	2017-2018 2018-2019
	Subtotal	**$80 million**	
MISSION AFFORDABLE HOUSING:		**Site acquisition, unit rehab, and predevelopment**	
	Site Acquisitions & predevelopment Building Acquisitions & Rehab.	Up to 120% AMI; likely 50% AMI or 80% AMI targets	2016-2020 2016-2018
	Subtotal	**$50 million**	
LOW-INCOME HOUSING:		**New construction and acquisition/preservation of existing rental housing; focus is low-income families, veterans, seniors**	
	• New Construction • Preservation of Existing Rental Housing	Up to 50% AMI Target 80% AMI, Up to 120% AMI	2016-2020 2016-2020
	Subtotal	**$100 million**	
MIDDLE-INCOME HOUSING:		**Educators, Middle-Class Families**	
	• DALP Loan Expansion • Teacher Next Door • Middle-Income Rental Program • Expiring Regulations Preservation	Up to 175% AMI Up to 200% AMI Between 80-150% AMI Up to 120% AMI	2016-2020 2016-2020 2016-2020 2016-2018
	Subtotal	**$80 million**	
	TOTAL	**$310 million**	

Kate Hartley E-Mail to Olson Lee January 27, 2015

	USE	UNITS	INCOME RANGE
	HOPE SF; shorten Sunnydale schedule from 20 years to 17 years	Approximately 140 accelerated	Extremely Low Income
Subtotal	**$30 Milion**	**140**	
	$10 million $ 5 million $70 million	50 Approximately 250 Approximately 350	Up to 200% AMI Up to 200% AMI 61% to 150% AMI
Subtotal	**$85 million**	**650**	
	Aqcuisitioin of existing rent-controlled housing / land acquisition	Approximately 150	Extremely lLow to Middle Income
Subtotal	**$35 million**	**150**	
	Affordable housing on public sites	Approximately 320	Very-Low/ Low Income
Subtotal	**$80 million**	**320**	
	Catalyst Fund Top Loss	Approximately 100	Very-Low/ Low Income
Subtotal	**$20 million**	**100**	
TOTAL	**$250 MILLION**	**APPROXIMATELY 1,360 Units**	

- It's clear from the side-by-side comparison of proposed spending in ***Figure 1*** when the bond was proposed at $250 million the proposed uses did not track well between the two proposals. Now, the planned uses shown in ***Figure 6*** above between the table provided to CGOBOC on January 28 in MOHCD's Executive Summary, and the proposed uses in Ms. Hartley's January 27, 2015 e-mail are also wildly out-of-sync. For instance:

- In Hartley's January 27, 2015 e-mail, "Affordable housing on public sites" was identified for $80 million in funding, but there is no corresponding category for "Affordable housing on public sites" in MOHCD's January 28, 2016 Executive Summary.
- Similarly, Hartley's January 2015 e-mail had identified $85 million for the "Middle-Income Housing" category, but it was reduced to just $80 million in the January 2016 Executive Summary, and the "Expiring Regulations Preservation" subcategory was added to the "Middle-Income Housing" category.
- Hartley's e-mail specifically allocated $20 million to the "Catalyst Fund Top Loss" program, but there's no mention of that in the Executive Summary presented to CGOBOC on January 28, 2016.
- Background file #150489 posted as the packet to the Board of Supervisors Budget and Finance Committee hearing on June 23, 2015 showed on page 26 that the "Expiring Regulations Preservation" portion of the "Middle-Income Housing" category would receive $25 million in funding. CGOBOC should determine the precise allocation planned for the "Expiring Regulations Preservation" program and the number of units involved.
- There may be other anomalies in Figure 6 that CGOBOC should also investigate.

Figure 7: Veracity of MOHCD First Responder DALP Loan Data

	Status (Closed or Open)	Program: DALP/ MCC/ CSLP/ TND/ PIC/ BMR	Sup. Dist.	Purchase Price	Actual HH Size	HH Actual Annual Income	Actual HH Percent of AMI Under 3-County	Borrower #1 Occupation	DALP #	DALP Amount	DALP % Shared Appreciation	PIC (Yes/No)	PIC #	PIC Amount	PIC % Shared Appreciation	City Second (Yes/No)	MCC (Yes/No)	Funding Source	Date Approved
1	CLOSED	FRDALP/PIC		$ 725,000.00	1	$ 93,099.00	131%	Police Officer	FR-13-1002	$ 100,000	14%	Yes	13-1001	$ 20,000		No	No	First Responders	10/4/13
2	CLOSED	FRDALP		$ 625,000.00	1	$ 93,173.00	132%	Firefighter	FR-13-1007	$ 93,750	15%	No				No	No	First Responders	11/13/13
3	CLOSED	FRDALP		$ 749,500.00	3	$ 129,746.00	142%	Firefighter	FR-13-1008	$ 100,000	13%	No				No	No	First Responders	11/18/13
4	CLOSED	FRDALP		$ 760,000.00	1	$ 109,614.00	155%	Firefighter	FR-13-1001	$ 100,000	13%	No				No	No	First Responders	11/19/13
5	CLOSED	FRDALP/ PIC	11	$ 930,000.00	1	$ 135,268.00	190%	SF Police Officer	FR-15-1001	$ 200,000	22%	Yes	15-1001	$ 20,000		No	No	First Responders DALP (FRDALP)	4/20/15
6	CLOSED	FRDALP	11	$ 617,000.00	1	$ 81,950.00	115%	Deputy Sheriff	FR-15-1002	$ 200,000	32%	No				No	No	City Second Loan (CSLP)	5/27/15
7	CLOSED	FRDALP	11	$ 860,000.00	2	$ 130,507.00	160%	Firefighter and Clinician	FRDALP-15-1003	$ 200,000	23%	No				No	No	City Second Loan (CSLP)	
8	CLOSED	FRDALP/PIC	1	$ 780,000.00	1	$ 132,146.00	175%	SF Police Officer	FR16-1001	$ 200,000	26%	Yes	16-1001	$ 20,000	3%	No	No	First Responders DALP (FRDALP)	

	$ 1,193,750
Less Two City Second Lons Funding Source	**$ (400,000)**
	$ 793,750

- On July 6, 2016 I placed a records request for updated records from MOHCD about the number of First Responder DALP loans that had been issued since the program was implemented in FY 2012–2013 with loans first awarded in FY 13–14. MOHCD invoked a delay in responding, citing in part a need to "search for, collect, and appropriately examine a ***voluminous*** amount of separate and distinct records included in a single request." On July 15, MOHCD finally provided the responsive records, a portion of the "columns" in an Excel spreadsheet shown in Figure 7 above, for a total of eight (8) loans, which cannot be considered "voluminous" records and shouldn't have required a delay.

  I had specially requested the following data: 1) The number of DALP First Responder loans awarded since the inception of that program, 2) The number of loans issued in each FY, 3) The corresponding loan amount of each loan, and 4) An indication of which public safety department personnel (SFPD, SFFD, and Sheriff) had received the loans.

"CGOBOC should determine the precise allocation planned for the 'Expiring Regulations Preservation' program and the number of units involved."

- Of interest, the dark blue shading with white fonts that I formatted shows that two of the eight loans appears to have used the City Second Loan Program as the "funding source," not the DALP First Responder loan pool, but apparently because those two City Second loans were award to First Responder/safety personnel, they were classified at First Responder loans, despite the Funding Source as having been the City Second Loan Program. It is also curious that the two City Second Loans awarded had been marked as "No" in the "City Second (Yes/No)" column to the left of the Funding Source column. How can the Funding Source have been the City Second Loan Program, but not be listed as a "City Second" loan?

  CGOBOC should monitor, going forward, any and all MOHCD data regarding the First Responder DALP loans, to ascertain the veracity of the Funding Source.

  Also of interest in Figure 7, MOHCD's record keeping is so sloppy that it didn't report the date the loans were approved for the last two loans in the table. Four of the loans were approved in 2013, none were approved in 2014, and two were approved in 2015. CGOBOC should closely monitor why there are some calendar years in which no FRDALP loans have been issued, since the $310 million bond measure was designated to issue FRDALP loans.
- Of the eight FRDALP loans in Table 7, three were issued in Supervisorial District 11, one in District 1, and the other four were in the Outer Sunset, Hayes Valley, Lakeside, and Midtown Terrace neighborhoods, not representative Citywide.
- Finally, during the Board of Supervisors Rules Committee Hearing on July 7, 2016 regarding the proposed Charter amendment to create a Commission over MOHCD on the November 2016 ballot, Olson Lee, Director of MOHCD,

responded to questions Supervisor Cohen raised about the First Responder DALP loans, and Mr. Lee noted that MOHCD has raised the maximum loan amount to $375,000, which was the fir

- st time members of the public learned the maximum loan amount had increased from $200,000 for First Responders, but he failed to note what percentage of AMI that involves, which is something CGOBOC should monitor closely going forward.
- ***Of note, since FY 2013–2014, MOHCD has been awarded $3 million ($1 million in each of three fiscal years) for the First Responders DALP program, but Figure 7 shows only$793,750 across six FRDALP loans have been issued!***

> **"Since FY 2013–2014, MOHCD has been awarded $3 million for the DALP program for First Responders, but Figure 7 shows only$793,750 across six FRDALP loans have been issued."**

Part 2: Concerns About Verbatim Transcript of CGOBOC's January 28, 2016 Meeting

Under separate cover, I have provided to CGOBOC a verbatim partial transcript of CGOBOC's January 28 meeting. Here, I summarize some concerns from that transcript [**Note:** This is a subset/extract from the full transcript]:

Hour:Min:Second on MP3 Audio	Speaker	Verbatim Text
52:05	Kate Hartley	Hartley noted a couple of issues in this passage (see pages 1 to 2 in the full transcript). First, Hartley indicated that MOHCD expected the first *tranche* ("slice") of bonds would be issued soon — the first or second quarter, probably the second quarter of 2016. [**Note: MOHCD's** July 28 update shows the first *tranche* of the bond will close one-third of the way through the **fourth** quarter!] Second, she indicated there ***could*** be opportunities that are available right away to purchase a site for future development in the Mission District, and in order to accommodate the possibility of ***not*** letting a good deal go before the bonds are issued, we are also working on a Reimbursement Resolution if we want to bridge some of those funds. **Questions for CGOBOC:** 1. Here we are in the third quarter of 2016. What is the specific date on which the first bond tranche will be issued, and what's the delay? Why did it take until the **fourth** quarter? 2. What is the current status of the "Reimbursement Resolution," and why hasn't it been issued yet to take advantage of potentially good deals in the Mission District?
1:05:03	Hartley	In response to a question raised by CGOBOC Member Robert Carlson regarding the ***metrics*** so CGOBOC can judge impacts of the $310 million Housing Bond, Hartley noted MOHCD typically doesn't define metrics (see page 3 in the full transcript). Hartley noted that MOHCD wants to set aside $20 million of the $100 million designated in the "Low-Income Housing" main category to acquire rent-controlled properties to stop "*vacancy decontrol*." But as Figure 5 shows above, in the Executive Summary presented to CGOBOC on January 28, 2016, there is no specific allocation that $20 million would be set aside to acquire rent-controlled properties. Hartley noted that that would leave $80 million in the "Low-Income Housing" category, and MOHCD plans to issue three, $25 million in "gap funding" for three, 100-unit projects, but it would be contingent on what kind of bids are submitted. Of note, Hartley indirectly indicated the remaining $5 million in this category would be used for "administrative costs."

Hour:Min:Second on MP3 Audio	Speaker	Verbatim Text
		Questions for CGOBOC: 1. MOHCD has not indicated how many rent-controlled units would be preserved with the $20 million. CGOBOC should ascertain the number of planned units to be preserved in this category. 2. Why is MOHCD budgeting $5 million in "administrative costs" for the three, 100-unit projects? 3. What other categories in the $310 million will also require "administrative costs, and at what amount? CGOBOC should determine this ***now*** as part of the development of metrics. **Note:** Across all four of the main housing categories, MOHCD's July 28 presentation shows the "share of costs and incidentals" of the bond now total $10 million.
1:08:19	Hartley	In response to questions Member Carlson raised at 1:07:25 and 1:08:12, regarding who would ***own the buildings*** from the $20 million set-aside to purchase rent-controlled units, and whether the loans from bond funding made to developers would be paid back, respectively, Hartley replied that the loan terms are structured with "*residual receipts*" clauses, indicating that loans are repaid based on whether the developers have any "leftover" funds after paying their operating expenses. Hartley indicated MOHCD typically has no expectation of loan repayments over time because it would require "hard loans" involving mandatory debt service requiring incomes from tenants at a level that MOHCD "can't typically support." **Questions for CGOBOC:** 1. CGOBOC should ascertain whether other categories of the $310 million bond measure other than the Low-Income Housing" main category also involve an MOHCD expectation that other kinds of loans in other bond categories will also ***not*** be repaid. 2. What's to prevent a developer from artificially inflating their operating expenses in order to reduce their "leftover" funds, in order to avoid loan repayments? Is there a mechanism by which MOHCD monitors and assesses the claimed "residual receipts," or is this based on the developer's word-of-honor?
1:10:00	Ben Rosenfield, City Controller	In response to another point Member Carlson raised at 1:09:27 about what's to keep the new owner of the rent-controlled buildings from converting the units to market-rate housing ten years from now, Ms. Hartley responded that "permanent deed restrictions" prevent that. In addition, Controller Rosenfield opined that the loan terms avoid some of the conditions you are worried about here, which is kind of how we ensure the non-profit won't flip it for profit. However, some real estate professionals have noted that permanent deed restrictions can be altered over time, and that may explain why MOHCD has added the "Expiring Regulations Preservation" subcategory within the "Middle-Income Housing" main category, which 20- to 30-years from now could happen all over again. In addition, there is some community concern that an example of this may (or may not) involve the dispute between El Bethel Missionary Baptist Church and the faith-based nonprofit (Christian Church Homes) playing out in Superior Court involving the lucrative tax credits involved with the El Bethel Arms senior housing complex in the Fillmore District. Third Baptist Church also in

Hour:Min:Second on MP3 Audio	Speaker	Verbatim Text
		the Fillmore sued its non-profit accusing it of illegally attempting to sell a housing complex for low-income residents. At issue are developers trying to get involved in the redevelopment of affordable housing to carve some of them out for for-profit development, since the plots of land are very valuable. There are reports that some of the housing managers may have been charging more rent than permitted, in effect creating market-rate housing on a for-profit basis. **Questions for CGOBOC:** 1. CGOBOC should ascertain just how "permanent" MOHCD's deed restrictions really are to ensure the units ***aren't*** flipped to market-rate units.
1:11:11	Brenda Kwee McNulty, CGOBOC Member	CGOBOC Member McNulty raised several issues regarding the correlation of project goals to metrics to evaluate what kinds of "returns" there will be on the whole $310 million bond investment. She was concerned about "whether or not we made the ***right allocation decisions***" had been made upfront, although the allocations appear to have been made at the sole discretion of MOHCD, which CGOBOC may have no control over. McNulty was concerned that almost a third of the allocations were for affordable housing. But it is not clear which "third" of the proposed bond spending McNulty considered to be affordable housing, and whether she meant the $100 million portion dedicated to the "Low-Income Housing" subcategory. **Questions for CGOBOC:** 1. CGOBOC should evaluate ***now*** whether the "right allocation decisions" were made by MOHCD, and if not, whether the allocations should be changed before CGOBOC goes any further with bond oversight. 2. CGOBOC should also determine ***now*** which of the four main categories of spending, and all other subcategories, involve what McNulty considers to be "affordable housing," since theoretically the entire bond measure was meant for affordable housing.
1:13:10	Hartley	In response to McNulty's concerns about "goals" and "returns," Ms. Hartley noted (on page 5 of the full verbatim transcript) that MOHCD will present three categories of returns: 1) The number of households served, 2) Income levels, and apparently, 3) Infrastructure issues at the Potrero and Sunnydale public housing projects, ostensibly by assessing the number of units created or preserved. Hartley noted that the City doesn't want to wait for 20 years to have the Potrero and Sunnydale public housing projects completed. **Questions for CGOBOC:** 1. CGOBOC should require that for all four of the main categories of spending, and each subcategory, report on the number of households served, the income levels (in terms of AMI), and the number of units created or preserved. 2. MOHCD should be ***required*** to explain why reducing the Potrero and Sunnydale public housing projects from 20 years to 17 years — a reduction of just three years — is worth spending $80 million to "accelerate," since that $80 million slice of the $310 million bond measure represents fully one-quarter (25.8%) of the total bond spending, and will likely ***not*** create net ***new*** units.

Hour:Min:Second on MP3 Audio	Speaker	Verbatim Text
1:16:05	Bush	CGOBOC Member Larry Bush noted (see page 5 of the verbatim transcript) that when the metrics are developed it would be helpful if MOHCD provided the populations that will be served, including the elderly/senior, disabled, and veterans populations (among other demographics), so CGOBOC has some way of seeing whether those gaps in housing services are being closed. **Questions for CGOBOC:** 1. CGOBOC should require that for all four of the main categories of spending, and each subcategory, MOHCD report the demographics of who will be served as part of the required metrics.
1:24:36	Hartley	In response to CGOBOC member questions about residency requirements for eligibility for some of the programs, Hartley noted (on page 8 of the verbatim transcript) that **typically MOHCD has a 20% set aside in all of our buildings for homeless households** for referrals come from the department of Public Health or the Human Services Agency. , repeating her earlier testimony at 1:02:59 on the audio (on transcript page 2) that typically Very Low Income people who need [supportive] services and most of our developments have a set-aside of 20% of the units for formerly, chronically homeless individuals. So if we build any 100-unit building that we help to build with our lending, 20 of those units will be devoted to homeless households. **Questions for CGOBOC:** 1. CGOBOC must require that MOHCD indicate whether the 20% set-aside for homeless individuals applies to the ***entire*** $310 million Affordable Housing bond — $62 million in bond proceeds. 2. CGOBOC must require that MOHCD alternatively indicate whether the 20% set-aside for homeless individuals applies ***only*** to the $100 million “Low-Income Housing” main category — representing $20 million in bond proceeds. 3. CGOBOC must require that MOHCD indicate which other main categories of the $310 million bond — including the $80 million in the “Public Housing” category, the separate $50 million “Mission Affordable Housing” category, and the $80 million in the separate “Middle-Income Housing” category — will also include a 20% set-aside for homeless individuals. Both CGOBOC and the voters who passed this bond measure deserve to be informed of just how much of the $310 million bond is being ear-marked for housing the homeless.

Of particular concern for CGOBOC is that the “Catalyst Fund Top Loss” program is thought to be the proposed “accelerator fund.”

When the Mayor delivered his “sharing prosperity” agenda during his January 15, 2015 State-of-the-City speech, his staff issued a press release that, in part, announced an “Affordable Housing Bond” for the November 2015 municipal ballot. The press release claimed:

“Of particular concern for CGOBOC is that the ‘Catalyst Fund Top Loss’ program is thought to be the proposed ‘accelerator fund’.”

> “The proceeds of this bond will support our ambitious plans to rebuild San Francisco’s public housing, and will fund the acquisition, rehabilitation, and construction of homes for a range of households, from very low income to middle class, working families.”

The Mayor's January 15 press release also claimed that Lee would create a new investment fund to launch more affordable housing projects:

> "The Mayor will create an accelerator fund, with private and philanthropic partners, to accompany bond financing, seeding public-private partnerships that will enable nonprofits to act quickly and complete [sic; "competely"] on the open market to purchase land for construction of affordable housing and buildings to be improved as permanently affordable units."

A "Findings and Recommendations" document prepared by the Mayor's Housing Work Group 2014 reported that a "Housing Affordability Fund" — ostensibly separate and distinct from the Housing Trust Fund approved by voters in 2012, or within it — will be established via a public–private partnership. The Housing Work Group report also stated the accelerator fund would "leverage" limited public dollars for housing by pursuing development of the Housing Affordability Fund as an ***"off balance-sheet" fund***.

CGBOC has a special duty to determine whether the Catalyst Fund is, in fact, an "off-balance-sheet" fund, and how much of the $310 million bond will be allocated to the Catalyst Fund and in which categories of spending!

> **"The Housing Work Group report also stated the accelerator fund would 'leverage' limited public dollars for housing by pursuing development of the Housing Affordability Fund as an '*off balance-sheet*' fund."**

> **"CGBOC must determine whether the Catalyst Fund is an 'off-balance-sheet' fund, how much of the $310 million bond will be allocated to the Catalyst Fund, and in which categories of spending."**

Part 3: Skimpy Metrics Proposed by City Controller *vs.* Suggested Metrics

Part 3-A: Skimpy Metrics Proposed by City Controller

Concerned about the development of the "metrics" CGOBOC will employ to assess MOHCD's performance with the $310 million Affordable Housing Bond, I placed a public records request to Controller Ben Rosenfield and the City Controller's Office on May 19, 2016, asking for two items:

1. Any and all correspondence (electronic or otherwise) between MOHCD and CGOBOC [between January 28, 2016 and May 19, 2016] discussing and agreeing upon what reporting metrics will be used in future MOHCD presentations to CGOBOC to assess MOHCD's stewardship of the bond.
2. The actual metrics and reporting formats that have been developed and adopted, and which will presumably be used to report on the bond progress during CGOBC's July 28 meeting.

> **"The Controller's Office had not discussed in writing with MOHCD over a four-month period any development of the metrics to be used by CGOBOC between January and May 24, 2016."**

On May 24, Matt Wiggins, a new Senior Administrative Analyst in the Controller's Office) responded on behalf of Mr. Rosenfield and the Controller's Office, indicating "The Controller's Office is not in possession of any correspondence related to your question #1." ***This is a damning indictment that the Controller's Office had not discussed in writing with MOHCD over a four-month period any development of the metrics to be used by CGOBOC between January and May 24, 2016.***

Matt provided a somewhat **skimpy list of metrics** the Controller expects to utilize, saying:

"For each category of use, MOHCD will measure the use of funds by unit count or household served, as follows:

Public Housing, $80MM:	1) Funds spent on infrastructure will be measured by number of units served; 2) Funds spend [sic] on vertical construction (including predevelopment and acquisition funds) will be measured by number of units constructed.
Low-Income Housing ($100MM) and Mission Neighborhood Housing ($50MM):	Number of units constructed.
Middle-Income Housing:	1) DALP Loans: Number of households served; 2) Teacher Next Door: Number of households served; 3) Middle-Income Production: Number of units constructed.

If you have further questions on the specifics of these metrics, we recommend you contact MOHCD, copied here, or at 415-701-5500. Please let us know if you have any further questions.

Best,
Matt (on behalf of the Controller's Office)"

<u>The Controller's proposed metrics are skimpy at best, and troubling for a $310 million bond measure</u>! This is <u>not</u> effective "oversight" or "accountability"!

- For the "Public Housing" category of the bond, there is no mention of the timeline involved in reducing the Potrero and Sunnydale projects from 20 years to 17 years, the number of buildings involved and the number of units in each building, any demographics of the populations affected, or the planned AMI targets and how AMI will be tracked.
- For the "Low-Income Housing" category, measuring the number of new units constructed is the only thing mentioned, and doesn't include the "Preservation of Existing Rental Housing," which a reasonable person would assume would include the number of buildings preserved, the number of units preserved, the geographic area of the City in which the buildings are located, whether the preservation of existing rental housing includes the "Expiring Regulations" category, any demographics of the populations affected, or the planned AMI targets and how AMI will be tracked. And there is no mention of how the much funding will be allocated to each of the various subcategories in this main category.
- For the "Mission Affordable Housing" category (a.k.a., the "Mission Area Plan"), the Controller proposes a metric for only the number of new units constructed, and doesn't include any metrics on site acquisition, the number of units to be rehabilitated, and any way to measure or assess predevelopment activities. And there is no mention of how the much funding will be allocated to each of the various subcategories in this main category.
- For the "Middle-Income Housing" category, there is scant discussion for the four subcategories regarding:
  - **DALP Loan Expansion:** There is no mention of either the "goal" of how many households will be served, not is there any mention of which ***<u>types</u>*** of DALP loans will be expanded (i.e., regular DALP loans vs. the First Responder DALP loans) by either a specific dollar amount for the subcategory, or the number of loans issued, just the number of "households" served. And there's no mention of whether AMI caps were raised.

    CGOBOC members should note that in Figure 7 above, of the six to eight First Responder loans that have been issued to date, six of them were for household sizes of one person, only one loan had a household size of two people, and the last one had a household size of three people. ***For all subcategories that will use household size as a "metric," MOHCD should be required to report on the sizes of all households to assess the impact on San Franciscans seeking affordable housing.***

    There is also no metric to assess in which geographic area of the City the loans will be awarded. As Figure 7 notes above, the number of the loans issued have skewed heavily to District 11. ***CGOBOC should be assessing the geographic distribution of the housing being developed not only for this subcategory, it should do the same geographic analysis for all four main categories and each subcategory to assess whether there is equity Citywide in the housing being developed for all taxpayers who footed the bill on this bond measure.***

    > **"CGOBOC should be assessing the geographic distribution of the housing being developed for all four main categories and each subcategory to assess whether there is equity Citywide in the housing being developed."**

  - **Teacher Next Door Program:** There's no mention of the "goal" of how many households are planned to be served, and whether the Teacher Next Door loans are "forgivable" loans with no expectation of loan repayment. There's also no demographic data to be captured, or in which geographic area of the City to ensure equity.
  - **Middle Income Rental Program:** Although MOHCD's Executive Summary on January 28 titled this subcategory as a "Middle-Income **<u>Rental</u>** Program," the Controller's May 24 response cleverly renamed the subcategory as being "Middle-Income **<u>Production</u>**."

    > **"The Controller's May 24 response provided no planned metrics for the 'Expiring Regulations Preservation' subcategory."**

    There's no mention of household size, no number set as a "goal" of how many rental units are being planned, and again, no mention of the geographic areas of the City to be targeted.
  - **Expiring Regulations Preservation:** The Controller's May 24 response **<u>failed to mention this subcategory</u>** at all, and provided no planned metrics for the "Expiring Regulations Preservation" subcategory. Again, a reasonable person would assume the "Expiring Regulations Preservation" metrics would include the number of buildings to be preserved, the number of units to be preserved, the geographic area of the City in which the buildings are located, demographics of the populations affected, household size, or the planned AMI targets and how AMI will be tracked.

There's no mention for any of these four subcategories within the "Middle-Income Housing" main category of how much of the $80 million will be allocated to each of the four subcategories. And there's no mention of how much of the $80 million in the "Middle-Income Housing" category will be set aside for housing for the homeless.

Another problem with the $80 million overall "Middle-Income Housing" category in the bond may involve apparent "developer incentives." In background file #150490 packet for the Board of Supervisors Budget and Finance Committee hearing on July 14, 2015 Ted Egan, the City's Chief Economist who serves in the Office of Economic Analysis in the City Controller's Office, indicated the middle-income category includes developer incentives.

> **"on July 14, Ted Egan, the City's Chief Economist, presented a slideshow indicating the $80 million middle-income category includes developer incentives, but he didn't indicate what portion of the $80 million is being allocated to 'developer incentives'."**

In the same background file #150490 packet for the Board of Supervisors Budget and Finance Committee hearing on July 14, Ted Egan, the City's Chief Economist who serves in the Office of Economic Analysis in the City Controller's Office, presented a PowerPoint slideshow indicating the middle-income category includes developer incentives, but he didn't indicate what portion in dollar amounts, or percentages, of this $80 million portion of this bond is being set aside, or allocated to, "developer incentives," or what form of incentives are being considered or planned.

> **"CGOBOC should require MOHCD to provide data on what sort of, and what amount of, developer incentives may be being funded in each of the four main categories."**

CGOBOC should require MOHCD to provide data on what sort of, and what amount of, developer incentives may be being funded in each of the four main categories of funding in this Affordable Housing general obligation bond.

<u>All in all, the Controller's proposed metrics appear to be wholly inadequate for CGOBOC to be able to assess and evaluate bond performance over time</u>! The Controller's proposed metrics are a recipe for disaster! Importantly, the Controller's metrics do <u>*not*</u> appear to have been coordinated with, or even discussed with, MOHCD staff.

Part 3-B: Suggested Metrics

Main Category	Sub-Category	Allocation Amount	AMI Target	# of New Units Constructed	# of Existing Units Preserved	Household Size	Demographchs Taargeted (Special Popuolations)	Housing for Homeless?	Supervisor District
PUBLIC HOUSING:	Accelerate HOPE SF housing and infrastructure long-term development programs								
	• Accelerate Sunnydale								
	• Accelerate Potrero								
Subtotal	$80 million								
MISSION AFFORDABLE HOUSING:	Site acquisition, unit rehab, and predevelopment								
	• Site Acquisitions & predevelopment								
	• Building Acquisitions & Rehab.								
Subtotal	$50 million								
LOW-INCOME HOUSING:	New construction and acquisition/preservation of existing rental housing; focus is low-income families, veterans, seniors								
	• New Construction								
	• Preservation of Existing Rental Housing								
Subtotal	$100 million								
MIDDLE-INCOME HOUSING:	Educators, Middle-Class Families								
	• DALP Loan Expansion — First Responders (FRDALP)								
	• DALP Loan Expansion — Non-First Responders (DALP)								
	• Teacher Next Door								
	• Middle-Income Teacher Housing								
	• Middle-Income "Buy-In" Program								
	• Middle-Income Rental Program								
	• Expiring Regulations Preservation								
Subtotal	$80 million								
TOTAL	$310 million								
OTHER SUB-CATEGORIES									
	Aqcuisitioin of existing rent-controlled housing / land acquisition								
	Affordable housing on public sites								
	Catalyst Fund Top Loss								

Note: The two rows in black with reverse text are new categories MOHCD included in its July 28, 2016 presentation, which were not included in MOHCD's January 2016 presentation to CGOBOC. It is is not yet known whether the "Middle-Income Rental Program," and the "Expiring Regulations Preservtion" categories have simply been renamed.

Part 4: Previous Concerns About MOHCD Spending (Civil Grand Jury, Other Sources)

There are a number of concerns with MOHCD's ability to accurately track its spending.

Budget Analyst Harvey Rose

In 2014, Budget and Legislative Analyst Harvey Rose's consultancy was asked to submit an analysis to the Board of Supervisors who were considering a $2 million increase to an initial proposal to divert $2.5 million from the City's General Fund Reserve account to fund a new "Non-Profit Rental Stabilization Program," increasing the proposal to $4.5 million.

In his report, Rose noted that back in 2000, the Board of Supervisors had approved two ordinances to appropriate $1.5 million from the City's General Fund Reserve to provide rent subsidies to nonprofit arts organizations in immediate danger of being evicted or displaced by rent increases. Rose reported on February 26, 2014 that the Mayor's Office of Housing and Community Development claimed overall expenditures, including administrative costs of the arts rental assistance program, are "not currently available." MOHCD claimed to Rose that it had no information available at all about how the $1.5 million may (or may have not) have been spent over a 14-year period.

Rose's report also noted that Mr. Cheu in MOHCD had advised Rose that there was also "no information" about a separate $500,000 portion of rent subsidies to nonprofit service and advocacy organizations.

Rose uncharacteristically included in his report a damning statement, saying, "… such that it appears that the City may have never implemented this portion of the program." This suggests MOHCD couldn't account for fully $2 million in funding entrusted to it.

> **"This should provide a cautionary tale to CGOBOC, particularly since MOHCD took well over nine months after receiving the DALP funding in FY 2013–2014 before it completed developing DALP program guidelines."**

Rose noted such a decision to increase the Non-Profit Rental Stabilization Program to $4.5 million might be premature, since the criteria for awarding stabilization funds to individual nonprofit organizations, any limitations on use of the funds, limits on the amount of funds to be awarded, and "administrative and selection procedures" had not yet been decided, and wouldn't be until after a planned report from a so-called "Nonprofit Displacement Work Group" was completed and presented, presumably on April 11, 2014.

This should provide a cautionary tale to CGOBOC members that MOHCD has a long track record of not promptly developing processes and metrics for programs it has received funding for, particularly since MOHCD took well over nine months after receiving the DALP funding in FY 2013–2014 before it completed developing DALP program guidelines. A similar situation may be involved with the November 2015 $310 million Affordable Housing Bond, in that fully eight months following Prop "A's" passage in November 2015, neither has the first *tranche* of bonds been issued to date, and no new guidelines for programs appear to have been issued. By the time the first bond *tranche* is issued at the end of October 2016, fully a year will have elapsed since voters approved issuing the bond. Why did this take MOHCD a whole year?

Civil Grand Jury

In June 2014, San Francisco's 2013–2014 Civil Grand Jury released a report titled "*The Mayor's Office of Housing: Under Pressure and Challenged to Preserve Diversity*." In many ways, the Grand Jury report is a damning indictment of the lack of transparency at MOHCD.

> **"The Grand Jury was apparently worried that Housing Trust Funds might be diverted to rebuild public housing, rather than to new affordable housing that voters were promised."**

The Grand Jury report focused its research on the 2014 Affordable Housing goals Mayor Lee announced in his January 2014 State of the City speech. The Grand Jury was interested in learning whether the housing targets are achievable, whether there is sufficient transparency so the public can accurately assess whether Affordable Housing objectives are being met, and whether fairness is being applied when Affordable Housing units become available for occupancy.

Among its conclusions, the Jury noted that proper public notification should be served for any diversion of Housing Trust Fund uses approved by voters in the November 2012 Proposition "C." The Grand Jury was apparently worried that Housing Trust Funds might be diverted to provide additional financing for the successor agency to San Francisco's Housing Authority and used to rebuild public housing, rather than to new affordable housing that voters were promised.

The Grand Jury noted that the Housing Trust Fund (HTF) created by voters in 2012 "may need to provide stabilization funding to the Housing Authority for emergency repairs" [to public housing projects]. In its report, the Grand Jury wrote:

> "The Jury supports the notion that any diversion or loan of funds [from the Housing Trust Fund] to the Housing Authority plan should not result in a permanent loss in HTF funds available to MOHCD to achieve new affordable housing goals for traditional low and moderate income populations as originally voted on in 2012."

Clearly worried about diverting HTF funds to Housing Authority "Re-envisioning" projects, the Jury cautioned that the City's Administrative Code only requires that MOHCD report to the Board of Supervisors every fifth year, beginning in 2018, five years after the initial FY 2013-2014 $20 million HTF allocation.

"The Grand Jury's report noted its policy concerns for affordable housing parity and fair distribution of housing built for all income tiers."

The Grand Jury's report noted its policy concerns for affordable housing parity and fair distribution of housing built for all income tiers. Looking at it by household income as a percentage of AMI, the Jury noted in Table 1 that the City achieved 113% of market rate housing (those earning greater than 120% of Area Median Income, or AMI) between 2007 and 2014 identified in the Regional Housing Needs Allocation goals, a state-mandated planning document.

During the same eight-year period — in which Mayor Lee has served for five of those eight years — the City achieved 65% of housing for extremely-low and very-low households (those earning less than 50% of AMI). But the City only produced 16% of the housing goal for low-income earners (50% to 79% of AMI), and 25% of housing needs for moderate-income earners (80% to 120% of AMI).

"Voters were <u>*not*</u> told in 2012 before they cast ballots that the Housing Trust Fund might be used for emergency repairs of Housing Authority properties."

By the same token, CGOBOC's metrics should assess the fair distribution of housing built for all income tiers, particularly since MOHCD's July 28 update appears to have removed the 81% to 120% AMI stipulation for moderate-income earners. CGOBOC should be assessing to what extent spending of the $310 million Affordable Housing bond is meeting goals for inclusionary housing, giving special consideration to the Housing Balance mix and the overall housing inventory to help support the Planning Department's requirement to issue semi-annual Housing Balance Reports to the Board of Supervisors.

By the time the Board of Supervisors holds its first hearing on the HTF from MOHCD in 2018, MOHCD will have been handed a total of $128 million into the Housing Trust Fund from the City's General Fund to use at its sole discretion during its first five years. Add in the $310 million Affordable Housing Bond passed in 2015 handed to MOHCD, and given MOHCD's dubious track record the Board of Supervisors needs to legislatively reduce the five-year period, and schedule its first hearing on the HTF quickly!

By a similar token, CGOBOC should actively monitor spending of the $310 million Affordable Housing Bond to make sure that the bond funds are <u>***not***</u> diverted to provide financing only for the successor agency to San Francisco's Housing Authority and used only for rebuilding public housing.

MOHCD's Unobligated Funds

For research I conducted in the spring and summer of 2015 for an article I published in September 2015, I learned the City has at least two trust funds set up for affordable housing production, including the Housing Trust Fund (HTF) created by voters in November 2012, and a separate Afford Housing Fund (AHF).

Records provided by the City Controller's Office showing the actual *vs.* budgeted performance for the fiscal year that ended June 30, 2015 painted a disturbing picture, since between the two funds, the City — in particular, MOHCD — was sitting on $95.745 million in unencumbered (unspent) funds.

As HTF budget data from the Controller's Office showed, although the City issued a total of $27.1 million in "Loans Issued by the City,"

"Records provided by the City Controller's Office showing the actual *vs.* budgeted performance for the fiscal year that ended June 30, 2015 showed that MOHCD was sitting on $95.745 million in unencumbered funds."

the HTF budget left $9.36 million unencumbered at the end of FY 2015. The $27.1 million in loans issued from the HTF were $3.37 million more than the $23.8 million budgeted for issuing loans. The budget "actual" showed in the "Community Based Organization Services" line item had left $1 million on the table in unencumbered funds, which may or may not have been used to supplement other loans issued, but the budget doesn't show where the additional $2.3 million awarded for additional loans may have came from. The $3.37 million overage does not appear to have come from a pot of $11.4 million in funds that had been carried forward from the previous fiscal year, since the report showed that $11.4 million still remained unencumbered.

"MOHCD's FY 2014-2015 annual report reported it had earned $6.5 million in revenue and interest for MOHCD's Small Sites program, but had expended just $687,396, leaving an unobligated balance of $5.7 million in Small Sites funding."

Things were worse for the separate Affordable Housing Fund (AHF). The Controller's data showed that the AHF budget had a whopping $86.38 million in unencumbered funds at the end of June 2015, $60 million of which were unencumbered funds brought forward to the FY14-15 budget from previous fiscal years. The AHF budget had also included a line item for "Loans Issued by City" in the amount of $43.13 million, but by the end of the FY in June 2015, $21.37 million — fully half of the line item — remained unencumbered, as if the City couldn't find anyone, or any agency, to issue loans to.

So we wound up with the sorry situation of $95.74 million between the HTF and AHF remaining unencumbered at the end of June 2015 in the midst of an affordable housing crisis, possibly demonstrating a lack of competence by housing experts on the Mayor's staff, and an utter lack of urgency to solve the housing crisis.

More recently, MOHCD's FY 2014-2015 annual report issued recently reports on page 49 in Table 6 that in the five-year period between FY 10-11 and FY 14-15 it had earned $6.5 million in revenue and interest for MOHCD's Small Sites program, but had expended just $687,396 — leaving an unobligated balance of $5.7 million in Small Sites funding. CGOBOC needs to ask why MOHCD is sitting on another $6 million in unobligated funds.

"CGOBOC needs to carefully monitor all unobligated funds, and must require MOHCD to account for unobligated funds on this $310 million bond measure in spreadsheet format."

Particularly worrisome is that the November 2015 Prop. "A" $310 million Affordable Housing bond measure had promised to spending $50 to $80 million for Small Site acquisition in the Mission District, but to date, not a penny of that $50 million appears to have been allocated, or issued in a bond "*tranche*." What's MOHCD's delay in issuing a "Reimbursement Resolution" to bridge Small Site acquisition funding?

GOBOC needs to carefully monitor — as it does for all general obligation bonds it provides oversight of — all unobligated funds, and must require MOHCD to account for unobligated funds on this $310 million bond measure in spreadsheet format released to members of the public.

Part 5: Concerns About So-Called "Change Orders"

In 2010, when I worked in the Capital Planning section of the Recreation and Parks Department, I discovered on the job that the Department of Public Works had a robust software program to track change orders on major capital improvement bond measures. I then placed records requests to learn of the change orders on the Laguna Honda Hospital replacement project bond measure, and learned that a major problem involves change orders requested by City departments.

"CGOBOC must require MOHCD to provide any and all change orders — whether requested by MOHCD and its project managers, or change orders requested by any of MOHCD's non-profit housing developer project managers — over the life of this bond."

When I brought that to the attention of former CGOBOC chairperson Abraham Simmons during CGOBOC meetings, he took the problem seriously and promised CGOBOC would begin monitoring change orders on every General Obligation Bond program. Unfortunately, subsequent CGOBOC chairperson's Thea Selby and Rebecca Rhines studiously avoided expanding CGOBOC's focus to involve change order cost overruns.

CGOBOC must require MOHCD to provide any and all change orders — whether requested by MOHCD and its project managers, or change orders requested by any of MOHCD's non-profit housing developer project managers — over the life of this bond, in particular **Department-requested** change orders.

Part 6: Concerns About MOHCD's July 28, 2016 Update to CGOBOC

Closely related to the issue of Department-requested Change Orders during bond-funded programs discussed in Part 5 above, MOHCD's presentation materials for CGOBOC's July 28 meeting are troubling for many reasons, including changes to AMI levels, at least one new program for teachers, and re-naming of other program sub-components, all of which may be bait-and-switches.

> **"MOHCD's presentation materials for CGOBOC's July 28, 2016 meeting are troubling for a number of reasons concerning 'Change Orders' to AMI levels and program sub-components."**

In its July 28, 2016 PowerPoint presentation, MOHCD indicated:

- The previously named $100 million "Low-Income Housing" category presented to CGOBOC on January 28, 2016 (see Figure 5 of page 3 of this report) for those earning 80% to 120% of AMI appears to have been renamed on Slide # 2 to "Affordable Housing" for the same $100 million pot of spending.

  In addition, although Figure 5 indicated the "Low-Income Housing" category for preserving Existing Rental Housing would target households earning 80% to 120% of AMI, the newly re-named "Affordable Housing" category reduces the AMI to a maximum of $80%. This all but leaves out households earning 81% to 120% of AMI, as MOHCD's July 28 presentation appears to have eliminated from all categories those households earning 81% to 120% of AMI.

- Slide 2 also indicates that the "Middle-Income Housing" would target households earning between 121% to 175% of AMI, even though MOHCD's January 28 presentation had indicated that the "Teacher Next Door" program would include households earning up to 200% of AMI. The First Responder DALP loans were reduced from 200% to 175%.

- Slide 3, which describes "Priority Populations," once again attempts to hide from the public that all of the four main housing categories may be setting aside 20% of the units for people who are homeless, since they aren't mentioned.

Figure 8: Extract From MOHCD "Middle-Income Housing" Proposed Allocations Dated July 28, 2016

Middle-Income Housing: $80MM	16-17	17-18	18-19	19-20	20-21	Total	
DALP Loan Expansion	2,900,000	2,900,000	2,900,000	2,900,000	2,900,000	14,500,000	49
Teacher Next Door	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	5,000,000	250
Middle-Income Teacher Housing		2,000,000	5,000,000			7,000,000	30
Middle-Income Buy-in Program		24,000,000				24,000,000	96
Middle-Income MOHCD Production		7,000,000	19,920,000			26,920,000	70
Share of cost of issuance & incidentals						*2,580,000*	
Subtotal	3,900,000	36,900,000	28,820,000	3,900,000	3,900,000	80,000,000	495

- Slide 8, describing "Specific Housing Bond Usage by Fiscal Year," shows that between the "DALP Loan Expansion" and "Teacher Next Door Programs" within the "Middle-Income Housing" category, the two sub-categories will be allocated $19.5 million, up from previous reporting (see Figures 1 and 2 on page 2 of this report) that the two sub-categories would receive a maximum of $15 million.

  MOHCD's July 28 allocation charts continue failing to report how much of the now $14.5 million in "DALP Loan Expansion" will be allocated to First Responders, *vs.* non-First Responders.

- Slide 8 shows that between January 2016 and July 2016 MOHCD has added a new sub-category of "Middle-Income Teacher Housing," allocating $7 million to it, in addition to the "Teacher Next Door Program" allocated $5 million.

- Slide 8 shows that MOHCD may have potentially renamed the "Expiring Regulations Preservation" sub-category restricted to up to 120% of AMI, to a new name of "Middle-Income Buy-In Program" that may potentially now involve households earning 121% to 175% of AMI, but this has not yet been verified. MOHCD needs to explain how this "Buy-In Program" will be structured, who will be eligible, and whether it involves preserving "Expiring Regulations" properties.

- Finally, Slide 8 shows that the "Middle-Income Rental Program" for households earning between 80% to 150% of AMI may also have potentially been re-named to a "Middle-Income MOHCD Production" line item. MOHCD needs to explain whether the previous concept of a "Middle-Income Rental Program" has changed to households earning 121% to 175% of AMI, and whether it still involves a rental program.

> **"MOHCD still hasn't discussed with CGOBOC the off-balance accelerator 'Catalyst Fund,' which MOHCD had included as far back as January 2015 in for plans for bond uses."**

Nowhere in its July 28 PowerPoint presentation does MOHCD discuss with CGOBOC the off-balance accelerator "Catalyst Fund," which MOHCD had planned to include in bond funding as far back as January 2015 for proposed uses of the bond.

Importantly, as shown in Figure 9, the average cost-per-unit within the proposed spending for the "Middle Income Housing," "Low-Income Housing," and "Mission Neighborhood Housing" categories vary wildly. CGOBOC needs to ask whether the cost-per-unit variance may be because of "developer incentives" in some of the categories, which MOHCD has studiously avoided even mentioning to CGOBOC.

A reasonable question is why the re-named "Middle-Income MOHCD Production" category is nearly $100,000 more per unit than other sub-categories, as is the "Mission Neighborhood Housing" category, which has the highest cost-per-unit.

Figure 9: Average Cost-Per-Unit for Proposed Allocations, Dated July 28, 2016

Middle-Income Housing Category	Five FY Total Allocation	Number of Units	Average Cost Per\ Unit
DALP Loan Expansion	$14,500,000	49	$295,918
Teacher Next Door	$5,000,000	250	$20,000
Middle-Income Teacher Housing	$7,000,000	30	$233,333
Middle-Income Buy-In Program	$24,000,000	96	$250,000
Middle-Income MOHCD Production	$26,920,000	70	$384,571
Share of Cost Issuance and "Indcidentials"	$2,580,000		
Middle-Income Housing Sub-Total	**$80,000,000**	**495**	

Low-Income Housing Category	Five FY Total Allocation	Number of Units	Average Cost Per\ Unit
Small Sites Program	$24,235,000	81	$299,198

Mission Neighborhood Housing	Five FY Total Allocation	Number of Units	Average Cost Per\ Unit
Acquisition and Vertical Development	$42,385,000	110	$385,318

"CGOBOC needs to ask whether the cost-per-unit variance may be because of 'developer incentives' in some of the categories, which MOHCD has studiously avoided even mentioning to CGOBOC."

- Figure 9 — based on Slide 8 in MOHCD's presentation and the stand-alone one-page budget for bond uses — is concerning, because on Slide 11 MOHCD notes the "Teacher Next Door" allocation is for ***forgivable*** loans of $20,000 each. CGOBOC needs to determine whether the new "Middle-Income Teacher Housing" category also involves forgivable loans.

  CGOBOC should also investigate why both the "Teacher Next Door" and "DALP Loan Expansions" appear to have been moved to bond-funding from the previous practice of issuing those loans through the Housing Trust Fund or the separate Affordable Housing Fund. How "sustainable" are either types of these loans once the bond dries up, and will the HTF or AHF resume funding these loans when the bond measure concludes? **Reasonable questions include: What do MOHCD and the Housing Trust Fund intend to use the freed-up $20 million for, and why did they need to do this?**

Final Concerns

"**This is precisely why a Commission having oversight of MOHCD proposed for the November 2016 ballot needs to be approved by voters: The official 'legal text' in the November 2015 voter guide did not put forth that 'childcare centers, PDR facilities, or community-serving spaces' were to be eligible uses of the $310 million Affordable Housing Bond.**"

- On Slide 9 in MOHCD's July 28 presentation, it indicated that of the proposed submissions in response to its Notice of Funding Availability (NOFA) issued in April 2016, it had received by July 11 several proposals, including homeless housing, senior housing, family housing, childcare centers, PDR facilities, and "community-serving spaces."

  This is precisely why a Commission having oversight of MOHCD proposed for the November 2016 ballot needs to be approved by voters: Neither Mayor Ed Lee's January 2015 press release, nor the official "legal text" language in the November 2015 voter guide describing the bond measure put before voters had put forth that "childcare centers, PDR facilities, or community-serving spaces" were to be eligible uses of the $310 million Affordable Housing Bond. The intent put to voters was to build ***housing***, not childcare centers, PDR facilities, or community-serving spaces, and once again, MOHCD seems to believe that in its "sole discretion" it can misappropriate funds clearly intended to build ***housing***, into funds for other uses.

  Regardless of the hubris MOHCD's Executive Director Olson Lee exhibited before the Board of Supervisor Rules Committee on July 7 whining about the amount of "***gravitas***" he feels entitled to may be denied him if a Commission is created to oversee MOHCD, the fact remains this bond measure is for ***housing***, not child-care facilities.

  CGOBOC needs to clearly instruct MOHCD that no portion of the "Low-Income Housing" main category can be used for anything other than actual ***housing***, and certainly not for child-care facilities!

Otherwise, CGOBOC Member Brenda Kwee McNulty's concerns about whether the "right allocation decisions" had been made may well prove to be true!

- Slide 10 in MOHCD's July 28 presentation indicated that between the Potrero and Sunnydale Public Housing projects, $41 million had been set aside to construct new ***relocation*** housing, leaving $39 million of the remaining $80 million set aside for Public Housing, and also indicated that fully $34.8 million is actually being allocated to so-called "vertical construction" for the two public housing projects. CGOBOC should investigate this.
- MOHCD's July 28, 2016 presentation doesn't indicate the number of ***net new*** housing units that will be constructed, or the number of current housing units that are to be preserved. CGOBOC must require MOHCD to stratify how many new units, and how many "preserved" units, are included in the $310 million allocation decisions.
- CGOBOC needs to insist that MOHCD stop euphemistically referring to a single program category by new or different names, since it makes tracking progress of various programs extremely difficult.
- Finally, Slide 13 in MOHCD's July 28 presentation titled "Metrics and Accountability" contains four bullet points about what it considers to be "accountability" mechanisms, but it contained just a single sentence offering a *mea culpa* that it has "minimal control over the timing of construction of units and their occupancy," apparently as MOHCD's primary — and single — "metric" as being ***completion*** of projects. CGOBOC must not allow this single false metric to go unchallenged.

"MOHCD's July 28 presentation doesn't indicate the number of *net new* housing units that will be constructed, or the number of current housing units that are to be preserved."

Postscript: Concerns About MOHCD's New "Middle-Income Buy-In" Program

After reading MOHCD's July 28, 2016 presentation I placed a records request to MOHCD on Friday, July 22 asking for a description of new "Middle-Income Buy-In Program," including the intended recipients, and whether it is a loan program or some other type of housing program. On Monday, July 25, MOHCD's Eugene Flannery responded by e-mail, saying:

> Dear Mr. Monette-Shaw:
>
> In response to your request for public records, please be advised that the Middle-Income Buy-In Program represents MOHCD's intention to include middle income units (i.e., housing affordable to households between 80% AMI and up to 150% AMI, depending on unit size and neighborhood) in a variety of mixed-income developments. These funds will be disbursed as long-term loans, at below-market interest rates. Anticipated project types receiving the funds will include developments combining low-income and middle-income units; **market-rate and middle-income units**; and **market-rate, middle-income, and low-income units**. The goal is to combine the bond proceeds with the best available leveraged financing in order to maximize the production of middle-income units. Actual projects and per-unit loan amounts are still to be determined. [emphasis added]
>
> Eugene Flannery
> Environmental Compliance Manager

"Mayor Lee's 'Proponent Argument' in the voter guide clearly said 'NOT ONE CENT' FOR LUXURY CONDOS. Inexplicably, MOHCD is now proposing to build market-rate housing, another bait-and-switch!"

Needless to say, I am very shocked that the $24 million allocation in the "Specific Housing Bond Uses, by Fiscal Year" report to CGOBOC (also contained on Slide 8 in MOHCD's PowerPoint presentation) was included in the "Middle-Income Housing" portion of the bond, but MOHCD apparently plans to include market-rate housing! And troublingly, MOHCD had indicated on Slide 12 that the "Middle-Income Housing" main category would be used for households earning 121% to 175% of AMI, but now proposes the "Middle-Income Buy-In Program" sub-category will use 80% to only 150% of AMI. ***MOHCD didn't indicate the percentage of "inclusionary" units that will be included in these mixed-income projects.***

MOHCD did not indicate whether this program involves the former "Middle-Income Rental Program," the former "Expiring Regulations Preservation" program, or the former "acquisition of rent-controlled housing," nor did MOHCD indicate how the "Buy-In Program" is being structured. Who is doing the "Buy-In"? Homeowners? Renters? Developers hoping to buy-in to developer incentives? Let me see if I understand this correctly: ***MOHCD will be issuing long-term loans at below-market interest rates to build market-rate housing***?

Mayor Lee's "Proponent Argument" in favor of the bond in the November 2015 voter guide clearly said " 'NOT ONE CENT' FOR LUXURY CONDOS. All the funds go directly toward building more housing for low-income and middle-class families." Inexplicably, MOHCD is now proposing to build market-rate housing, another bait-and-switch!