Office of Public and Indian Housing, Washington, DC

HUD's Oversight of Lead-Based Paint in Public Housing and Housing Choice Voucher Programs

Office of Audit, Region 5
Chicago, IL

Audit Report Number: 2018-CH-0002
June 14, 2018

To: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing, P

//signed//

From: Kelly Anderson, Regional Inspector General for Audit, 5AGA

Subject: HUD Lacked Adequate Oversight of Lead-Based Paint Reporting and Remediation in Its Public Housing and Housing Choice Voucher Programs

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of HUD's oversight of lead-based paint reporting and remediation in its public housing and Housing Choice Voucher programs.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG website. Accordingly, this report will be posted at **http://www.hudoig.gov**.

If you have any questions or comments about this report, please do not hesitate to call me at (312) 913-8499.

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HUD Lacked Adequate Oversight of Lead-Based Paint Reporting and Remediation in Its Public Housing and Housing Choice Voucher Programs

Highlights

What We Audited and Why

We audited the U.S. Department of Housing and Urban Development's (HUD) oversight of lead-based paint reporting and remediation in its public housing and Housing Choice Voucher programs. The audit was part of the activities in our fiscal year 2017 annual audit plan. The audit objective was to determine whether HUD had adequate oversight of lead-based paint reporting and remediation in its public housing and Housing Choice Voucher programs.

What We Found

HUD lacked adequate oversight of lead-based paint reporting and remediation in its public housing and Housing Choice Voucher programs. Specifically, it did not (1) ensure that public housing agencies appropriately reported and mitigated cases involving children with environmental intervention blood lead levels (EIBLL) in its public housing program, (2) establish policies and procedures for public housing agencies to report a child with an EIBLL who resided in a household assisted under its Housing Choice Voucher program and ensure that identified lead hazards had been mitigated, and (3) ensure that public housing agencies completed required lead-based paint inspections. In addition, for housing built after 1977, HUD did not require public housing agencies to report and mitigate cases involving children with EIBLLs residing in public or assisted housing. As a result, HUD lacked assurance that public housing agencies properly identified and mitigated lead hazards, thus increasing the potential of exposing children to lead poisoning due to unsafe living conditions.

What We Recommend

We recommend that the General Deputy Assistant Secretary for Public and Indian Housing (1) update HUD's regulations to expand the inspection and abatement requirements of 24 CFR (Code of Federal Regulations) Part 35 to housing built after 1977 in cases in which a child with an elevated blood lead level is reported and (2) implement adequate procedures and controls to ensure that public housing agencies comply with the lead safe requirements.

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Background and Objective

In 1971, Congress passed the Lead-Based Paint Poisoning prevention act, which prohibited the use of lead based paint in residential housing constructed, rehabilitated, or assisted by the Federal Government and set abatement standards for lead-based paint. To reduce the risk of lead poisoning in children, the U.S. Consumer Product Safety Commission issued a ban on lead-containing paint. The ban took effect in 1978 and applied to products manufactured on and after that date. However, Congress found that pre-1980 housing stock contained more than 3 million tons of lead in the form of lead-based paint; therefore, it passed the Residential Lead-Based Paint Hazard Reduction Act of 1992. The purpose of the Act included implementing a broad program to evaluate lead-based paint hazards in the Nation's housing stock and reducing the threat of childhood lead poisoning in housing owned, assisted, or transferred by the Federal Government. The requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992 were targeted to housing built before 1978, when lead-based paint was banned, and are implemented by the U.S. Department of Housing and Urban Development (HUD) as the Lead Safe Housing Rule at 24 CFR (Code of Federal Regulations) Part 35.

In 1991, the Centers for Disease Control and Prevention lowered its intervention level for children under 6 years of age from 25 micrograms of lead per deciliter of blood to 10 micrograms of lead per deciliter of blood when new data showed significant adverse effects of lead exposure in children at blood lead levels previously believed to be safe. In 2012, it lowered its reference level for lead in the blood of children under 6 years of age to 5 micrograms of lead per deciliter of blood. On January 13, 2017, HUD amended the Lead Safe Housing Rule at 24 CFR Part 35 to align with the updated guidance from the Centers for Disease Control and Prevention. According to the Centers for Disease Control and Prevention, at least 4 million U.S. households have children living in them that are being exposed to high levels of lead.

HUD's public housing program was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. Public housing comes in all sizes and types, from scattered single-family houses to highrise apartments. Nationwide there are approximately 1.2 million households residing in public housing developments that are owned and operated by local public housing agencies. The Housing Choice Voucher program allows very low-income families to choose and lease safe, decent, and affordable privately owned rental housing and is administered by public housing agencies. Nationwide there are approximately 2.2 million households assisted by the Housing Choice Voucher program. Nationwide, there are about 3,800 public housing agencies that administer HUD programs.

HUD's Office of Lead Hazard Control and Healthy Homes is responsible for rulemaking, evaluating overall performance, providing technical guidance, and imposing sanctions. The Office of Public and Indian Housing's Office of Field Operations oversees the regional and field offices and provides guidance and directives to its field staff regarding HUD oversight. Regional and field staff are responsible for implementing the oversight activities and controls. The Office of Field Operations and its regional and local field offices are responsible for coordinating with

and ensuring compliance of individual public housing agencies, and transmitting reliable program information to the Office of Lead Hazard Control and Healthy Homes.

The audit objective was to determine whether HUD had adequate oversight of lead-based paint reporting and remediation in its public housing and Housing Choice Voucher programs.

Results of Audit

Finding: HUD Lacked Adequate Oversight of Lead-Based Paint Reporting and Remediation in Its Public Housing and Housing Choice Voucher Programs

HUD lacked adequate oversight of lead-based paint reporting and remediation in its public housing and Housing Choice Voucher programs. Specifically, it did not (1) ensure that public housing agencies appropriately reported and mitigated cases involving children under 6 years of age with environmental intervention blood lead levels (EIBLL) in its public housing program, (2) establish policies and procedures for public housing agencies to report a child with an EIBLL who resided in a household assisted under its Housing Choice Voucher program and ensure that identified lead hazards had been mitigated, and (3) ensure that public housing agencies completed required lead-based paint inspections. In addition, HUD did not require public housing agencies to report and mitigate cases involving children with EIBLLs residing in public or assisted housing built after 1977. These weaknesses occurred because HUD lacked adequate policies, procedures, and controls for monitoring public housing agencies for compliance with its lead requirements. It also failed to determine the risk of lead exposure to children in public housing or assisted housing built after 1977. As a result, HUD lacked assurance that public housing agencies properly identified and mitigated lead hazards, thus increasing the potential of exposing children to lead poisoning due to unsafe living conditions.

HUD Lacked Adequate Oversight of Public Housing Agencies' Reporting and Remediation of Lead Hazards

HUD required public housing agencies to report cases involving children with EIBLLs in a public housing unit to the local HUD regional or field office.[1] HUD's field staff should then determine a protocol for collecting, processing, tracking, and responding to these notifications. They should also retain any documentation verifying the follow up with public housing agencies.[2] In addition, according to HUD, the Office of Field Operations was responsible for tracking the cases reported by these offices and providing the information to the Office of Lead Hazard Control and Healthy Homes.

Of the 45 HUD regional or field offices, 24 did not have established policies and procedures for monitoring and handling cases involving children with EIBLLs in the public housing program. In addition, 29 field offices maintained tracking logs of cases reported by public housing agencies; however, the field offices did not always verify that corrective actions had been taken by the public housing agencies.

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[1] 24 CFR 35.1130(e)

[2] PIH Guidance on the Lead-Safe Housing Rule and Lead Disclosure Rule for Field Office Staff memorandum dated February 22, 2008.

In addition, HUD's Office of Field Operations did not always maintain complete and accurate records to effectively track cases involving children with EIBLLs. As of May 2017, the Office's consolidated report had identified 33 cases involving children with EIBLLs during our audit period of January 1, 2014, through December 31, 2016. However, HUD's consolidated report did not correlate with the records maintained by its offices. For instance, the report showed that the Philadelphia office had six reported cases; however, the Philadelphia office could not provide corroborating documentation, such as a tracking log, and could not identify which public housing agencies had reported the cases or records of follow up. In addition, the consolidated report did not show reported cases for HUD's Chicago or Detroit offices; however, both offices maintained tracking logs, which identified children with EIBLLs.

Further, HUD's consolidated report did not contain detailed information. The report contained the number of cases reported and identified the applicable HUD field office. However, it did not identify the public housing agency that had reported the cases or provide information regarding the affected households. According to HUD, its field offices should not receive or track household and address information in an effort to protect the privacy of the affected households. Therefore, we contacted the field offices to identify the public housing agencies associated with the reported cases and then contacted the public housing agencies to obtain additional information. One of the public housing agencies we contacted could not provide records and did not know how many cases it had reported or which households had been impacted.

Public Housing Agencies Did Not Always Provide Support Showing That Cases Had Been Resolved or Appropriately Mitigated

Since HUD did not maintain complete and accurate records, we contacted more than 3,800 public housing agencies to determine the number of potential lead cases.[3] Of the more than 3,800 agencies, approximately 2,600 responded to our request for information.[4] The public housing agencies reported 84 potential cases[5] in public housing and 205 potential cases in the Housing Choice Voucher program during our audit period of January 1, 2014, through December 31, 2016.

For the public housing program, of the 84 potential cases involving households with a child under 6 years of age that had an EIBLL, we received information[6] for only 50 cases. The public housing agencies did not provide information regarding the remaining 34 reported cases.

We reviewed 15 of the 50 potential cases involving children with EIBLLs in the public housing program for compliance with HUD's requirements. Of the 15 cases, 3 (20 percent) had not been handled in accordance with HUD's requirements. Specifically, these cases lacked adequate

[3] Potential cases involving a child with an EIBLL do not reflect the actual number of cases in the programs as the agencies may not have accurately reported cases that would have required intervention under HUD's previous regulations. However, HUD has since lowered the threshold, thus the cases could now require action.
[4] We did not receive a response from approximately 1,200 public housing agencies, so there may be more cases.
[5] We were not able to reconcile the 84 reported potential cases with HUD's consolidated spreadsheet due to the lack of information.
[6] The public housing agency provided identifying household information, such as the address and unit number, if applicable, of the affected program household.

clearance reports that contained required information or lacked documentation showing that lead hazards had been corrected.[7]

For the Housing Choice Voucher program, although we received reports of 205 potential cases involving households with children with EIBLLs who resided in an assisted household, we received information for only 184 cases. The public housing agencies did not provide information regarding the remaining 21 reported cases. For this program, HUD did not require public housing agencies to notify the local HUD field offices of cases involving children with EIBLLs. However, the agencies were required to mitigate the cases in accordance with HUD's lead requirements. We reviewed 24 of the 184 potential cases involving a child who had an EIBLL. Of the 24 cases, we determined that 10 cases (42 percent) had not been handled in accordance with HUD's requirements. Specifically, the 10 cases had the following deficiencies:

- 8 assisted housing units lacked clearance reports that contained the required information or lacked documentation that the identified lead hazards had been corrected, and
- 2 assisted housing units that were not abated of lead hazards did not relocate the households in a timely manner.[8] In both cases, the time between when the public housing agency received notification of lead hazards and the relocation of the household exceeded 185 days.[9]

HUD Did Not Ensure That Lead-Based Paint Inspections Had Been Completed for Public Housing Developments

HUD required public housing developments built before 1978 to complete lead-based paint inspections by 2001.[10] HUD's Real Estate Assessment Center (REAC) reviewed lead-based paint inspections and certificates for public housing properties as part of its oversight monitoring reviews. However, REAC's review was limited to ensuring that the reports were maintained at the development, instead of determining whether the inspections were sufficient. Prior to May 2016, issues were reported to the public housing agency, the local field office, and the Office of Lead Hazard Control and Healthy Homes, but were not centrally tracked. In May 2016, the Office of Field Operations established a system to track and follow up with those public housing agencies that were reported as missing lead inspections and disclosure forms. Once informed of the issue by REAC, the Office informed the affected public housing agencies that they must send the required missing inspection reports to HUD. According to the Office, between January 1, 2017 and January 31, 2018, it had received review results for 2,707 public housing

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[7] HUD regulations at 24 CFR 35.1340(c) state that when clearance is required, the designated party must ensure that a clearance report is prepared, which provides documentation of the hazard reduction or maintenance activity as well as the clearance examination.

[8] HUD's regulations at 24 CFR 35.1225(c) state that within 30 days after receiving the risk assessment report, the owner must complete the reduction of identified lead-based paint hazards or the unit is in violation of housing quality standards. Prolonged exposure of children with lead poisoning to lead hazards represents a serious health concern.

[9] It took 198 days from the date of the environmental risk assessment for one household to be relocated. For the other household, it took 321 days from the date of the environmental risk assessment to be relocated; however, only 185 days from when the public housing agency was first notified of the EIBLL status.

[10] 24 CFR 35.1115(a).

developments,[11] thus far. Of the 2,707 developments, the associated public housing agencies' had not provided evidence of an initial inspection or of exemption from the requirement for 441.

As of February 2018, public housing agencies for 219 of the 441 developments had provided inspection reports; however, some of the public housing agencies had completed the lead inspections only after being informed of the noncompliance by HUD. The public housing agencies for the remaining 222 public housing developments had yet to provide support that (1) the initial lead-based paint inspections had been completed, (2) the development was exempt from the requirement,[12] or (3) an inspection had recently been completed.

In addition, neither REAC nor the Office of Field Operations had reviewed the inspection reports provided by the public housing agencies for sufficiency. HUD officials cited a lack of necessary expertise as the reason for the lack of such reviews. In 2017, HUD had begun training its employees to evaluate the lead inspection reports and was implementing new reviews and controls to ensure compliance with its updated requirements.

Reporting and Remediation of Lead-Based Paint Hazards in Housing Units Built After 1977 Were Not Required

The use of lead-containing paint in residential properties has been banned since 1978. In implementing the Lead-Based Paint Poisoning Prevention Act, as amended, and the Lead-Based Paint Hazard Reduction Act of 1992. HUD created regulations at 24 CFR Part 35 to specifically target lead-based paint requirements for housing built before 1978. However, HUD's regulations, which require the public housing agency to test and mitigate lead, do not apply to public or assisted housing built after 1977, even if the public housing agency is notified that a program household has a child under the age of 6 with an EIBLL.

During our audit, public housing agencies reported three program households with a child who had an elevated blood lead level residing in housing built after 1977.[13] Two of the three children resided in public housing, and the remaining child was a member of a household assisted under HUD's Housing Choice Voucher program. For the two children who resided in public housing, after they were diagnosed with lead poisoning, the public housing agencies performed limited lead testing of the associated units in the public housing properties and provided documentation showing that the units more than likely contained lead-based paint.[14] However, since the public housing properties had been built after 1977, HUD's requirements for a thorough environmental

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[11] Public housing agencies' public housing programs, collectively, consists of more than 7,000 developments.
[12] Exemptions from the inspection requirements included units built after 1977, zero-bedroom dwelling units, and housing for the elderly or a residential property designated exclusively for persons with disabilities, except if a child less than age 6 years of age resides or is expected to reside in the dwelling unit.
[13] An elevated blood lead level of 5 micrograms per deciliter of blood is a level below the required intervention by HUD's regulations; however, action could still be required based on State and local requirements. In 2017, HUD modified its regulations and adopted the elevated blood lead level (instead of the EIBLL) as the new level requiring intervention.
[14] The inspections for both housing units included a dust swab test, which identified the presence of some lead. However, the results determined that the allowable lead content was within the acceptable limit.

evaluation,[15] abatement of lead hazards, or relocation of the households did not apply. For the child residing in housing assisted under the Housing Choice Voucher program, testing for lead-based paint was not performed or required.

HUD Lacked Adequate Policies, Procedures, and Controls

HUD lacked adequate policies, procedures, and controls for monitoring public housing agencies for compliance with its lead requirements. Specifically, it did not ensure that its field offices had policies and procedures for monitoring public housing agencies for compliance with its reporting and remediation requirements. In addition, HUD's Office of Field Operations did not reconcile or validate the data received by the field offices to ensure consistency in reporting.

Further, HUD did not establish policies and procedures for public housing agencies to report a child with an EIBLL who resided in a unit assisted under its Housing Choice Voucher program to ensure that it did not pay assistance for unsafe housing units. HUD relied on the public housing agencies and the owners of the assisted housing units to comply with its lead requirements without providing adequate oversight. It also did not ensure that it actively followed up with public housing agencies that had not provided evidence of required lead-based paint inspections, nor had HUD established procedures for reviewing the required lead-based paint inspections for sufficiency. It also failed to determine the risk of lead exposure in children under 6 years of age residing in public housing or assisted housing built after 1977 as housing built after that date was considered to be lead free and was not included a part of target housing in the requirements of 24 CFR Part 35.[16]

HUD Had Revised Its Policies and Procedures for Lead-Based Paint Oversight

In February 2017, HUD updated the requirements of 24 CFR Part 35 and implemented new oversight measures[17] in conjunction with the updates. The changes addressed many of the deficiencies identified during the audit. Changes to 24 CFR Part 35 included

- adopting the elevated blood lead levels published by the U.S Department of Health and Human Services of 5 micrograms per deciliter of blood,
- requiring the reporting of elevated blood lead level cases in both the public and assisted housing,

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[15] According to HUD's Guidelines for Evaluation and Control of Lead-Based Paint Hazards in Housing, lead paint hazard evaluations for children with environmental intervention blood lead levels should include a laboratory analysis of paint chip samples or the use of a portable XRF lead-based paint analyzer. However, these additional tests were not required for properties built after 1977.

[16] Target housing was defined by Congress as any housing constructed before 1978, except housing for the elderly or persons with disabilities or any zero-bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing) as part of the Residential Lead-Based Paint Hazard Reduction Act of 1992. Therefore, the definition of target housing was not determined by HUD.

[17] These changes were made and enacted after the scope of our audit and were not a result of the audit. Because these changes were recently enacted and HUD was still in the process of implementing new oversight measures, we were not able to evaluate the implementation of the changes.

- implementing a system to track and provide oversight of public housing agencies that report cases involving children with elevated blood lead levels,[18] and
- performing quality reviews of lead-based paint assessments.

Conclusion

HUD lacked adequate policies, procedures, and controls for monitoring public housing agencies for compliance with its lead requirements. It also failed to determine the risk of lead exposure to children under the age of 6 in public housing or assisted housing built after 1977. As a result, HUD lacked assurance that public housing agencies properly identified and mitigated lead hazards, thus increasing the potential of exposing children to lead poisoning due to unsafe living conditions.

Recommendations

We recommend that the General Deputy Assistant Secretary for Public and Indian Housing

1A. Obtain documentation from the remaining 55 potential cases (34 cases in the public housing program + 21 cases in the Housing Choice Voucher program) reported by the public housing agencies that failed to provide supporting documentation to determine compliance with HUD's requirements.

1B. Obtain documentation from the remaining 195 potential cases involving children with EIBLLs reported by the public housing agencies (35 reported cases in the public housing program + 160 reported cases in the Housing Choice Voucher program) that we did not review during the audit to determine whether the public housing agencies and owners, as applicable, complied with HUD's requirements or whether action is required under the requirements.

1C. Require the public housing agencies to support that the lead hazards were appropriately abated for the 11 cases (3 public housing program + 8 Housing Choice Voucher program) that lacked adequate clearance reports or lacked documentation showing that the identified lead hazards had been corrected.

1D. Ensure that the owners for the two Housing Choice Voucher program units, in which the families were relocated and abatement was not performed, do not provide housing for families with children under 6 years of age until the lead hazards are abated.

1E. Obtain documentation of a lead-based paint inspection or exemption for the 222 public housing developments that failed to provide evidence of compliance with HUD's lead-based paint inspection requirements.

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[18] Although HUD had implemented a new tracking system, the new tracking system would not show or send notifications when items were due or missing. It also would maintain and track only newly reported cases as of July 2017.

1F. Work with the Office of Lead Hazard Control and Healthy Homes to update HUD's regulations to expand the inspection and abatement requirements of 24 CFR Part 35 to housing completed after 1977 in cases in which a child with an elevated blood lead level is reported.

1G. Implement adequate procedures and controls at HUD's field offices to ensure that requirements of 24 CFR Part 35 are followed by public housing agencies, including monitoring the public housing agencies to ensure that required actions are appropriately completed and performed in a timely manner.

Scope and Methodology

We performed our audit work from April 2017 through March 2018 at the HUD Office of Inspector General's (OIG) offices located in Chicago, IL, Columbus, OH, Detroit, MI, and other locations as appropriate. The audit covered the period January 1, 2014, through December 31, 2016, but was expanded as necessary.

To accomplish our objective, we reviewed

- Applicable laws, HUD regulations, and program requirements, including 42 U.S.C. (United States Code) 1437, 4822, 4851, and 4852; the United States Housing Act of 1937 as amended; HUD's program requirements at 24 CFR Part 35; U.S. Department of Health and Human Services program regulations at 45 CFR Parts 160 and 164; Environmental Protection Agency regulations at 40 CFR 745.227; Notice PIH 2017-13; HUD's program Guidelines for Evaluation and Control of Lead-Based Paint Hazards in Housing; HUD's Compliance Toolkit, Housing Choice Voucher Program; PIH Guidance on the Lead-Safe Housing Rule and Lead Disclosure Rule for Field Office Staff Memorandum dated February 22, 2008.
- Protocol among the Office of Public and Indian Housing/Office of Field Operations, the Office of Field Policy and Management, and the Office of Lead Hazard Control and Healthy Homes.
- HUD's policies and procedures for lead-based paint oversight.
- HUD's records and reports regarding EIBLL reporting and lead-based paint inspections.
- Public housing agency support documentation, including lead-based paint inspection reports, environmental evaluations, and clearance reports.
- Information about public housing agencies and their public housing properties in HUD's systems, such as the Inventory Management System-Public and Indian Housing Information Center.

We also interviewed management and staff from the Centers for Disease Control and Prevention and HUD.

Sampling Information

We sent out survey questionnaires to more than 3,800 public housing agencies regarding known cases involving a child with an EIBLL. We received a response from approximately 2,600 of the more than 3,800 public housing agencies. Of the approximately 2,600 public housing agencies, 28 reported 84 potential cases involving a child with an EIBLL for the public housing program and 78 reported 205 potential cases for the Housing Choice Voucher program.

We requested additional information and documentation for the 84 cases in the public housing program and the 205 cases in the Housing Choice Voucher program. However, after multiple attempts, we received information and documentation for only 50 of the 84 public housing cases (from 24 public housing agencies) and 184 of the 205 Housing Choice Voucher program cases (from 64 public housing agencies).

We randomly selected for review the supporting documentation related to 11 of the 50 public housing cases and 19 of the 184 Housing Choice Voucher program cases and evaluated the support documentation against the relevant criteria to determine whether the actions taken by the public housing agency or owner complied with HUD's requirements or whether additional action may be required under the updated requirements. We chose a random sample due to the uniqueness of the cases and because a 100 percent review of the case files was not feasible since some public housing agencies did not provide requested information, which obstructed our ability to determine a universe. We also reviewed a nonrepresentative sample of an additional 4 public housing cases and 5 Housing Choice Voucher program cases that we considered to be of interest.[19] As a result of our sampling methods, the results cannot be projected.

To achieve our audit objective, we relied in part on information maintained in HUD's Inventory Management System-Public and Indian Housing Information Center. Although we did not perform a detailed assessment of the reliability of the data, we performed a minimal level of testing and found the data to be adequately reliable for our purposes.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

[19] These additional cases were selected based on our knowledge of potential lead hazards and the completion dates of the housing units.

Internal Controls

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Effectiveness and efficiency of operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Compliance with applicable laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiencies

Based on our review, we believe that the following items are significant deficiencies:

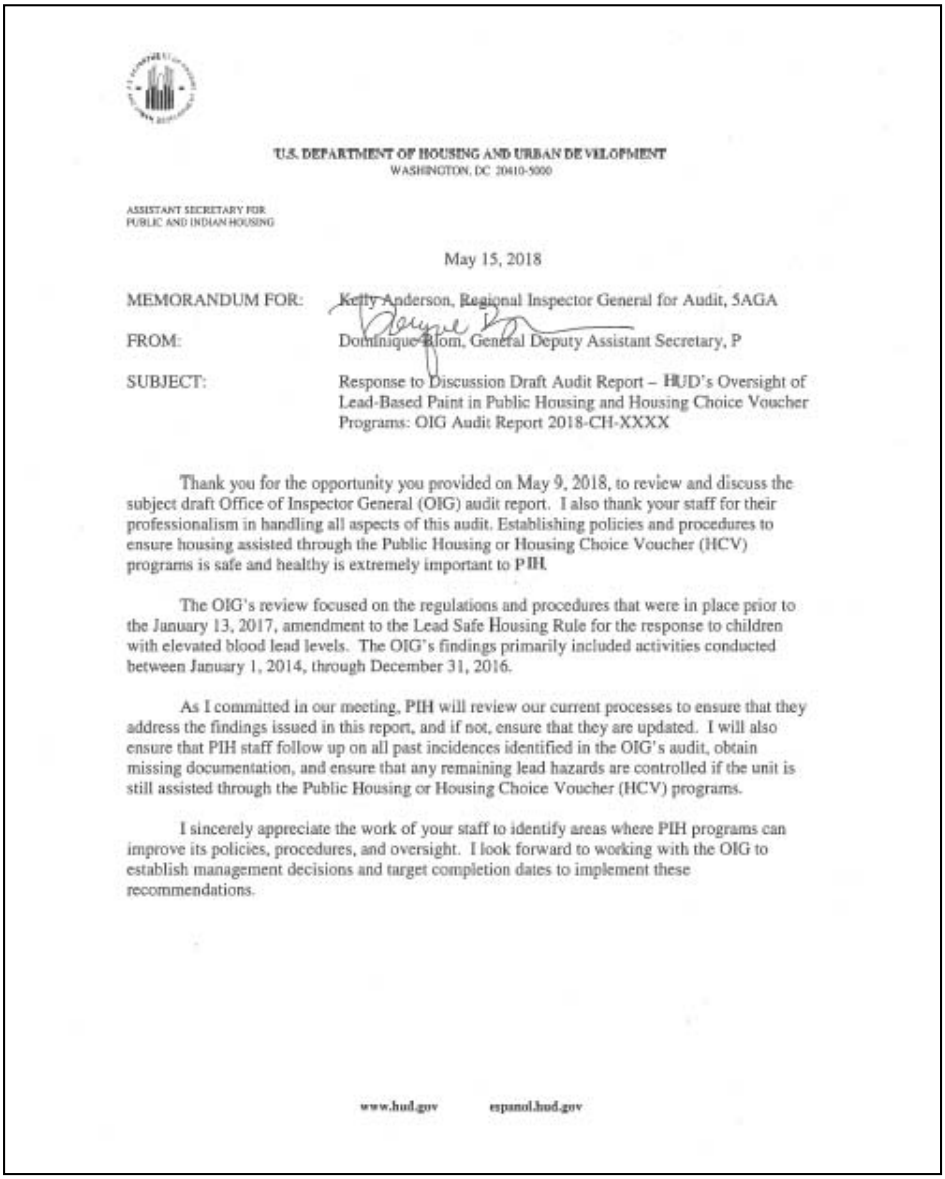
- HUD lacked adequate policies, procedures, and controls for monitoring public housing agencies for compliance with its lead requirements (finding).
- HUD failed to determine the risk of lead exposure for households with children under 6 years of age in public housing or assisted housing built after 1977 (finding).

Appendixes

Appendix A

Ref to OIG Evaluation

Auditee Comments and OIG's Evaluation



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

ASSISTANT SECRETARY FOR
PUBLIC AND INDIAN HOUSING

May 15, 2018

MEMORANDUM FOR: Kelly Anderson, Regional Inspector General for Audit, 5AGA

FROM: Dominique Blom, General Deputy Assistant Secretary, P

SUBJECT: Response to Discussion Draft Audit Report – HUD's Oversight of Lead-Based Paint in Public Housing and Housing Choice Voucher Programs: OIG Audit Report 2018-CH-XXXX

Thank you for the opportunity you provided on May 9, 2018, to review and discuss the subject draft Office of Inspector General (OIG) audit report. I also thank your staff for their professionalism in handling all aspects of this audit. Establishing policies and procedures to ensure housing assisted through the Public Housing or Housing Choice Voucher (HCV) programs is safe and healthy is extremely important to PIH.

Comment 1

The OIG's review focused on the regulations and procedures that were in place prior to the January 13, 2017, amendment to the Lead Safe Housing Rule for the response to children with elevated blood lead levels. The OIG's findings primarily included activities conducted between January 1, 2014, through December 31, 2016.

As I committed in our meeting, PIH will review our current processes to ensure that they address the findings issued in this report, and if not, ensure that they are updated. I will also ensure that PIH staff follow up on all past incidences identified in the OIG's audit, obtain missing documentation, and ensure that any remaining lead hazards are controlled if the unit is still assisted through the Public Housing or Housing Choice Voucher (HCV) programs.

Comment 1

I sincerely appreciate the work of your staff to identify areas where PIH programs can improve its policies, procedures, and oversight. I look forward to working with the OIG to establish management decisions and target completion dates to implement these recommendations.

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OIG Evaluation of Auditee Comments

Comment 1 We agree that our review focused on the regulations and procedures that were in place before January 13, 2017, and acknowledge that HUD has made significant improvements. We commend HUD on taking action to improve the regulations and oversight for its programs. We look forward to working with HUD during the audit resolution process in regard to any additional oversight that may be needed.

Appendix B

Federal Requirements

United States Code at 42 U.S.C. 4822 requires the Secretary of Housing and Urban Development to establish procedures to eliminate as far as practicable the hazards of lead-based paint poisoning with respect to any existing housing, which may present such hazards and which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary or otherwise receives more than $5,000 in project-based assistance under a Federal housing program. Beginning on January 1, 1995, such procedures should apply to all such housing that constitutes target housing, as defined in section 4851b of this title, and should provide for appropriate measures to conduct risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. "…(B) periodic risk assessments and interim controls in accordance with a schedule determined by the Secretary, the initial risk assessment of each unit constructed prior to 1960 to be conducted not later than January 1, 1996, and, for units constructed between 1960 and 1978—

(i) not less than 25 percent must be performed by January 1, 1998;

(ii) not less than 50 percent must be performed by January 1, 2000; and

(iii) the remainder must be performed by January 1, 2002."

HUD's regulations at 24 CFR 35.1115(a) state that a lead-based paint inspection must be conducted in all public housing unless a lead-based paint inspection that meets the conditions of subsection 35.165(a) has already been completed. If a lead-based paint inspection was conducted by a lead-based paint inspector who was not certified, the public housing agency should review the quality of the inspection, in accordance with quality control procedures established by HUD, to determine whether the lead-based paint inspection has been properly performed and the results are reliable. Lead-based paint inspection of all housing to which this subpart applies must be completed not later than September 15, 2000.

United States Code at 42 U.S.C. 4851b defines target housing as any housing constructed before 1978, except housing for the elderly or persons with disabilities or any zero-bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing.

United States Code at 42 U.S.C. 1437d(f)(1) states that each contract for contributions for a public housing agency must require that the agency maintain its public housing in a condition that complies with standards, which meet or exceed the housing quality standards established under paragraph (2).

United States Code at 42 U.S.C. 1437d (f) (2) states that the Secretary must establish housing quality standards under this paragraph, which ensure that public housing dwelling units are safe and habitable. Such standards should include requirements relating to habitability, including maintenance, health and sanitation factors, condition, and construction of dwellings.

HUD's regulations at 24 CFR 35.110 define EIBLLs as a confirmed concentration of lead in whole blood equal to or greater than 20 micrograms of lead per deciliter for a single test or 15-19 micrograms of lead per deciliter in two tests taken at least 3 months apart.[20]

HUD's regulations at 24 CFR 35.110 define a lead-based paint hazard as any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces and that would result in adverse human health effects.

HUD's regulations at 24 CFR 35.115(a) state that subparts B through R of this part do not apply to the following: (1) a residential property for which construction was completed on or after January 1, 1978, or in the case of jurisdictions, which banned the sale or residential use of lead-containing paint before 1978, an earlier date as HUD may designate; (2) a zero-bedroom dwelling unit, including a single-room-occupancy dwelling unit; (3) housing for the elderly or a residential property designated exclusively for persons with disabilities, except this exemption should not apply if a child less than 6 years of age resides or is expected to reside in the dwelling unit (see definitions of "housing for the elderly" and "expected to reside" in 24 CFR 35.110); and (4) residential property found not to have lead-based paint by a lead-based paint inspection conducted in accordance with section35.1320(a). Results of additional test(s) by a certified lead-based paint inspector may be used to confirm or refute a previous finding.

HUD's regulations at 24 CFR 35.1100 state that the purpose of this subpart L is to establish procedures to eliminate as far as practicable lead-based paint hazards in residential property assisted under the U.S. Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) but not including housing assisted under Section 8 of the 1937 Act.

HUD's regulations at 24 CFR 35.1115(a) state that a lead-based paint inspection must be conducted in all public housing unless a lead-based paint inspection that meets the conditions of section 35.165(a) has already been completed. Lead-based paint inspection of all housing to which this subpart applies should be completed not later than September 15, 2000.

HUD's regulations at 24 CFR 35.1120(a) state that each public housing agency must, in accordance with section 35.1325, abate all lead-based paint and lead-based paint hazards identified in the evaluations conducted under 24 CFR 35.1115. The public housing agency should abate lead-based paint and lead-based paint hazard in accordance with 24 CFR 35.1325 during the course of physical improvements conducted under modernization.

HUD's regulations at 24 CFR 35.1120(b) state that in all housing for which abatement of all lead-based paint and lead-based paint hazards required in paragraph (a) of this section has not yet occurred, each public housing agency must conduct interim controls, in accordance with 24 CFR 35.1330, of the lead-based paint hazards identified in the most recent risk assessment.

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[20] The regulations cited in this appendix were those in effect during our audit scope. Users should refer to the current version of the Code of Federal Regulations and should consult with their local HUD office for guidance on implementation of the current regulations.

HUD's regulations at 24 CFR 35.1130(a) state that within 15 days after being notified by a public health department or other medical health care provider that a child of less than 6 years of age living in a public housing development has been identified as having an EIBLL, the public housing agency must complete a risk assessment of the dwelling unit in which the child lived at the time the blood was last sampled and of common areas servicing the dwelling unit, despite the provisions of 24 CFR 35.1115(b). The risk assessment should be conducted in accordance with 24 CFR 35.1320(b) and is considered complete when the public housing agency receives the risk assessment report.

HUD's regulations at 24 CFR 35.1130(c) state that within 30 days after receiving the report of the risk assessment conducted under paragraph (a) of this section or the evaluation from the public health department, the public housing agency must complete the reduction of lead-based paint hazards identified in the risk assessment in accordance with 24 CFR 35.1325 or 24 CFR 35.1330. Hazard reduction is considered complete when clearance is achieved in accordance with 24 CFR 35.1340 and the clearance report states that all lead-based paint hazards identified in the risk assessment have been treated with interim controls or abatement or the local or State health department certifies that lead-based paint hazard reduction is complete.

HUD's regulations at 24 CFR 35.1130(e) state that the public housing agency must report the name and address of a child identified as having an EIBLL to the public health department within 5 working days of being so notified by any other medical health care professional. The public housing agency should also report each known case involving a child with an EIBLL to the HUD field office.

HUD's regulations at 24 CFR 35.1130(f) state that if the risk assessment conducted under paragraph (a) of this section identifies lead-based paint hazards and previous evaluations of the building conducted under section 35.1320 did not identify lead-based paint or lead-based paint hazards, the public housing agency must conduct a risk assessment of other units of the building in accordance with 24 CFR 35.1320(b) and should conduct interim controls of identified hazards in accordance with the schedule provided in 24 CFR 35.1120(c).

PIH Guidance on the Lead-Safe Housing Rule and Lead Disclosure Rule for Field Office Staff memorandum dated February 22, 2008, section 6.2, states that additionally, for the public housing program only, public housing agencies are required to report to the HUD field office each known case involving a child with an EIBLL (section 35.1130(e)). Although the regulations do not specify a period for action, information should be sent promptly. Field office staff should determine a protocol for collecting, processing, tracking, and responding to these notifications. Appendix 2 contains a sample discussion guide that field office staff may use when following up with public housing agencies that have reported an EIBLL child. The field office should retain any documentation verifying the followup with public housing agencies consistent with records retention policies.

HUD's regulations at 24 CFR 35.1200(a) state that the purpose of this subpart M is to establish procedures to eliminate as far as practicable lead-based paint hazards in housing occupied by families receiving tenant-based rental assistance including the Section 8 Housing Choice Voucher program.

HUD's regulations at 24 CFR 35.1225(a) state that within 15 days after being notified by a public health department or other medical health care provider that a child of less than 6 years of age living in an assisted dwelling unit has been identified as having an EIBLL, the designated party must complete a risk assessment of the dwelling unit in which the child lived at the time the blood was last sampled and of the common areas servicing the dwelling unit. When the risk assessment is complete, the designated party must immediately provide the report of the risk assessment to the owner of the dwelling unit.

HUD's regulations at 24 CFR 1225(c) state that within 30 days after receiving the risk assessment report from the designated party or the evaluation from the public health department, the owner must complete the reduction of identified lead-based paint hazards in accordance with 24 CFR 35.1325 or 24 CFR 35.1330. Hazard reduction is considered complete when clearance is achieved in accordance with 24 CFR 35.1340 and the clearance report states that all lead-based paint hazards identified in the risk assessment have been treated with interim controls or abatement or when the public health department certifies that the lead-based paint hazard reduction is complete. If the owner does not complete the hazard reduction required by this section, the dwelling unit is in violation of housing quality standards.

HUD's regulations at 24 CFR 35.1330 state that interim controls of lead-based paint hazards include paint stabilization of deteriorated paint, treatments for friction and impact surfaces where levels of lead dust are above the levels specified in 24 CFR 35.1320, dust control, and lead-contaminated soil control. Paragraph (a)(1) states that only those interim control methods identified as acceptable methods in a current risk assessment report should be used to control identified hazards.

HUD's regulations at 24 CFR 35.1340 (b)(2) state, "(i) Clearance examinations should include a visual assessment, dust sampling, submission of samples for analysis for lead in dust, interpretation of sampling results, and preparation of a report."

HUD's regulations at 24 CFR 35.1340(c) state that when clearance is required, the designated party should ensure that a clearance report is prepared that provides documentation of the hazard reduction or maintenance activity as well as the clearance examination. When abatement is performed, the report should be an abatement report in accordance with 40 CFR 745.227(e)(10). When another hazard reduction or maintenance activity requiring a clearance report is preformed, the report should include the following information: "(1) The address of the residential property and, if only part of a multifamily property is affected, the specific dwelling units and common areas affected. (2) the following information on the clearance examination: (i) The date(s) of the clearance examination; (ii) The name, address, and signature of each person performing the clearance examination, including certification number; (iii) The results of the visual assessment for the presence of deteriorated paint and visible dust, debris, residue, or paint chips; (iv) The results of the analysis of dust samples in micrograms per square foot, by location of sample; and (v)The name and address of each laboratory that conducted the analysis of the dust samples, including the identification number for each laboratory recognized by the Environmental Protection Agency under section 505(b) of the Toxic Substances Control Act. (3) The following information on the hazard reduction or maintenance activity for which clearance

was performed: (i) The start and completion dates of the hazard reduction or maintenance activity; (ii) The name and address of each firm or organization conducting the hazard reduction or maintenance activity and the name of each supervisor assigned; (iii) A detailed written description of the hazard reduction or maintenance activity, including the methods used, locations of exterior surfaces, interior rooms, common areas, and/or components where the hazard reduction activity occurred, and any suggested monitoring of encapsulants or enclosures; and (iv) If soil hazards were reduced, a detailed description of the hazard reduction activity and the method(s) used."

Environmental Protection Agency regulations at 40 CFR 745.227(e)10 state that an abatement report must be prepared by a certified supervisor or project designer. The abatement report should include the following information: "(i) Start and completion dates of abatement. (ii) The name and address of each certified firm conducting the abatement and the name of each supervisor assigned to the abatement project. (iii) The occupant protection plan prepared pursuant to paragraph (e)(5) of this section. (iv) The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing. (v) The results of clearance testing and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analyses. (vi) A detailed written description of the abatement, including abatement methods used, locations of rooms and/ or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures."

According to chapter 5, section II.F.2, of HUD's Guidelines for Evaluation and Control of Lead-Based Paint Hazards in Housing, lead paint hazard evaluations for children with EIBLLs should include a laboratory analysis of paint chip samples or the use of a portable XRF lead-based paint analyzer.