



U.S. Department of Housing and Urban Development
Office of Inspector General
Pacific/Hawaii District
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Audit Memorandum
99-SF-111-0801

March 26, 1999

MEMORANDUM FOR: William C. Apgar, Assistant Secretary for Housing - Federal Housing Commissioner, H

FROM: Glenn S. Warner, District Inspector General for Audit, 9AGA

SUBJECT: Corrective Action Verification
Multi-Region Audit of Section 236 Program
Excess Rental Income Collections
Audit Report No. 95-SF-111-0001

INTRODUCTION

We completed a corrective action verification (CAV) of HUD's actions to implement the 17 recommendations contained in the subject audit report. The purpose of the CAV was to determine whether the audit recommendations have been implemented and the deficiencies reported in the audit report corrected.

SUMMARY

We found that HUD did not satisfactorily implement 11 of the 17 audit recommendations. Therefore, we are reopening recommendations contained in Finding 2 (2A, 2B, 2D, 2E, 2F, 2G) and Finding 3 (3A, 3B, 3C, 3D, and 3E). The reported deficiencies that prompted those audit recommendations have not been corrected. In fact, the uncollected reported excess income increased from almost \$15 million reported in the report to over \$18 million at the time of this CAV. Further, the numbers of missing excess income reports increased from about 10,000 to nearly 14,000, so it is likely that unreported excess income has also increased. The agreed upon recommendations, if implemented, would have decreased both amounts in our original report. Officials at all four field offices and Headquarters, where we performed the CAV, attributed the lack of action to staffing changes associated with HUD's reorganization.

Corrective actions for recommendations 1A, 1B, 1C, 1D, 1E, and 2C have been implemented; therefore, these recommendations should remain closed.

BACKGROUND

We reported the following three findings in our December 21, 1994 Multi-Region Audit of Section 236 Program Excess Rental Income Collections. (Report No. 95-SF-111-0001)

- HUD Needs to Pursue Changes in the Method of Calculating Excess Income (Finding 1)
- HUD Needs to Take More Aggressive Action to Collect About \$14.9 Million in Overdue Excess Income (Finding 2); and
- Section 236 Projects Owe HUD at Least \$829,000 in Unrecorded Excess Income. (Finding 3)

We closed the audit recommendations based on three memorandums as follows:

- Director, Office of Multifamily Housing Management's January 25, 1995 memorandum to all Multifamily Housing Directors, emphasizing the need for the offices to collect all delinquent payments and monthly reports. The memorandum also advised the directors of the availability of DARTS as an effective monitoring tool (Findings 2 and 3).
- Assistant Secretary for Housing's March 7, 1995 memorandum to the Acting District Inspector General for Audit, Pacific/Hawaii, explaining that when the proposed administrative regulation to change the method of calculating excess rental income becomes law, it would satisfy the recommendations in Finding 1. The memorandum also provided explanatory comments relevant to the recommendations in Findings 2 and 3.
- Acting Deputy Assistant Secretary for Multifamily Housing Programs' March 31, 1996 memorandum to the Acting Assistant Inspector General for Audit, stating that the field offices have been instructed to implement the recommendations contained in Finding 3.

OBJECTIVE, SCOPE AND METHODOLOGY

Our objective was to determine whether HUD satisfactorily implemented all of the audit recommendations and corrected the deficiencies identified in the audit report.

We interviewed appropriate multifamily program officials and reviewed pertinent documentation in HUD Headquarters and at the same field offices (Los Angeles, Ca., San Francisco, Ca., Richmond, Va., and Washington, DC) where we had performed the original audit work. Our CAV was conducted between September and November 1998.

REVIEW RESULTS

Our review disclosed that HUD did not satisfactorily implement 11 of the 17 recommendations. During our visit at HUD Headquarters' Office of Multifamily Housing, we found that action officials did not maintain sufficient information to support the extent to which the field offices had implemented the recommendations. Therefore, we performed additional field work at the four field offices (Los Angeles, Ca., San Francisco, Ca., Richmond, Va., and Washington, DC) to determine the extent to which the recommendations had been implemented. We found that the deficiencies reported in Findings 2 and 3 continue to exist because the field offices had not taken sufficient actions to correct them.

Details pertaining to each finding are:

Finding 1 - HUD Needs to Pursue Changes in the Method of Calculating Excess Income

Recommendations for Finding 1 required HUD to change its procedures in the method of calculating excess rental income, including obtaining needed legislation to amend the National Housing Act and implement the changes.

The Assistant Secretary for Housing-Federal Housing Commissioner sent a March 7, 1995 memorandum to the Acting District Inspector General for Audit, Pacific/Hawaii, explaining that once the proposed rule to change the method of calculating excess rental income becomes law, it would satisfy the audit recommendations. Based on this memorandum, we closed all five recommendations contained in Finding 1.

The U. S. Congress enacted Public Law 104-204 on September 26, 1996, amending the National Housing Act of 1937 to change the excess income calculation consistent with our audit recommendations. HUD Notice H 98-10, Calculating and Retaining Section 236 Excess Income, issued on February 26, 1998, was provided to all Section 236 Project Mortgages, Managing Agents, and HUD Asset Management staff in order to implement the changes. The Notice also included the required changes for calculating excess income on the form HUD-93104, Monthly Report of Excess Income. Thus, recommendations 1A, 1B, 1C, 1D, and 1E have been satisfied and should remain closed.

Finding 2 - HUD Needs to Take More Aggressive Action to Collect About \$14.9 Million In Overdue Excess Income

Recommendations for Finding 2 required HUD to develop an aggressive strategy to collect \$14.9 million in overdue excess income and to make staff monitoring of excess income reports and payments, through the use of Departmental Accounts Receivable Tracking/Collection System (DARTS), a high priority. Specifically, recommendations 2A through 2G required HUD's Office of Multifamily Housing to:

- 2A. Develop an aggressive strategy, working with OFA as necessary, to collect the over \$14 million in delinquent excess income due HUD.
- 2B. Issue demand letters to each project with outstanding debts to bring their delinquent accounts current.
- 2C. Delegate to the field offices the authority to charge interest on all accounts due.
- 2D. Require all field offices to charge interest on all accounts due.
- 2E. Inform Section 236 projects to discontinue providing copies of form HUD-93104, Monthly Excess Income Reports to the field offices.
- 2F. Require field office Directors, Housing Management Division, to consult with OFA in providing staff training on DARTS and make staff monitoring of excess income reports and payments, including the use of DARTS, a high priority.
- 2G. Ensure that field office staff send follow-up letters and/or make telephone contacts with project owners if the owners fail to remit delinquent excess income payments after OFA send the owners the automatic 30 and 60 day demand letters.

We closed the above recommendations based on a January 25, 1995 memorandum from the Director of the Office of Multifamily Housing Management to all Multifamily Housing Directors, emphasizing the need for the offices to collect all delinquent excess income due. The memorandum also advised the directors of the availability and use of DARTS as an effective monitoring tool.

A March 7, 1995 memorandum from the Assistant Secretary for Housing-Federal Housing Commissioner to OIG also reiterated that HUD Handbook 4350.1 REV-1, already had provisions for issuing demand letters to delinquent projects (Recommendation 2B); requiring all field offices to charge interest on all accounts due (Recommendation 2D); and ensuring that field office staff send follow-up letters to project owners that fail to remit delinquent excess income (Recommendation 2G).

Our discussions with program staff at HUD's Los Angeles, San Francisco, Richmond, and Washington, DC field offices, however, disclosed that they had not developed a strategy or made any specific efforts to collect the delinquent excess income due HUD (Recommendation 2A). In fact they were unaware of the January 25, 1995 memorandum or other notification instructing them to do so. Therefore, we believe that recommendations 2A through 2G (except recommendation 2C) have not been carried out.

Our comparison between the 1994 and 1998 DARTS reports showing excess income delinquencies, disclosed that excess rental income due HUD had grown from almost \$15 million to over \$18 million, a 22 percent increase since the time of our audit. Thus, rather than reducing the amount of delinquent excess income, the delinquency increased since the time of the audit.

We also found that Recommendation 2E requiring all field offices to discontinue providing copies of form HUD-93104 was not being followed. Los Angeles field office personnel were still collecting the reports and entering the data into a local database system because they did not have access to DARTS. The other three field offices were receiving some monthly reports from project owners but were not analyzing the reports or making follow-ups to collect reported excess income due.

Furthermore, none of the four field office staff received training on, or were using DARTS to monitor whether the Section 236 projects remitted payments due to HUD or submitted the monthly HUD 93104 reports to the lockbox contractor. Several staff members explained that they were not using DARTS because of problems accessing the program. At the Washington, DC field office, staff informed us that they were unaware of the availability of DARTS until our CAV. Consequently, they were unaware of projects that had delinquent excess income owed to HUD. HUD staff attributed the lack of action to staffing changes associated with HUD's reorganization and explained that they had to attend to other higher priority work.

Our review, therefore, concluded that recommendations 2A, 2B, 2D, 2E, 2F, and 2G, were not satisfactorily implemented and the problem reported in Finding 2 continues to exist. Recommendation 2C, however, had been implemented and should remain closed.

Finding 3 - Section 236 Projects Owe HUD At Least \$829,000 In Unrecorded Excess Income

Recommendations for Finding 3 required HUD field offices to monitor and ensure that project owners submit form HUD-93104 timely and promptly pay any excess income owed. Specifically, recommendations 3A through 3E required HUD's Office of Multifamily Housing to:

- 3A. Emphasize to the field offices the need to monitor and ensure the timely submission of form HUD-93104 and prompt payment of any excess income owed.

- 3B. Require the field office to verify with project owners whether the statistical information shown in the Monthly Financial Reports Not Received report is valid and accurate.
- 3C. Require field offices to identify those projects that are delinquent in submitting excess rental income forms after completing the verification in 3B.
- 3D. Require field offices to evaluate the feasibility of requiring those projects identified in 3C to submit the delinquent excess income forms.
- 3E. Require field offices to collect excess income due, or establish repayment plans for project owners identified in 3C.

The recommendations were closed, based on a January 25, 1995 memorandum from the Director, Office of Multifamily Housing Management to Multifamily Housing Directors at all field offices emphasizing the need for these offices to monitor and collect all delinquent excess rental income due.

In addition, a March 31, 1996 memorandum from the Acting Deputy Assistant Secretary for Multifamily Housing Programs to OIG stated that the field offices had been instructed to implement the recommendations contained in Finding 3.

Our discussions with staff at the four field offices disclosed that they had not made any specific efforts to obtain the delinquent HUD-93104 reports and were not aware of any memoranda from Headquarters, Office of Multifamily Housing instructing them to do so. HUD's Office of Multifamily Housing was unable to provide us with a copy of the instructions referred to in the March 31, 1996 memorandum from the Acting Deputy Assistant Secretary of Multifamily Housing Programs. Officials at Headquarters eventually concluded that apparently the instructions may never have been sent to the field offices.

Field Office staff explained that since they were not using DARTS, they were unaware of the status of projects' submission of excess income reports. Our comparison between the 1994 and 1998 DARTS reports showing the number of missing form HUD-93104 reports disclosed that the number of monthly reports that were not submitted to HUD had grown from 10,193 to 13,969, a 37 percent increase since the time of the audit. Therefore, unrecorded excess income has likely risen to an even higher amount. To illustrate, a recent multifamily mortgagor operations audit issued by OIG's Mid-Atlantic District, (Report No. 99-PH-212-1001) reported that as of September 1998, the project actually owed HUD \$586,929 in excess income instead of just \$125,910 shown in DARTS. That was because the project failed to submit all the required monthly excess income reports between October 1990 and July 1998.

Based on our review, we concluded that HUD had not implemented the audit recommendations for Finding 3; therefore, we are reopening recommendations 3A, 3B, 3C, 3D, and 3E.

* * * * *

In accordance with the Audits Management System (AMS) HUD Handbook 2000.06 REV-3, Chapter 8-1C, we are reopening Recommendations 2A, 2B, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, and 3E. Within 30 days, please prepare an action plan with target dates for implementing the corrective action. The plan should be provided to us for review and concurrence.

Should you, or your staff, have any questions, please call Ruben Velasco, Assistant District Inspector General for Audit at (213) 894-8016.

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