



U. S. Department of Housing and Urban Development

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**MEMORANDUM NO:
2003-NY-0801**

September 30, 2003

MEMORANDUM FOR: John C. Weicher, Assistant Secretary for Housing-Federal Housing
Commissioner, H

Alexander C. Malloy

FROM: Alexander C. Malloy, Regional Inspector General for Audit, 2AGA

SUBJECT: Corrective Action Verification
Asset Control Area Program
Audit Report Number 2002-NY-0001

INTRODUCTION

We performed a Corrective Action Verification review of the actions taken on the recommendations in our nationwide audit report on the U.S. Department of Housing and Urban Development's (HUD) Asset Control Area (ACA) Program, which was issued February 25, 2002 under Audit Case Number 2002-NY-0001. The review stemmed from a Senate Committee Report that requested an audit of HUD's compliance with Section 1303 of Public Law 107-206. Therefore, the objectives of the review were to determine whether HUD is in compliance with Section 1303 of Public Law 107-206, and to evaluate the status of HUD's management decisions on the findings in our audit report on the Asset Control Area Program.

METHODOLOGY AND SCOPE

To accomplish our objectives, we interviewed officials in HUD's Single Family Housing Division who monitor the ACA Program. Also, we reviewed the following documents: HUD's Management Decision Memorandum; Invitation Letters to Potential ACA Participants; HUD's April 2003 Report of Actions Taken to Implement HUD's Asset Control Area Program and to Enter Into ACA Agreements with Non-Profits and Local Governments; an August 2003 Report on Single Family Housing's ACA Program; Front End Risk Assessments on the Office of Single Family Housing, ACA Program; Compliance Audit Reviews of the original ACA participants; ACA Standard Operating Procedures; ACA Program Policy Statement; ACA Model Agreement; and Section 1303 of Public Law 107-206. The scope of our review covered actions taken by HUD between February 2002 and August 2003 to respond to the recommendations in our audit report on the ACA and to comply with Section 1303 of Public Law 107-206..

BACKGROUND

After we issued our nationwide audit report on the Asset Control Area Program on February 25, 2002, HUD announced plans to conduct a full review of the Asset Control Area Demonstration Program on April 5, 2002. Subsequently, an internal HUD task force was formed to gauge the program's effectiveness, prepare a program risk assessment, and develop formal program regulations.

In a memorandum, dated June 12, 2002, the Assistant Secretary for Housing-Federal Housing Commissioner provided us with the Management Decisions on the recommendations in our audit report. We concurred with the Management Decisions on June 17, 2002, and established a target date of June 17, 2003 for the completion of the final actions.

Section 1303 of Public Law 107-206 (2002 Supplemental Appropriation Act), dated August 2, 2002 provides that the Secretary of Housing and Urban Development shall begin to enter into new agreements and contracts pursuant to the Asset Control Area Demonstration Program, consistent with the requirements of Section 602 of Public Law 105-276, no later than September 15, 2002. Furthermore, it provides that the Department should develop proposed regulations for this program no later than September 15, 2002. Section 602 of the Department of Veteran's Affairs and Housing and Urban Development and Independent Agencies Appropriation Act, 1999, amended Section 204 of the National Housing Act, 12 U.S.C. 1710.

In September 2002, HUD provided us with a copy of the standard letter sent to potential ACA participants inviting them to apply for the revised ACA Program. The letter noted that under the revised ACA Program a participant could apply to participate in one of two ACA Programs: Program A (the Congressionally mandated program which implements 12 U.S.C. 1710(h)) or Program B (the revised ACA Program which implements 12 U.S.C. 1710(g)). Program A requires approved ACA participants to purchase all HUD owned properties and mortgages located within the designated revitalization area for a two-year period. Program A features a maximum discount of up to 50% on all assets and requires a repair report as part of the discount determination. Program B, a streamlined process, requires approved ACA participants to purchase 100% of HUD owned properties only (mortgages are not included) within the designated revitalization area for a two-year period. This program features a minimum discount of 50% on all properties and a maximum discount greater than 99% on certain properties. Under Program B, the repair report is not required before the ACA participant purchases the property from HUD. Both programs incorporate accountability, improvements, and performance measures.

Additionally, in September 2002, HUD provided us with a draft copy of the proposed rule on the disposition of HUD-Owned Single Family Assets in asset control areas. The proposed rule creates a new subpart G in 24 CFR 291 to establish regulations for the sale of single-family assets in revitalization areas. The regulations implement the statutory requirements in 12 U.S.C. 1710(h) and specify application requirements by establishing requirements for the condition of properties to be purchased and the terms and conditions of the sale agreement; describing

provisions for HUD financing and resale of assets; identifying reporting and disclosure requirements; and establishing the sanctions that will be imposed on participants who fail to comply with program requirements. HUD reported that in response to its letter, former participants expressed interest in the revised ACA Program, but requested additional changes to the program's structure. These additional changes were announced on February 27, 2003. Shortly after HUD announced these additional changes, HUD's Office of General Counsel revised a proposed ACA Rule, which was forwarded to the Office of Management and Budget (OMB) for approval in April 2003.

RESULTS OF REVIEW

Our review disclosed that HUD has generally complied with Section 1303 of Public law 107-206 by initiating actions on September 15, 2002 to enter into new agreements and contracts with program participants. Our review also disclosed that HUD has taken required actions on the recommendations in our audit report on the ACA, with the exception of those relating to implementing regulations and providing training on the ACA Program.

We noted that in its April, 2003 report to the Senate Subcommittee on Veterans Affairs, Housing and Urban Development, and Independent Agencies, HUD reported that it sent letters to potential ACA participants on September 15, 2002, inviting them to apply to participate in the ACA Program, and that a proposed rule for the program was being developed. At the time of our review, HUD had received 11 applications for participation in the ACA Program. Additionally, program regulations have been approved by OMB and are awaiting signature by HUD officials.

We also noted that during the process of reevaluating the ACA Program, HUD requested legislative changes to the program. Specifically, HUD requested changes in the language of the original legislation to eliminate items that are not conducive to the participants. For example, the original legislation requires participants to take a property and its mortgage. According to HUD officials, none of the participants want the responsibility of managing mortgages or are equipped for that responsibility. HUD Officials originally hoped to have the changes approved for Fiscal Year 2003; however, the approval process is taking longer than anticipated. Currently, HUD officials are hopeful that the legislative changes will be approved for Fiscal Year 2004.

Regarding the status of HUD's management decisions, we found that HUD has completed most of the actions required to address the recommendations in our audit report. Specifically, we found that HUD has acted upon developing applications for the revised ACA Program, performed the Front End Risk Assessment and the audit reviews, as well as developed Standard Operating Procedures, a Program Policy Statement, and a Model Agreement. The exceptions are corrective actions to implement program regulations and to provide training on the ACA Program, which pertain to Recommendations 1B, 1C, 2A and 3A in our audit report on the ACA Program.

Recommendation 1B required HUD to complete and implement the regulations for the Asset Control Area Program. Management's goal, per its action plan of June 12, 2002, was to publish the proposed rule in 180 days and the final rule in 300 days. However, HUD's effort in moving the ACA regulations through the clearance process, and getting the final rule published has taken

considerably longer than anticipated. Therefore, HUD needs to reevaluate and adjust the Final Action target date for implementing the regulations for Program A of the ACA Program. In addition, HUD should place greater emphasis on developing and getting an approved statutory proposal that is consistent with the revised provisions in ACA Program B, which eliminates the need to offer two different ACA Programs.

Training of HUD staff and program participants on the ACA Program was an integral part of the actions that HUD management planned for recommendation 1C, 2A, and 3A. The training has not been provided due to a lack of funds. HUD Officials claim that they were prepared to conduct training this fiscal year, but funds were not available. We believe it is imperative that all necessary training be provided to aid in assuring that HUD employees and program participants correctly interpret and understand the requirements and regulations of the ACA Programs. Thus, HUD needs to ensure that all appropriate training is provided during Fiscal Year 2004.

Recommendations

We recommend that HUD reevaluate and adjust the Final Action target date for implementing the regulations for the ACA Program and ensure that all appropriate training is provided to HUD employees and program participants during Fiscal Year 2004. We also recommend that HUD continue to pursue approval of its proposed legislative changes to the ACA Program.