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October 14, 1997

98-FW-202-1801
1997-00865-01

MEMORANDUM FOR: Luz Day
Director, Public Housing Division, 6JPH

FROM: D. Michael Beard, District Inspector General for Audit, 6AGA

SUBJECT: Housing Authority of the City of Corpus Christi, Texas
Lead-Based Paint and Security of Vacant Units in the Low Rent Program

HUD's former Secretary requested we review issues raised by a resident of the Housing Authority of the City of Corpus Christi, Texas (Authority). We reviewed the resident's concerns in the following areas: (1) existence of lead-based paint hazards in family dwelling units, environmental hazards involving chemical emissions, and location of D. N. Leathers buildings over discarded chemical drums; (2) natural gas lines not being repaired timely; (3) inadequate securing of vacant D. N. Leathers units; (4) sewage problems at D. N. Leathers when it floods; and (5) Executive Director exercising control over the D. N. Leathers Tenant Association bank account.

To determine the validity of the resident's concerns, we:

- Interviewed the resident, HUD monitoring staff, Authority Executive Director, and knowledgeable Authority staff;
- Inspected the site location of the D. N. Leathers I and II properties;
- Reviewed pertinent Authority records and documents;
- Interviewed representatives of the Texas Natural Resources Conservation Commission and the City of Corpus Christi as well as reviewing their records pertinent to the resident's concerns about hazardous environmental and flooding conditions; and
- Reviewed bank transactions and supporting documents related to the D. N. Leathers Tenant Association bank account.

Since your staff were also conducting an in-depth monitoring review, we previously briefed them on the following results of our review:

1. Existence of lead-based paint and other hazards

As noted in the attached Finding 1, our review confirmed that Authority properties built before 1978 have tested positive for lead-based paint. Further, the Authority has not taken timely action to abate the hazard and has not taken appropriate action to protect children from this hazard.

Our review did not disclose the existence of any environmental hazards with chemical emissions or discarded chemical drums. The Authority built D. N. Leathers I and II in the early 1950's. Site inspection shows there is an abandoned petrochemical storage site and an abandoned City transportation facility close to the properties. However, our inquiries with the City and the Texas Natural Resource Conservation Commission disclosed that both sites have been inspected and there are no existing environmental hazards with these sites. Further, an architect who was involved with the original development of D. N. Leathers project, stated that they made soil tests prior to starting construction and his recollection is that these tests did not indicate any presence of subsurface chemical drums. In addition, 1944 pictures of the D. N. Leathers site show that it contained mostly residential homes prior to construction of D. N. Leathers properties.

2. Untimely repair of gas leaks

Based on our interview with the complainant, the concern about untimely repair of gas lines was based on an isolated incident. A representative of the City of Corpus Christi Gas Department stated there is no problem with the way the Authority repairs leaks in the gas system. Our review also noted that the Authority took corrective action to correct gas leaks identified in a March 1996 Texas Railroad Commission monitoring review.

3. Inadequate securing of vacant units

Ninety units of D. N. Leathers II are located in a 100-year flood plain. Because of 1994 flood damage, the Authority vacated and secured these units pending HUD approval of their application for HUD Hope VI funds to demolish the units. Although the Authority's maintenance staff initially secured the 90 units and take timely action to resecure units, the method used is not adequate to prevent continued break-ins and vandalism as noted in the attached Finding 2.

4. Flooding causing sewage problems

In addition to 90 of the units being located in a flood plain, the D. N. Leathers II property is also built on either side of a City of Corpus Christi storm/sewer drain. This

covered drain goes through the property to a City water treatment plant. When it rains heavily, the drain line backs up and results in spewing sewage. Both the Authority and the City are aware of the problem. The City has budgeted \$2,420,000 in its current fiscal year to alleviate this flooding problem at D. N. Leathers.

5. Resident council control of bank accounts

The Authority's Executive Director did have signature control over the Tenant Association bank account. Prior to our on-site review, HUD had notified the Executive Director that the Authority was in violation of HUD requirements and instructed the Authority to turn control over to the Tenant Association Officers. We reviewed the transactions from the account and noted they were appropriate and properly supported. We met with the resident and two other members of the D. N. Leathers Tenant Association and they were satisfied with the explanation of these transactions. The Executive Director stated they were in the process of transferring signatory control over the bank account to the Tenant Association.

Within 60 days, please give us, for each recommendation in the report, a status report on : (1) the corrective action taken; (2) the proposed corrective action and the date to be completed; or (3) why action is considered unnecessary. Also, please furnish us copies of any correspondence or directives issued because of the audit.

If you have any questions, please contact Darrel M. Vaught, Assistant District Inspector General for Audit, at (817) 978-9309.

Finding 1

Authority Has Not Taken Appropriate Action to Reduce Lead-Based Paint Hazards

During the past 2 years, the Authority has not taken appropriate action to abate identified lead-based paint hazards in seven of its ten family projects or, in the interim, ensure that children are adequately protected from these hazards. Because Authority management was not giving appropriate concern and priority to addressing its lead-based paint hazards, the Authority has not, as HUD requires: (a) timely used its Comprehensive Grant modernization funds to abate the hazards; (b) safely abated lead-based paint surfaces when using modernization funds to replace windows; (c) ensured families were notified that they occupied units with lead-based paint hazards and are fully aware of the danger and symptoms of lead-based paint poisoning; and (d) promptly moved families having children with elevated lead blood levels to a nonhazardous unit. The Authority also has not met HUD requirements for obtaining lead-based paint liability insurance.

HUD requirements

Section 302 of the Lead-Based Paint Poisoning Prevention Act requires public housing authorities to test for possible hazard from lead-based paint and, if units test positive, to develop abatement plans. HUD regulations governing housing authorities include the following requirements:

- Use of Comprehensive Modernization Grant funds to test for lead-based paint and its abatement if the tests are positive. Housing authorities are to prioritize their abatement of lead-based paint hazards based on the immediacy of the hazard to children under 7 years of age (24 CFR 968.110(k)).
- For family occupied structures built before 1978, housing authorities are required to: (a) test units for existence of lead-based paint; (b) notify tenants of lead-based paint hazards and provide them with copies of any positive test results; (c) during regular unit inspections, look for defective paint and, if found, either cover or remove it within a reasonable period of time; (d) promptly transfer a family having a child with an elevated lead blood level to a unit built after 1978 or to a unit where the authority has

abated the lead-based paint hazard;¹ (e) take appropriate action to protect tenants from hazards associated with the abatement process; (f) comply with state and local laws;² and (g) dispose of lead-based paint debris in accordance with local, state, or federal requirements (24 CFR 965 Subpart H).

In addition, the Annual Contribution Contract requires the Authority, if undergoing testing or abatement, to obtain Lead-Based Paint Liability insurance (Part B, Section 1J, Attachment VII (Insurance Requirements)). HUD regulations also require housing authorities to obtain insurance for itself or have contractors involved in abatement to obtain lead-based paint liability insurance (24 CFR 965.215).³

Authority does not give priority to using Comprehensive Grant funds to abate lead-based paint hazards

The Authority's consultant advised the Authority in 1993 of positive test results for lead-based paint and, in August 1994, provided the Authority with a written risk assessment identifying properties with unacceptable lead levels. However, the Authority's 5-year comprehensive plan and budget for use of its Comprehensive Grant modernization funds did not specifically address abatement of the lead-based paint hazards.

The 1993 tests and August 4, 1994 risk assessment report showed that seven of ten properties built before 1978 had unacceptable lead levels, as follows:

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- 1 Authorities may opt to abate the lead-based paint hazards rather than moving the family.
 - 2 The Texas Department of Health has issued Texas Environmental Lead Reduction Rules. These rules require inspectors, risk assessors, and abatement supervisors have specific training and be state certified.
 - 3 HUD Notice 97-7, dated January 28, 1997, advises housing authorities of two alternatives for this liability insurance. One alternative is for the housing authority to acquire the insurance and include the contractor as a named insured. The other alternative is for the contractor to obtain the insurance and include the housing authority as a named insured.

Property	Built	Units	Test Results
G.W. Wiggins Homes	1940	158	High levels in window wells and window sills
Navarro Place	1941	210	High levels in window wells and window sills
D.N. Leathers I	1940	122	High levels in window stools and window frames
La Armada I	1941	250	High levels in window well, window sills, front porch supports, ceilings, freeze boards, stairways, thresholds and entry ways
D.N. Leathers II ⁴	1952	110	High levels in window wells, window sills, and soil
La Armada II	1941	400	Window stools
La Armada III	1941	100	Window stools
Treyway Terrace	1972	178	Lead present but within acceptable levels
Leeward Homes	1972	30	Lead present but within acceptable levels
McKenzie Manor	1976	30	No presence of lead detected
Total Units		1,678	

The Authority's Lead-Based Paint Activity Report to HUD, dated August 2, 1995, stated that the Authority had scheduled all nine properties with the presence of lead for abatement. However, this was not evidenced in the Authority's modernization plans and budgets. HUD regulations state that no construction contract awards on or after April 1, 1990, excluding those solely for emergency work, shall be executed until random testing has taken place and any necessary abatement is included in the modernization budget.⁵

4 D. N. Leathers II has a total of 200 units. However, the Authority has vacated 90 of those units, which are located in a flood plain (see Finding 2).

5 HUD Regulations at 24 CFR 968.110(k)(1)(ii)(B). HUD Handbook 7485.1, Public and Indian Housing Comprehensive Improvement Assistance, Appendix 22, Comprehensive Plan for Modernization, notes that in assessing modernization needs, the Authority is to consider potential hazards, including lead-based paint and asbestos.

Authority removes hazards without following HUD abatement requirements

However, in 1995 and 1996, the Authority contracted for window replacement in three of the properties without requiring appropriate protection for the safety of employees and residents. HUD regulations require the Authority to follow state requirements and to take certain precautions to protect families and others when undergoing any construction or abatement activity involving lead-based paint hazards.⁶ The Texas Department of Health's rules require individuals involved in testing, risk assessment, or supervision of abatement be properly trained and state certified. Generally, the Authority is required to:⁷

- Relocate occupants of dwelling units during the work if they will be exposed to lead contamination from dust and debris;
- Not allow the occupant to reenter the unit until the work is completed and the unit has passed a clearance examination;
- Protect the occupant's belongings from contamination by dust and debris, either by removal or by covering the items;
- Post appropriate warning signs and use a state certified risk assessor or abatement supervisor to prepare the worksite to prevent the release of lead-contaminated dust;
- Minimize the generation of airborne dust and clean up the site at the end of each workday by wrapping debris in protective covering or placing it in closed durable containers resistant to puncture; and
- Perform a final clean up of the work area and surrounding areas where lead-contaminated dust or debris may be present including removing any coverings in a manner that prevents the dispersion of lead-contaminated dust and debris.

6 HUD regulations at 24 CFR 965.710 and Texas Department of Health's Texas Environmental Lead Reduction Rules.

7 HUD regulations at 24 CFR 37, Subparts G and H.

The Authority awarded three modernization contracts for window replacement at G. W. Wiggins Homes, Navarro Place, and D. N. Leathers I. However, the Authority did not: (a) include any reference to the existence of lead-based paint in the plans and specifications; (b) require the work be supervised by a state certified individual; (c) require contractors to follow worksite preparation and clean-up practices for lead-contaminated dust and debris; (d) relocate occupants while the work was in progress; and (e) perform a clearance examination upon completion of the work.

The contractors had completed the work at the first two properties in 1995 and 1996. In early 1997, the same contractor that did Navarro Place was in the process of replacing the windows at D. N. Leathers I.⁸ The worksite was not secured, did not have warning signs, and debris was not properly secured. Further, the occupant's belongings were not adequately covered and the contractor had not thoroughly cleaned up paint residue after removing the old windows. The contractor was also placing debris in an open dumpster. Occupants also stated that the contractor's workmen, in removing the old windows, caused a lot of dust and some debris to fall inside the apartments.

The contractor stated the Authority did not inform him that the work would require lead-based paint abatement procedures. He also said that if he had known, he could not have bid on the contract since he was not state certified for abating lead-based paint hazards.

The Authority does not ensure tenants are properly notified of lead-based paint hazards and timely relocated when necessary

The Authority has not established appropriate controls to ensure families are fully informed of the positive test results and the risks of lead-based paint poisoning to children. Also, in cases of children with elevated levels of lead in their blood, the Authority has not taken prompt action to abate the unit or move the family to a non-hazardous unit.

For units built before 1978, HUD Handbook 7487.1, Lead-Based Paint Poisoning Prevention, November 1987, requires authorities to provide applicants and tenants with a copy of *Watch Out for Lead-Based Paint Poisoning - Notification* .

8 OIG inspected the ongoing construction work in February 1997.

The Handbook has both an english and spanish version of the notification. This notification advises applicants and tenants:

- That their unit may contain lead-based paint and that chipped, flaking, or peeling paint poses a real danger for babies and small children, which can lead to mental retardation, blindness, and even death;
- Of the symptoms of lead-based paint poisoning and availability of testing for elevated blood levels in their children;
- That they have a responsibility for having their children, under 7 years of age, tested for elevated lead blood levels and to notify the Authority if they have defective paint surfaces in their unit; and
- Of the Authority's responsibility, upon notification of elevated blood levels, to: (a) test the unit for lead-based paint within 5 days; (b) remove all lead-based paint hazards within 14 days of positive test results; or (c) transfer the family to a previously tested unit, free of the hazard, a unit where the hazard has been removed, or to a unit built after 1978.⁹

Although many families residing in the Authority's family units speak spanish as their primary language, the Authority was using only the english version of the notice (see later comments regarding residents of 1413 Yucca). The Authority also provides tenants with the 1995 Environmental Protection Agency pamphlet entitled, *Protect Your Family From Lead In Your Home*.¹⁰ This pamphlet is also available in english and spanish versions. However, as with the previously required HUD notification, the Authority was using only the english version.

Further, HUD requires public housing authorities to retain a certification signed by the tenant stating the tenant received a copy of the notification. HUD also required housing

9 Time frames set out in 24 CFR 965.706, issued June 6, 1988, as amended April 15, 1991.

10 HUD Notice 96-92, December 11, 1996, advised authorities that HUD regulations, effective September 1996, now requires them to use the 1995 pamphlet.

authorities to notify tenants of any positive test results for lead-based paint hazards. HUD revised the requirements, effective September 6, 1996, to require housing authorities to also furnish applicants and tenants with a copy of the test results or the risk summaries.¹¹

OIG reviewed files for 20 households at D. N. Leathers, with children in the household under 7 years of age. Only 14 of the 20 files contained evidence that the Authority gave a copy of the lead-based paint notices to tenants. Also, a HUD January 1997 interim monitoring review noted that the Authority did not always have evidence that it properly notified tenants of lead-based paint hazards. In addition, the Authority did not have evidence that it advised tenants, in 1993 or 1994, of the positive test results.

When a family notified the Authority that their children had elevated blood levels, the Authority was not promptly abating the unit or relocating the family to a nonhazardous unit.¹² During the past 2 years, the Authority received four notifications about children with high lead blood levels. All of the notifications involved families residing in La Armada units, which had tested positive in 1993 for lead-based paint hazards. The child, in two cases, had elevated blood levels and, in the other two cases a high blood level. The Authority's practice was to move the family to another unit.

However, in both the elevated blood level cases, the moves were made some 2 months after notification, not within the HUD prescribed 14 days. Also, in one of these cases, 3754 Castilla, the move was to another hazardous unit in D. N. Leathers I. As previously noted, this property was undergoing window replacement in early 1997. The child's mother stated that, during the window replacement, her son was present in the unit and, in replacing the window, the contractor created a lot of dust in the unit.

11 HUD regulations at 24 CFR 965.703(c) only requires notification of the positive test results. HUD Notice 96-92, issued December 11, 1996, notified public housing authorities that the regulations changed in September 1996 to require housing authorities to provide a copy of the test results or risk summary to all applicants and tenants.

12 HUD regulations define Elevated Blood Level as a concentration of lead of 25 micrograms of lead per deciliter of whole blood or greater (24 CFR 965.702). The current regulations define an Elevated Blood Level to be 20 micrograms (24 CFR 36.16).

Although Authority staff briefed these four families on necessary precautions to avoid further ingestion of lead-based paint, the records do not show the Authority was repairing defective paint surfaces in the unit (the files show Authority staff noted defective surfaces in two of the four units).¹³ Also, in the case of 1413 Yucca, the file shows the family discovered the elevated blood levels in their daughters during annual physicals. Further, that it was necessary for the Authority staff to explain the hazards and precautions to the children's mother in Spanish (the file shows the family did receive the English version of the warning notice).

The Authority had not obtained lead-based paint liability insurance

It appears the Authority did not obtain lead-based paint liability insurance because they had not included abatement in their modernization plans. However, as previously noted, the Authority improperly let contracts for window replacement, which did involve removing lead-based paint hazards. Further, the Authority appears to have a greater liability because it did not ensure the replacement of the windows included appropriate safeguards and controls for abating lead-based paint hazards.

Executive Director attributes problem to former Director of Technical Services

The Executive Director noted that the Authority hired him in March 1995, after the consultant gave the test results to the former Director of Technical Services. Further, past Executive Directors gave the former Director of Technical Services total control over modernization planning, budgeting, construction contracting, and maintenance operations. The Executive Director noted that he dismissed the former Director of Technical Services in September 1996, in part because he was not responsive to the Executive Director's requests. The Executive Director stated he hired a new Director of Technical Services in January 1997, who is revising the comprehensive modernization plan and budgets to include lead-based paint abatement.¹⁴

13 In the case of 1413 Yucca, Authority staff inspected the unit and briefed the children's mother on July 19, 1996. The inspection identified chipping paint on the window sills. The family moved to a post 1978 property on September 24, 1996. The move-out inspection and work order did not address the defective paint surfaces on the window sills. OIG inspected the unit in February 1997 and observed that the window sills still had chipping paint.

14 In February 1997, OIG briefed the new Director on the problems and provided him with copies of HUD and state requirements. OIG also briefed HUD program staff, who were conducting an interim monitoring review, on the problems. The HUD staff said they would request HUD Headquarters technical guidance for the Authority in carrying out HUD requirements.

Although the Executive Director attributed the problems to inaction by the former Director of Technical Services and stated he was not aware of the test results, the Executive Director signed the August 1995 Lead-Based Paint Activity Report sent to HUD that identified the positive test results in seven of its ten properties built before 1978. Further, since the Executive Director was aware of the reported cases of children with elevated blood levels, he should have been more concerned and more active in ensuring the former Director of Technical Services was appropriately handling the lead-based paint problems. Authority records also show the Authority's legal counsel, in May 1995, prepared a draft operating procedure to govern lead-based paint hazards. These procedures assigned staff responsibility and set out appropriate procedures for maintenance inspections, meeting the 5- and 14-day requirements for transferring children with elevated lead blood levels or abating hazards in the unit, and resident education. In early June 1995, the Authority's legal counsel met with key Authority staff to brief them on the draft procedures. However, the Authority never implemented these procedures.

Recommendations

We recommend that the San Antonio Office require the Authority to:

- 1A. Modify its Comprehensive Modernization Plan and budgets to give priority to lead-based paint abatement in its family units, which tested positive for lead-based paint hazards;
- 1B. For these same units, notify all current tenants the units tested positive for lead-based paint and provide them with the risk assessment summaries;
- 1C. Ensure that they have provided copies of the pamphlets on lead-based paint, in spanish where appropriate, to all residents of these units;
- 1D. At the time of notification, advise families: (a) of the availability of testing for children under 7 years of age and (b) to notify the Authority staff if they have any

defective paint surfaces in the locations identified in the risk summaries;

- 1E. Establish and implement procedures to ensure that all applicants for units in unabated properties are provided a copy of the risk summaries and EPA pamphlet prior to leasing;
- 1F. Pending abatement, establish and implement procedures to meet HUD requirements for inspection, repair, abatement, and/or moving of families;
- 1G. Cease contracting for construction work involving disturbing/abating lead-based paint contaminated areas unless the contractor is state certified and the contract requires appropriate safeguards regarding dust and debris;
- 1H. Temporarily relocate occupants during the time their units are undergoing lead-based paint abatement;
- 1I. Obtain lead-based paint liability insurance in accord with HUD requirements; and
- 1J. To periodically report the status of its protection and abatement activities so HUD staff can ensure the Authority is meeting its responsibility to protect its residents from lead-based paint poisoning.

Finding 2

Authority Needs to Adequately Secure Vacant Dwelling Units

The Authority has not adequately secured vacant units at D. N. Leathers II. Because the Authority has not established specifications for maintenance personnel to follow in boarding up vacant units, maintenance staff did not adequately secure the units in a manner to prevent unauthorized entry. As a result, units have been broken into and show evidence of unauthorized occupancy.

HUD requirements

Paragraph 3-5c of HUD's Modernization Standards Handbook requires, for health and safety, that the Authority secure vacant site structures. Paragraph 3-5b of HUD Handbook 7486.1, The Public Housing Demolition, Disposition, and Conversion Handbook requires that the Authority make every effort to secure deteriorated property so as to prevent the property from becoming an immediate danger.

Authority does not adequately board up vacant units

The D. N. Leathers II property has 90 units located within the 100-year flood plain. Because of flooding, the last major one in October 1994, the Authority vacated these 90 units pending HUD funding for demolition. Subsequently, vandals and others have broken into several units. The Authority's practice was to secure these units by boarding up the broken windows or doors. However, OIG inspection observed the Authority generally did not do an adequate job in securing the unit. In general, the material used to board over the doors and windows was not sturdy and the boards did not cover the entire opening (large gaps between the board slats). Thus, the boards could be removed with little effort. In six of the previously boarded units, someone had removed the boards to gain entrance to the units and these units were not secure against unauthorized entry at the time of inspection.

The Authority's Handbook for Maintenance Foreman did not include either a requirement or procedures for securing vacant units or the method to be used. On-site maintenance personnel said that they were continuously having to spend time and effort to resecure the units.

Recommendations

We recommend that the San Antonio Office require the Authority to:

- 2A. Establish and implement maintenance procedures for the securing of vacant units that will involve covering the entire opening to prevent unauthorized entrance and
- 2B. Periodically reinspect the vacant units at D. N. Leather II to ensure they are properly secured to prevent unauthorized entrance.

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