

September 30, 1999

Audit Related Memorandum
No. 99-FO-101-0802

MEMORANDUM FOR: Karen Newton, Deputy Assistant Secretary for Troubled Agency
Recovery, PB

FROM: James A. Heist, Director, Financial Audits Division, GAF

SUBJECT: Survey of the Troubled Agency Recovery Centers (TARC) and Related Field Office
Activities

As part of OIG's on-going reviews of the Department's progress in implementing HUD's 2020 Management Reform Plan, we completed a survey of the TARCs and activities at selected "Hub" and program center (PC) field offices. Our primary objective was to review the TARCs' procedures for processing troubled Public Housing Authorities (PHA) to determine whether the TARCs are effective in improving troubled PHAs' performance levels. As a secondary objective, we reviewed the Hub/PCs' overall PHMAP process to determine if all troubled PHAs were properly identified and forwarded to the TARCs for processing.

The TARCs continue to operate well below the operating capacity for which they were established in Fiscal Year 1998 under HUD's 2020 Management Reform Plan. The Public Housing Management Assessment Program (PHMAP), currently being used by the Department to identify troubled PHAs, does not generate a sufficient number of PHAs to fully employ or justify existing TARC staffing levels, nor do Hub/PC offices always effectively identify PHAs that may/should be designated as troubled and forwarded to the TARCs for processing. As of August 1999, the TARCs had 52 troubled PHAs with 22,112 units in their inventory, and had assumed the servicing responsibilities for 4 non-troubled PHAs with 15,475 units. This represents only 2 percent of the estimated 3,300 PHAs managing 1.3 million units nationwide. Furthermore, we are concerned the Department has not been able to quantify the number of PHAs the new Public Housing Assessment System (PHAS) will classify as troubled in Fiscal Year 2000, and whether all these PHAs will be assigned to the TARCs for processing. TARC staffing levels were set based on the assumption that implementation of PHAS would result in identification of 575 troubled PHAs.

Generally, we found the TARCs were developing strategies that improved the PHAs' ability to increase their PHMAP scores to the extent that their designation will be changed from a troubled to either a standard or high performer. However, the TARCs' strategies and processing procedures do not always identify and address all pertinent management and operational deficiencies troubled PHAs need to correct to improve performance on a sustainable basis. Furthermore, we found the TARCs current procedures for processing troubled PHAs do not always comply with the Housing Act and

PHMAP regulations. Specifically, the TARCs do not always (1) timely obtain independent assessments for troubled PHAs transferred from the Hubs; (2) complete independent assessments before on-site evaluations and Memoranda of Agreement (MOA)/Recovery Plans are completed; and (3) prepare comprehensive MOA/Recovery Plans that address all operational and management issues.

Additionally, we found the existing protocol agreements between the TARCs and Hub/PCs need to be strengthened to better coordinate and improve the processing and servicing of PHAs designated as troubled. This is especially important in assigning responsibility for (1) monitoring unresolved operating problems identified in the Recovery Plans after a PHA is transferred back to the Hub/PC, (2) declaring a PHA in substantial default, and (3) better defining what technical assistance the TARC may provide to a troubled PHA.

Unless the Department takes appropriate action to improve the operational and administrative deficiencies identified in our survey results below, we question whether the TARCs will have a significant impact on improving PHA performance on a sustainable basis and prevent them from failing in the future. This may jeopardize HUD's ability to ensure all public housing residents are provided decent, safe, and sanitary housing.

Background and Scope

Under HUD's 2020 Management Reform Plan, TARCs were established in Cleveland and Memphis to deal with troubled PHAs. Out-stationed TARC staff are also located in the Department's Hub/PCs throughout the country. The Department asserts the TARCs were fully operational by October 1, 1998. Any PHA that receives a failing annual assessment score is to be referred to a TARC for assistance. The Housing Act of 1937, as amended, and Title 24, Part 901 of the Code of Federal Regulations establishes the policies, procedures and criteria for identifying and designating troubled PHAs and procedures and processes for improving the management practices of troubled PHAs. Beginning in Fiscal Year 2000, the PHMAP process is scheduled to be replaced by PHAS that is to be administered by the HUD Real Estate Assessment Center (REAC). However, HUD has not yet issued its final rule on the PHAS process.

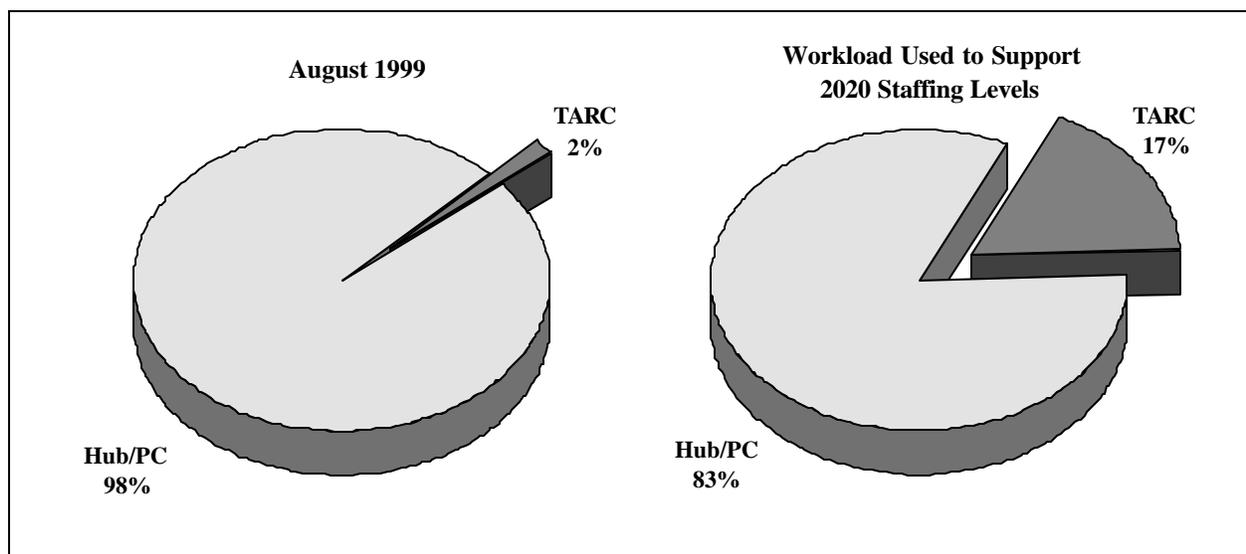
The TARCs are vital to the success of HUD's public housing reforms since they are responsible for assisting designated "troubled" PHAs to reach standard or better performance through the development and implementation of sustainable management and operational solutions. The TARCs are also responsible for providing technical assistance to troubled PHAs on a variety of public housing operational issues such as property needs and maintenance, occupancy procedures, resident and applicant relations and financial management. If a troubled PHA's problems are not satisfactorily addressed within established time frames, the TARC is to refer the troubled PHA to the Department's Enforcement Center for potential receivership or HUD takeover action.

We visited the two TARCs and seven Hubs in August 1999 to assess the TARCs' progress against the reform plans. At the TARCs we reviewed the overall process for administering troubled PHAs to determine whether the TARCs were effective in improving troubled PHAs' performance

levels. At the Hubs, we reviewed the overall PHMAP process to ensure troubled PHAs were properly identified and forwarded to the TARC. On September 10, 1999, we provided a draft of our report to the Deputy Assistant Secretary for Troubled Agency Recovery for review and comment. The response, dated September 28, 1999, is included in its entirety as an attachment to our report. We considered the Deputy Assistant Secretary's comments in preparing the final version of this report, summarized those comments, and provided our evaluation as appropriate.

TARCs Continue to Operate Well Below Their Capacity

Under the HUD 2020 Management Reform Plan, staffing levels at the TARCs were set based on an estimate that 575 troubled PHAs would be identified through REAC's new PHAS process. However, since by law the PHAS will not be implemented until Fiscal Year 2000, problem PHAs were still being identified under PHMAP. At the time of our review in August 1999, the TARCs had only 52 troubled PHAs with 22,112 units in their inventory and had assumed the servicing responsibilities for four non-troubled PHAs with 15,475 units, due in part to their limited troubled PHA portfolio. Nationwide, there are an estimated 3,300 PHAs managing 1.3 million units. As illustrated below, the TARCs' workload would increase significantly if the number of troubled PHAs identified through PHAS increases to levels assumed under the HUD 2020 Management Reform Plan.



Percentage of PHAs Under the Administration of the TARCs and Hub/PCs

However, we noted several PHMAP processing issues at the Hubs and new PHAS field guidance that may limit the number of troubled PHAs that are forwarded to the TARCs. These issues are addressed in more detail in the paragraphs that follow.

Hub/PCs are reluctant to lower PHA assessment scores on PHAs that do not comply with existing PHMAP requirements.

Hub/PCs have been reluctant to impose sanctions or issue presumptive failing PHMAP ratings on PHAs that do not comply with the PHMAP reporting and/or Improvement Plan (IP) requirements under the PHMAP regulations. Under the PHMAP regulations, a PHA was required to submit its PHMAP certification within 90 calendar days after the end its fiscal year for 1996 and 60 calendar days for fiscal years 1997 and 1998. If a PHA does not submit its certification, or submits its certification late, Hub/PC directors may impose appropriate sanctions, including a presumptive failure rating on all of the PHMAP indicators, which may result in troubled or “modernization troubled only” (mod-troubled) designations. In our review of 288 PHMAP certifications we selected for 96 PHAs for Fiscal Year 1996 through 1998, we found that 152 (53 percent) of the certifications had been submitted late by the PHAs, with some being submitted more than 120 days after the deadline. Only one of the 152 certifications was given a presumptive failing rating and forwarded to the TARC.

Similarly, Hub/PCs were also reluctant to impose sanctions against PHAs who failed to submit a required IP. From our sample of 96 PHAs, 53 IPs were required; however, 42 of the 53 IPs were not provided to the Hub/PC and none of the PHAs had been sanctioned.

Under the REAC’s new PHAS rules, HUD will continue to have discretion to impose appropriate sanctions on PHAs that fail to submit their certifications or year-end financial information more than 15 days past the due date. However, based on the Department’s previous history of not imposing PHA sanctions, it remains to be seen whether the new rule will be applied and affected PHAs transferred to the TARCs.

PHMAP confirmatory review process is not always effective in identifying troubled PHAs that need to be forwarded to the TARCs.

In our review of the PHMAP process at several of the Hubs, we identified three situations in which Hub/PC staff determined the PHA did not have appropriate documentation to support their PHMAP certifications during the confirmatory review process. Rather than fail the indicator/components that were not supported and lower the overall PHMAP score as required under the PHMAP regulations, the Hub/PC confirmatory team searched for alternative documentation or, with the PHA staff, tried to establish the documentation to support the certification. For example, one PHA with more than 12,000 units under its management did not have adequate data to support indicator Number 1 - Vacancy Rate and Unit Turnaround Time and indicator Number 3 - Rents Uncollected. Eventually, the confirmatory review justified the score for the PHA for indicator 3 and assigned the PHA an overall PHMAP score of 62.11. Furthermore, we noted the confirmatory review team raised the budget component for a financial indicator from “F” to an “A” even though the PHA’s independent auditor’s most recent report identified significant budgetary control weaknesses and questioned the adequacy of the PHA’s contract administration. Moreover, the PHA itself certified to an “F” for budget controls. The independent auditor’s findings are so significant that the “A” score does not appear to be justified under the PHMAP processing guidelines.

New PHAS field guidance may continue to limit the number of troubled PHAs that are transferred to the TARCS in the future.

Under the current PHAS regulations, a PHA that receives a total PHAS score of less than 60 percent, or receives a score of less than 60 percent of the total points available under PHAS indicators 1, 2, or 3 must be designated as troubled and referred to the TARC. However, we noted that under the Office of Public and Indian Housing's PHAS field guidance and proposed PHAS regulations, the troubled definition was modified to further define troubled PHAs as "sub-standard physical," "sub-standard financial" or "sub-standard management" performers. These designations are to be assigned to PHAs that achieve an overall PHAS score of 60 or more but score less than 60 percent of the total points available under one of the three indicators. Furthermore, although PHAs assigned one of these designations are to be initially referred to the TARC, they can in turn be forwarded to the Hub/PC for servicing. We believe the proposed PHAS regulations and PHAS field guidance contradicts the purpose for which the TARCS were established in HUD's Management Reform Plan -- to develop and implement intervention strategies for troubled PHAs to improve their performance on a sustainable basis.

HUD Comments

HUD disagreed with our finding and related recommendation. HUD stated their draft PHAS field guidance is in compliance with the current PHAS regulation as in 24 CFR 902.75 and the proposed PHAS regulations.

OIG Evaluation of HUD Comments

We disagree with HUD's comments on the finding and related recommendation. We realize the draft PHAS regulations and PHAS field guidance procedures provide the TARC with the discretion to transfer PHAs designated as troubled for indicator 1, 2 or 3 to the Hub/PCs, while the current PHAS regulation specifies that all troubled PHAs are to become the responsibility of the TARCS. However, the primary issue we are addressing deals with the administrative discretion the PHAS field guidance and proposed PHAS regulations give HUD to transfer troubled PHAs back to the Hub/PCs for servicing. If this discretion is exercised, the troubled PHA inventory at the TARCS will likely be limited and affect their operating effectiveness and efficiency. This provision appears to contradict the purpose as to why the TARC structure was established under HUD's 2020 Reform Plan. Additionally, because of staff reductions due in part to HUD's 2020 Management Reforms, we do not believe the Hub/PCs have sufficient resources to adequately service a troubled PHA portfolio.

Recommendation

- 1a. The Offices of Troubled Agency Recovery and Field Operations should revise the PHAS field guidance procedures to ensure all PHAs that are designated as troubled under the PHAS regulations are transferred to and serviced by the TARCS.

MOA/Recovery Plans Need to be More Comprehensive

The TARC's need to improve operations to ensure troubled PHAs entering their inventory are processed expeditiously in accordance with the provisions of the Housing Act of 1937, as amended, and the Quality Housing and Work Responsibility Act of 1998. Additionally, the TARC's need to ensure Comprehensive MOA/Recovery Plans are prepared that identify all pertinent management and operational deficiencies needed to improve PHA performance on a sustainable basis, and that the PHAs fully implement the Recovery Plans.

Required independent assessments need to be completed prior to preparing an MOA/Recovery Plan.

We found the TARC's were not ensuring that on-site independent assessments were completed for all troubled PHAs as required under the Housing Act of 1937 and the Quality Housing and Work Responsibility Act of 1998 prior to completing an on-site evaluation and preparing an MOA/Recovery Plan. The United States Housing Act of 1937, as amended, requires that an on-site independent assessment be completed for all PHAs designated as troubled and specifies the minimum management and operational issues that are to be studied. This requirement was amended under the Quality Housing and Work Responsibility Act of 1998, and becomes effective October 1, 1999. The Quality Housing and Work Responsibility Act of 1998 limits the independent assessments to troubled housing agencies with more than 250 units and eliminated the requirement for obtaining opinions from public and private entities. PIH elected to implement the new requirements prior to the October 1, 1999 effective date.

At the time of our review in August 1999, the TARC's PHA portfolio consisted of 52 troubled PHAs with 36 PHAs having less than 250 units under management. Independent assessments had been completed at 13 of the 52 PHAs and additional independent assessments had been requested. The TARC's completed on-site evaluations for 34 of the 39 remaining PHAs in their inventory and in 4 situations, the on-site evaluation and associated MOA/Recovery Plans were completed before the independent assessments.

Required independent assessments need to be completed more expeditiously.

The number of months elapsed between the issuance of the confirmatory review and the independent assessments often exceeds six months. To initiate an expeditious recovery, the TARC's need the results from the independent assessments as soon as possible after the Hub/PC conducts the confirmatory review to prepare the MOA. The TARC's are aware of the lengthy time period to obtain the independent assessment. The Office of Troubled Agency Recovery and the TARC's are negotiating an expedited concurrence method with the Offices of Public and Indian Housing, Procurement and Contracts, and Chief Financial Officer to reduce the time to authorize the contractor to start the independent assessment.

MOA/Recovery Plans need to address additional key operational and management issues.

The TARC staff use the on-site evaluations as the basis for developing recovery plans for the troubled PHAs. The TARC staff conducted evaluations at 34 of the 39 remaining troubled PHAs in their current portfolio. However, since the TARC often completes its on-site evaluation and MOA/Recovery Plan in lieu of, or prior to, the independent assessments, the MOA/Recovery Plans do not include all the management and operational issues required under the Housing Act of 1937 and as such, do not address key issues relating to the PHAs' population characteristics; the adequacy and appropriateness of the PHAs' plans for rehabilitating the housing stock; the concerns expressed by public and private entities about management at these PHAs; the extent residents are involved in and informed of significant management decisions; and whether the projects are severely distressed and eligible for assistance pursuant to Section 24. Consequently, the strategies in these MOA/Recovery Plans are not (1) addressing the significant physical needs of the housing stock and are not addressing the resident problems that contribute to the accelerated depreciation of the housing stock at the troubled housing agencies; (2) addressing resident issues; and, (3) effectively using staff resources.

Additionally, since the Quality Housing and Work Responsibility Act of 1998 no longer requires that independent assessments be completed on troubled PHAs with less than 250 units, the operational and management issues identified under the Housing Act are no longer being evaluated when the on-site evaluations and ensuing MOA/Recovery Plans are prepared.

Generally, the TARC staff's strategies are improving the PHAs ability to increase its PHMAP score to an extent that the designation will be changed from troubled to either a standard or high performer. However, it does not appear the TARC staff's strategies are effective for improving the housing stock and addressing resident issues that contribute to the accelerated depreciation of the housing stock at the troubled PHAs. For example:

- One troubled PHA currently in the TARC portfolio has five developments eligible for conversion to the Section 8 program. The MOA between the TARC and the PHA was executed before the determination about the five developments. However, six months elapsed since the determination and the TARC has not revised the agreement to provide for the termination of operating subsidies and comprehensive grants to the PHA and the orderly transfer to the Section 8 certificates for tenants from the five developments.
- Independent assessments were conducted at four PHAs and the reports contained numerous recommendations. The TARC staff addressed only 117 of the 324 recommendations from the independent assessments in their MOA/Recovery Plans. Some of the recommendations not included in the agreement concerned: establishing a system of internal control covering accounting and procurement; updating utility allowances annually; screening tenants for criminal backgrounds; assigning staff other than those who collect the rent to recertify tenants; and executing an aggressive marketing effort to senior citizens to fill vacant units at elderly developments.

- The Commission on Distressed Housing determined that PHAs with a successful revitalization program addressed the social needs of the resident population as well as the physical needs of the housing stock. The Commission concluded that the revitalization programs that did not consider the social needs of the population experienced accelerated deterioration of the housing stock to the extent that the investment in the housing stock will not result in the units being viable for 20 years after modernization. The TARC's recovery plans did not consider the social needs of the resident populations.
- The Department's PHMAP regulations state that the MOA shall include a description of the involvement of local public and private entities, including resident leaders, in carrying out the agreement and rectifying the PHA's problems. The TARC recovery plans reviewed did not provide a mechanism for involving the local and public entities including resident leaders in carrying out the agreement.
- The Department's PHMAP regulations state that the memorandum of agreement shall include strategies to be used by the PHA in achieving the performance targets within the time period of the MOA. We found some TARC strategies are abstract statements without any possibility for quantification so that the PHA performance over a period of time cannot be measured.

HUD Comments

HUD generally agreed with our findings and recommendations and agreed to revise their operating procedures to ensure more comprehensive MOA/Recovery Plans are prepared and are processed in accordance with the existing laws and regulations.

Recommendations

We recommend changes to the TARC's operating procedure to comply with the statute and complement the existing strategy of improving the PHMAP score to include addressing the physical and social issues at the troubled PHAs. Specifically, the TARC's should:

- 2a. Ensure all required independent assessments are performed and that the contractor evaluates all issues specified in the Housing Act of 1937.
- 2b. Continue to negotiate with all HUD offices involved in approving the contractor to conduct the independent assessment through an electronic processing mode to reduce the time it takes to authorize the independent assessment to begin the on-site study.
- 2c. Discontinue conducting on-site evaluations that third party contractors will eventually conduct.
- 2d. Prepare quantifiable tasks in the MOA/Recovery Plans derived from the independent assessment recommendations to provide the means for measuring PHA performance.

Better Coordination Needed Between Hub/PCs and TARCs

In January 1999, the HUD's Office of Troubled Agency Recovery and the Office of Field Operations established a protocol for processing PHAs under PHMAP. When the protocol was established, it anticipated the transition from PHMAP to PHAS along with the Section 8 Management Assessment Program assessment system. Based on our review and testing of the protocols, it appears the protocol policy statements and the methods are generally effective but need to be expanded to obtain the necessary coordination between the two offices in monitoring PHAs' compliance with the MOA/Recovery Plans after the troubled designations are removed, obtaining independent assessments, and identifying PHAs in substantial default.

The protocol does not assign responsibility for monitoring unresolved operating problems.

Section IV.B (Transitioning: from the TARC to the Hub/PC) of the protocol provides that the TARC will transfer all servicing to the appropriate Hub/PC following receipt of the Hub/PC confirmatory review notification letter. However, the protocol policy does not specify which office will be responsible for monitoring the MOA/Recovery Plan after the PHA is transferred from the TARC to the Hub/PC. The PHA normally will not have completed all the tasks included in the agreement when the TARC transfers the responsibility for monitoring and servicing the formerly troubled PHA back to the Hub/PC. For example, the following case presents a historical summary of the transfer of one troubled PHA from the Hub to the TARC and then transferred back to the Hub after the troubled designation was removed.

A PHA was designated as troubled with a PHMAP score of 47.95 for 1996 and remained troubled with a PHMAP score of 52.50 for 1997. The Hub transferred the responsibility for servicing and monitoring the PHA to the TARC on July 7, 1998. The TARC conducted an on-site evaluation of the PHA in September 1998. On March 31, 1999 a fully executed copy of the agreement was sent to the PHA with a request for the Board of Commissioners to prepare a board resolution adopting the agreement. The agreement had 59 recommendations. The Hub conducted a confirmatory review in June 1999 and determined the PHA's 1998 PHMAP score to be 70.20. The PHA was removed from the troubled list in August 1999 and designated a standard performer. In accordance with the protocol, the TARC transferred the servicing of the PHA back to the Hub in August 1999. When the servicing was transferred from the TARC back to the Hub, the PHA had not completed 33 of the 59 recommendations contained in the agreement. Some of the open recommendations are: establishing a log for scheduling and tracking annual unit inspections, implementing a quality control program for completed work orders and unit inspections, encouraging residents to establish an active resident council, providing training to PHA staff on modernization requirements, obtaining day and evening police patrols of the PHA, revising the personnel policies, implementing an annual performance review for staff members, and developing and implementing a financial system of internal controls.

The protocol should specify which office is responsible for the continued monitoring of the PHA after it is transferred back to the Hub/PC. The office responsible for the monitoring should continue monitoring the PHA until it completes all tasks in the MOA/Recovery Plan.

TARCs are not obtaining independent assessments for mod-troubled PHAs.

Paragraph I.B. of the protocol states that once a PHA has been designated mod-troubled, the TARC will initiate the process for obtaining the independent assessment. The Integrated Business System (IBS) is the Office Public and Indian Housing's database used by the Hub/PCs to monitor their PHAs. A June 14, 1999 IBS report on PHA designations listed 18 PHAs with the designation of mod-troubled; however, the TARCs had not requested independent assessments for any of these 18 PHAs. This was caused, in part, by Hub/PC staff not always timely updating the IBS. As a result, the TARC staff cannot obtain timely information on the PHAs designated as mod-troubled.

The protocol did not specify any methods for accomplishing the policy of obtaining independent assessments for mod-troubled PHAs or the means for coordinating the activity between the two offices.

The protocol does not assign responsibility to an office for declaring a PHA in substantial default of contract.

PHMAP regulations state that the Department may determine that events have occurred that constitute a substantial default if a PHA is determined to be in violation of federal statutes, including but not limited to, the 1937 Act, or in violation of regulations implementing statutory requirements, whether or not such violation would constitute a substantial breach or default under provisions of the relevant Annual Contributions Contract. The Department shall determine that a PHA that has been designated as troubled and does not show significant improvement (10 percentage point increase) in its PHMAP score within one year after final notification of its PHMAP score are events or conditions that constitute a substantial default. The draft Public Housing Assessment System maintained the requirement but gave the field office director more discretion in implementing the requirement by excluding the quantification in the requirement for the 10 percentage point increase in score.

We reviewed 45 PHMAP scores for fiscal years 1996, 1997 and 1998 for PHAs designated as troubled. We identified 4 PHAs with units totaling 5,480 in which the PHMAP scores did not increase by 10 percentage points within one year after final notification of the PHMAP score that resulted in the designation of troubled. These should have been declared as in substantial default and processed according to the existing PHMAP regulations.

Since the general trend is for assessment scores to be lower under PHAS than under PHMAP, more PHAs will likely be subject to the provision under the PHAS. The present protocol does not designate which office is responsible for declaring a substantial default of the Annual Contributions Contract when the PHA's PHMAP score does not increase by the required amount nor the methodology for declaring the default. The protocol should be amended to assign this responsibility.

The protocol does not address a specific policy for providing technical assistance.

The existing protocol between the Hub/PC and the TARC does not specify the degree of technical assistance that the TARC may provide a troubled PHA. Based on our file review, we conclude that the TARC's technical assistance can, in part, be characterized as actually managing the PHA operations and executing duties for the staff. For example, some technical assistance activities provided by TARC's staff include developing a vacancy tracking system to allow staff to monitor the unit status for each development; providing assistance to the PHA staff in completing the PHA's PHMAP certification; designing a system for tracking and collecting delinquent rents and other tenant charges; helping to get consumption data from a utility supplier so that allowances can be updated; assisting a resident council in obtaining an extension for their Tenant Opportunities Program; assisting the Board of Commissioners in developing a Memorandum of Understanding between the Board and the Resident Council; and assisting the interim Executive Director develop job positions. We believe the existing protocol needs to be amended to more clearly define the types of technical assistance that may be provided by the TARC to a PHA.

HUD Comments

HUD disagreed with our finding and recommendation to revise the existing protocol to provide that TARC staff continue to monitor the unresolved operating problems identified in the MOA/Recovery Plan after the PHA is removed from troubled status and is transferred back to the Hub/PC. HUD decided that the Hub/PC will assume this responsibility. Furthermore, HUD stated that the PHAS field guidance requires Hub/PCs to incorporate the remaining actions under an existing MOA into an IP which the Hub/PC would then monitor.

HUD generally agreed with our finding and related recommendation that the TARC regularly review IBS data to identify PHAs designated as mod-troubled and obtain independent assessments for those PHAs. However, HUD did not agree with our recommendation to establish a numerical goal for procurement of independent assessments.

HUD disagreed with our finding and related recommendation on revising the existing protocol to assign responsibility for declaring a PHA in substantial default and in defining a specific policy for providing technical assistance to troubled PHAs. HUD asserts that responsibility for declaring a PHA in substantial default is adequately addressed under the current PHAS regulations and that the TARC need the flexibility to determine on a case-by-case basis the level and type of technical assistance that will be provided to each troubled PHA.

OIG Evaluation of HUD Comments

We disagree with HUD's decision to assign the follow-up monitoring responsibility to the Hub/PCs. This survey and past testing under audits of HUD's financial statements have shown that HUD's system of controls over monitoring of PHAs need to be improved, especially those relating to monitoring PHAs' IPs. For example, in our testing at seven Hub/PCs under this survey, we sampled 96 PHAs that were required to submit 53 IPs; however, 42 of the 53 required IPs had not been submitted

to the local Hub/PC and the Hub/PCs did not take appropriate action to obtain the IPs. Thus, we believe the TARC's are better structured and staffed to perform this function.

We believe HUD misinterpreted the section of our recommendation that the protocol be revised to provide for a numerical goal for the procurement of the independent assessments for PHAs designated as mod-troubled. We intended for the protocol to be revised to require the TARC's to routinely access the IBS to identify mod-troubled PHAs and establish specific timeframes in which the independent assessments must be obtained. Recommendation 3b was modified accordingly.

During our survey, we determined that the necessary documents needed to declare a PHA in substantial default were available at the TARC's, but the TARC's did not make the determination. Additionally, the current and proposed PHAS regulations do not specify that the TARC declare a PHA in substantial default before forwarding it to the Enforcement Center. The protocol between the TARC's and REAC should specify the office that will be responsible for declaring a PHA is in substantial default and we believe the TARC should be the responsible office.

We also disagree with HUD's position that the existing protocol does not need to be revised to specify the types of technical assistance that may be provided by the TARC to the troubled PHA. We reiterate our concern that the technical assistance provided to the PHA should not involve activities that actually manage the PHA's housing operations and perform the duties for PHA staff. Also, we did not intend to limit the scope of the recommendation to technical assistance. We suggested that the TARC's identify the technical assistance needed by the troubled PHA and direct the PHA to obtain the technical assistance. Currently, the TARC staff are providing the technical assistance to establish a control structure and are also monitoring the activities under that control system.

Recommendations

We recommend revising the existing protocol to improve coordinating efforts between the two Offices in processing troubled PHAs. The revised protocol should:

- 3a. Provide that TARC staff continue to monitor the MOA/Recovery Plan after the transfer of the PHA back to the Hub/PC until all recommendations are finalized.
 - 3b. Specify that the TARC's review the IBS output monthly and identify the PHAs designated as mod-troubled and obtain timely independent assessments for the PHAs. Also, the protocol needs to establish a timeframe in which the TARC is required to obtain an independent assessment for a PHA that is designated as mod-troubled.
 - 3c. Assign the responsibility to the TARC's for declaring a contract in default for PHAs that do not make sufficient progress in improving their assessment scores.
 - 3d. Specify the types of technical assistance that may be provided by the TARC to the troubled PHA.
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In accordance with HUD Handbook 2000.6 REV-3, within 60 days, please submit to me, for each recommendation, a status report on: (1) the corrective action taken; (2) the proposed corrective action and target completion dates; or (3) why action is considered unnecessary. An additional status report is required on any recommendation without a management decision after 110 days. Also, please furnish us with copies of any correspondence or directives issued in response to the audit. I appreciate the courtesies and cooperation extended to my staff during the conduct of this survey.

Attachments



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

OFFICE OF THE ASSISTANT SECRETARY
FOR PUBLIC AND INDIAN HOUSING

September 28, 1999

MEMORANDUM FOR: James A. Heist, Director, Financial Audits Division, GAF

FROM: *Karen A. Newton*
Karen A. Newton, Deputy Assistant Secretary for Troubled Agency Recovery, PB

SUBJECT: Comments on Draft Audit Related Memorandum No. 99-FO-101-XXXX
Survey of the Troubled Agency Recovery Centers (TARCs)

Following are comments from the Office of Public and Indian Housing (PIH) on the conclusions and recommendations presented in the subject draft Audit Related Memorandum.

1. TARCs Continue to Operate Well Below Their Capacity

While the TARC staffing is set at a level to address up to 575 PHAs, PIH has not filled all positions in the TARCs. Our staffing strategy anticipated phasing in employees to minimize overstaffing of the TARCs during the Public Housing Assessment System (PHAS) transition year. We utilized this time for training and to develop further expertise in particular areas. On-site training improves the coordination and focus of recovery teams. Currently, neither Cleveland nor the Memphis TARC are staffed to capacity --- 122 positions have been filled and there are 29 vacancies. Additionally, in an effort to prevent underutilization of staff, PIH Hub Directors, upon approval of the TARC Director, can assign work to outstationed TARC personnel. For the most part, these employees are assigned to work with near troubled agencies.

HUB/PCs are reluctant to lower PHA assessment scores on PHAs that do not comply with existing PHMAP requirements

PIH is aware that the implementation of the existing assessment system had weaknesses. However, where certifications were late from smaller PHAs with part time management staff or those PHAs which recently experienced management staff turnover, it was in the Department's best interest (and a resource utilization consideration for PIH) to work with these PHAs. Under Management 2020, the Real Estate Assessment Center (REAC) will be responsible for administering PHAS. While the PHAS regulation provides for HUD discretion in imposing sanctions on PHAs that fail to submit certifications and financial data after 15 days, those same regulations require a presumptive failure after 90 days. Since REAC is responsible for the PHAS scoring process, it is not subject to the discretion of PIH employees.

New PHAS Field Guidance may limit the number of Troubled PHAs that are transferred to the TARCS

The assertion that the troubled designation was modified by PIH's PHAS Field Guidance to transfer only PHAs that received less than 60 percent of the total points available under more than one indicator is incorrect. Under the Office of Public and Indian Housing's PHAS Field Guidance (page 2), PIH states, in pertinent part, "PHAs that achieve an overall PHAS score of 60 or above, but score less than 60 percent of the total points available under one of Indicators 1,2, or 3, while troubled, shall bear the subdesignation of substandard physical, substandard financial or substandard management performer and also [sic]referred, at least initially to the TARCs, and potentially to the HUBs/PCs for follow-up." This is in accordance with the current PHAS regulation, which provides for the referral of all troubled agencies to the TARCs, and allows flexibility for anticipated PHAS regulatory changes.

PHMAP Confirmatory Review Process is not always effective in identifying troubled PHAs that need to be forwarded to the TARCS

Under PHAS, there will no longer be a Confirmatory Review process. In accordance with Management 2020 the REAC will be responsible for administering this new assessment tool.

Recommendation

- 1a. OTAR and Field Operations should revise the PHAS Field Guidance Procedures to ensure all PHAs that are designated as troubled under the PHAS regulation are transferred to and serviced by the TARCS.**

PIH Response

PIH disagrees with Recommendation 1a. This recommendation is based upon the OIG's conclusion that troubled agencies are not being identified and/or sanctioned appropriately by PIH Hubs/PCs. Under Management 2020, the Real Estate Assessment Center is responsible for administering PHAS and issuing designations. Further, in those instances where a PHA does not achieve a passing score or fails to take a required action, the REAC issues a failing score and forwards the PHA's score to the TARC and, when appropriate, the Departmental Enforcement Center (DEC).

PIH PHAS Field Guidance is in compliance with the current regulations; each document notes the initial referral to the TARC. And although the current PHAS regulation anticipates that the TARC will conduct remedial activities, the proposed PHAS regulation states, "REAC shall refer each troubled PHA to the PHA's area TARC for remedial action which may include a determination of priority needs and referral to the HUB/Program Center." 24 CFR §902.75. The Office of Public and Indian Housing's PHAS Field Guidance is in complete accord with the proposed regulation and does not specifically run counter to the current regulation. PIH expects the final PHAS rule to be published within the next month.

2. TARCs Need to Ensure More Comprehensive MOA/Recovery Plans are Prepared And Are Processed In Accordance With Existing Laws and Regulations.

Required Independent Assessments need to be completed prior to preparing an MOA/Recovery Plan

The United States Housing Act of 1937, as amended, requires that HUD perform an on-site independent assessment upon designating a public housing agency with more than 250 units as troubled and determining that an assessment will not duplicate any comparable and recent review. The results of Independent Assessments are to be utilized in the preparation of the MOA. As noted in the audit memorandum, the TARCs have conducted assessments of most troubled PHAs where an IA has not been conducted. In some cases these assessments are a comparable and recent review and, therefore, PIH has satisfied the requirement of the statute. However, we acknowledge that the scope of the TARC review is not as comprehensive as the Independent Assessment in some cases. In these instances the assessment is conducted in an effort to get the recovery process underway. The TARCs utilized the information gathered in the assessment to develop an initial Recovery Plan. This allows the recovery work to begin without significant time lapse. Once the Independent Assessment is completed, the MOA is negotiated and incorporated into the Recovery Plan. As noted in the OIG report, PIH recognizes the importance of conducting timely IAs and is in the process of developing an expedited process with the Office of Procurement and Contracts and the Office of the Chief Financial Officer to reduce the time to authorize the contractor to start the Independent Assessment.

Required Independent Assessments need to be completed more expeditiously

As stated above, PIH recognizes the importance of conducting timely IAs and is in the process of developing an expedited process with the Office of Procurement and Contracts and the Office of the Chief Financial Officer to reduce the time to authorize the contractor to start the Independent Assessment.

MOA/Recovery Plans need to address additional key operational and management issues

As stated above, the TARCs developed Recovery Plans to begin the recovery process. These plans are not meant to be all inclusive nor a substitute for a MOA. Once the Independent Assessment is conducted and the subsequent report issued, a comprehensive MOA is developed. In the future, the TARC team will ensure that issues relating to the agency's resident population and physical inventory are included in its MOAs for PHAs. Further, the TARC team will include all agreed upon IA recommendations in the MOAs for larger PHAs.

Recommendations

We recommend changes to the TARCs' operating procedure to comply with the statute and complement the existing strategy of improving the PHMAP score to include addressing the physical and social issues at the troubled PHAs. Specifically, the TARCs should:

- 2a. Ensure all required independent assessments are performed and that the contractor evaluates all issues specified in the Housing Act of 1937.**

PIH Response

We concur with Recommendation 2a.

- 2b. Continue to negotiate with all HUD offices involved in approving the contractor to conduct the independent assessment through an electronic processing mode to reduce the time it takes to authorize the independent assessment to begin the on-site study.**

PIH Response

PIH will continue to negotiate with all HUD offices to ensure timely deployment of contractors to conduct Independent Assessments. An interim solution was reached with the Office of Procurement and Contracts. At this time, each TARC has immediate access to contractors to conduct Independent Assessments as necessary based upon the issuance of a work order from the TARC. However, PIH and OPC are still seeking a long term solution to this problem.

- 2c. Discontinue conducting on-site evaluations that third party contractors will eventually conduct.**

PIH Response

Once PIH permanently resolves the contracting issue for timely assessment of newly troubled PHAs, the TARCs will limit their on-site evaluations to 1) where the TARC team is rendering technical assistance in particular areas, 2) where the TARC is conducting a comprehensive review for the purposes of developing a MOA, or 3) where monitoring and verification of HUD technical assistance contractor performance.

- 2d. Prepare quantifiable tasks in the MOA/Recovery Plans derived from the independent assessment recommendations to provide the means for measuring PHA performance.**

PIH Response

We concur with Recommendation 2d and will ensure that all MOAs include quantifiable tasks that are outcome oriented.

- 3. HUD Protocol Policies Need To Be Strengthened To Better Coordinate The Activities Of The HUB/PC And TARC Offices In Processing And Servicing PHAs Designated As Troubled**

The Protocol Agreement does not assign responsibility for monitoring unresolved operating problems

The PIH PHAS Field Guidance recognizes that there may be overlap from existing IP, Recovery Plans and MOAs. It provides that “[r]emaining actions under existing Improvement Plans, Recovery Plans or MOAs, should be incorporated into the

Improvement Plan being developed as a result of the PHAS score.” However, existing MOAs are not addressed in the Protocols for HUD Servicing of Troubled Public Housing Authorities. The protocols will be revised to reflect that Hubs/PCs will continue monitoring agencies returned to their portfolio in accordance with the MOA to ensure sustainable recovery.

TARCs are not obtaining Independent Assessments for “Modernization Troubled Only” PHAs

The Independent Assessment for modernization troubled PHAs is triggered by the input of information into IBS. Recognizing that all data was not being entered into the system in a timely fashion, PIH issued an internal directive to all PIH Directors (approved July 14, 1999), requiring that PHMAP information in IBS be accurate, timely, and complete. Internal Directive - Public Housing Management Assessment Program (PHMAP) to Public Housing Directors from the Assistant Secretary for Public and Indian Housing. The modernization troubled list is generated from IBS. Once the TARCs receive the modernization troubled list, they will cause an Independent Assessment to be conducted.

The Protocol does not assign responsibility to an office for declaring a PHA in substantial default of contract

In accordance with the PHAS regulations, a PHA that does not achieve a passing score or exhibit substantial improvement in its performance during the year following its troubled designation will be referred to the Departmental Enforcement Center. “Substantial improvement is defined as 50 percent of the points needed to achieve a passing PHAS score as determined by the REAC.” 24 CFR §902.75 (g) (1). (This provision is the same in the current and proposed PHAS rule). As illustrated, it is not necessary to assign responsibility to an office to declare an agency in substantial default when it does not show the required improvement.

The Protocol does not address a specific policy for providing technical assistance

The cited activities, developing a vacancy tracking system to allow staff to monitor the unit status for each development; creating a vacancy tracking system; providing assistance to the housing agency staff in completing the PHA’s PHMAP certification; designing a system for tracking and collecting delinquent rents and other tenant charges; helping to get consumption data from a utility supplier so that allowances can be updated; assisting a resident council in obtaining an extension for their Tenant Opportunities Program; assisting the Board of Commissioners in developing a Memorandum of Understanding between the Board and the Resident Council; and assisting the interim Executive Director develop job positions, are traditional technical assistance activities. The TARCs are charged with providing intensive technical assistance, direct or indirect, to assist a troubled PHA in improving its performance. Under the Quality Housing and Work Responsibility Act of 1998 and the PHAS regulations, troubled public housing authorities have one year to show substantial improvement. The TARCs provide technical assistance in areas deemed necessary to ensure substantial improvement and substantive recovery. The particular technical assistance is determined on a case-by-case basis and is tailored specifically to address each PHA’s need.

Recommendations

We recommend revising the existing protocol to improve coordinating efforts between the two Offices in processing Troubled PHAs. The revised protocol should:

- 3a. Provide that TARC staff continue to monitor the MOA/Recovery Plan after the transfer of the PHA back to the HUB/PC until all recommendations are finalized.**

PIH Response

PIH disagrees with Recommendation 3a. As discussed above, the HUB/PC will monitor the MOA targets after the PHA's return to the HUB/PC's jurisdiction. Further, the PIH PHAS Field Guidance requires the HUB/PC to incorporate the remaining actions under an existing MOA into Improvement Plans.

- 3b. Specify that the TARCs must review the IBS output monthly and identify the PHAs designated as Modernization Troubled Only and obtain an independent assessment for the PHA. The protocol needs to provide a numerical goal for the procurement of the independent assessments for PHAs designated as "Modernization Troubled Only."**

PIH Response

We concur that the TARC must review the IBS output to determine when PHA's are modernization trouble and cause an IA to be conducted, however, PIH does not agree that there should be a numerical goal for procurement of IAs. All modernization troubled PHAs will have IAs conducted in accordance with the statute.

- 3c. Assign the responsibility to the TARCs for declaring a contract in default for the PHAs without sufficient improvement in the PHMAP scores.**

PIH Response

As stated above, under PHAS, after one year a PHA that fails to obtain 50% of the points necessary to achieve a passing score as determined by REAC will be referred to the Departmental Enforcement Center in accordance with the PHAS regulation.

- 3d. Specify the types of technical assistance that may be provided by the TARC to the troubled PHA.**

PIH Response

We disagree with Recommendation 3d. The type of technical assistance provided by the TARCs is dictated by the need and available resources. The TARCs will provide each troubled PHA with intensive technical assistance, either directly or indirectly, to ensure substantive recovery within the allowable timeframes.

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