



# Office of Public and Indian Housing, Washington, DC

## HUD's Oversight of Public Housing Agencies' Compliance With the Lead Safe Housing Rule

**Office of Audit, Region 5  
Chicago, IL**

**Audit Report Number: 2020-CH-0003  
March 18, 2020**



**To:** R. Hunter Kurtz, Assistant Secretary for Public and Indian Housing, P

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

**Subject:** HUD Lacked Adequate Oversight of Public Housing Agencies' Compliance With the Lead Safe Housing Rule

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of HUD's oversight of public housing agencies' compliance with the Lead Safe Housing Rule.

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

The Inspector General Act, Title 5 United States Code, appendix 8M, requires that OIG post its reports on the OIG website. Accordingly, this report will be posted at <https://www.hudoig.gov>.

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



**Audit Report Number: 2020-CH-0003**

**Date: March 18, 2020**

**HUD Lacked Adequate Oversight of Public Housing Agencies' Compliance With the Lead Safe Housing Rule**

## Highlights

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### What We Audited and Why

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We audited the U.S. Department of Housing and Urban Development's (HUD) oversight of public housing agencies' compliance with the Lead Safe Housing Rule. The audit is part of the activities in our fiscal year 2019 audit plan. The audit objective was to determine whether HUD had adequate oversight of public housing agencies' compliance with the Lead Safe Housing Rule.

### What We Found

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HUD did not have adequate oversight of public housing agencies' compliance with the Lead Safe Housing Rule. Specifically, it did not always (1) obtain sufficient documentation to support that a public housing development was either exempt from or complied with the Lead Safe Housing Rule and (2) review all potential cases of noncompliance. HUD also did not ensure that public housing agencies reported accurate construction dates of housing developments to determine the applicability of the Rule. As a result, HUD lacked assurance that public housing agencies complied with the Lead Safe Housing Rule, thus potentially exposing children under 6 years of age to lead-based paint hazards.

### What We Recommend

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We recommend that the Assistant Secretary for Public and Indian Housing require the Office of Field Operations to ensure that (1) its staff appropriately determine exemptions from the Lead Safe Housing Rule and documents support of the determinations; (2) its staff determines whether children under 6 years of age reside in an exempt development; (3) the developments without sufficient support of an exemption either support the exemption status or complete the required lead-based paint inspections and provide the documentation to the appropriate field office; (4) the potentially noncompliant developments are reported in its response tracking system and reviewed for compliance with the Lead Safe Housing Rule; (5) timeframes for reporting potentially noncompliant developments in its tracking system, monitoring public housing agencies for compliance, and implementing corrective actions and resolution are established; (6) a frame work for administrative action for noncompliant public housing agencies is developed; and (7) public housing agencies accurately report construction dates of their housing developments.

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# Background and Objective

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

The Lead Safe Housing Rule applies to “target housing,” which is any housing constructed before 1978, except housing for the elderly or persons with disabilities or any zero-bedroom dwelling (unless a child who is less than 6 years of age resides or is expected to reside in such housing) or housing in which a lead-based paint inspection showed that it was free of lead-based paint. Housing that is not part of target housing is exempt from the requirements. If a child under age 6 lives in a unit designated for the elderly or persons with disabilities or a zero-bedroom unit, the unit and the common areas servicing it are not exempt from the Lead Safe Housing Rule. Target housing and housing that is exempt are defined by Congress in the United States Code and are not discretionary.

HUD's public housing program was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. Public housing comes in all sizes and types, from scattered single-family houses to highrise apartments. Nationwide, there are approximately 1.2 million households residing in public housing developments that are owned and operated by local public housing agencies.

HUD required public housing developments subject to the Lead Safe Housing Rule to complete lead-based paint inspections and provide lead-based paint disclosures to its residents. HUD's Real Estate Assessment Center (REAC) determines whether public housing agencies maintain lead-based paint inspections and evidence of disclosures as part of its oversight monitoring activities.

The Office of Public and Indian Housing's Office of Field Operations oversees the regional and field program offices and provides guidance and directives to the staff. The Office of Field Operations and its regional and local field program offices are responsible for coordinating with and ensuring public housing agencies comply with HUD's requirements.

In May 2016, the Office of Field Operations established the lead-based paint response tracker to track and monitor public housing agencies' compliance with the Lead Safe Housing Rule, which includes following up with public housing agencies that were reported by REAC as missing either a lead-based paint inspection for public housing developments or evidence that lead-based paint disclosure forms had been provided to all residents. HUD's Office of Field Operations' staff inputs potentially noncompliant developments identified by REAC into the response tracking system and then the regional or field office program staff would obtain, evaluate, and input supporting documentation such as, evidence of a lead-based paint inspection or support showing that the development was exempt, and comments into the response tracker. The Office of Field Operations is responsible for reviewing the support documentation and approving the determination of the program staff or requiring additional actions be taken by either the program staff or the public housing agencies.

The audit objective was to determine whether HUD had adequate oversight of public housing agencies' compliance with the Lead Safe Housing Rule.

# Results of Audit

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## **Finding: HUD Did Not Have Adequate Oversight of Public Housing Agencies' Compliance With the Lead Safe Housing Rule**

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HUD did not have adequate oversight of public housing agencies' compliance with the Lead Safe Housing Rule. Specifically, it did not always (1) obtain sufficient documentation to support that a public housing agency development was either exempt from or complied with the Lead Safe Housing Rule and (2) review all potential cases of noncompliance. HUD also did not ensure that public housing agencies reported accurate construction dates of housing developments to determine the applicability of the Rule. The weaknesses occurred because HUD's Office of Field Operations lacked adequate controls to ensure that its staff followed Federal requirements and its own internal policies to exempt a development from the requirements of the Lead Safe Housing Rule. In addition, the Office of Field Operations (1) did not always monitor or follow up with the public housing agencies that failed to provide adequate supporting documentation and (2) lacked adequate policies and procedures for addressing potential noncompliance with the Lead Safe Housing Rule and verifying information reported by the public housing agencies. Further, staffing changes and technical issues hindered HUD's review process. As a result, HUD lacked assurance that public housing agencies complied with the Lead Safe Housing Rule, thus potentially exposing children under 6 years of age to lead-based paint hazards.

### **HUD Did Not Always Obtain Sufficient Documentation To Support Exemption Status**

With the exception of housing built after 1978, for a public housing development to be exempt from the Lead Safe Housing Rule, the public housing agency must have an approved designated housing plan showing that the development is for elderly or disabled housing or the original annual contributions contract or similar documentation showing that the development was specifically built as elderly or disabled housing.<sup>1</sup> However, HUD did not always require public housing agencies to provide sufficient documentation<sup>2</sup> to support a housing development's exemption from the requirements of the Lead Safe Housing Rule. Specifically, for the housing developments reported in its tracking system as exempt, instead of the required approved designated housing plan or the original annual contributions contract or similar documentation, for 55 of the 61<sup>3</sup> (90 percent) developments reviewed, HUD relied on (1) public housing

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<sup>1</sup> Notice PIH 2017-13.

<sup>2</sup> Office of Public and Indian Housing (PIH) Notice PIH 2017-13 and HUD's Field Office Roles and Responsibilities for Lead-based Paint Reporting. See the Federal Requirements in appendix B.

<sup>3</sup> As of March 2019, there were 305 developments classified as exempt in HUD's tracking system. See Scope and Methodology section.

agencies' self-certifications, (2) expired designated housing plans,<sup>4</sup> (3) Public and Indian Housing Information Center (PIC) designations,<sup>5</sup> (4) disposition and rental assistance demonstration applications not yet approved by HUD, (5) construction dates after 1978 that did not apply to all of the buildings in a development, (6) lead-free certifications that did not cover all of the buildings in the exempted development, or (7) lead-based paint inspection reports that specifically identified the presence of lead-based paint as support for developments' exemption from the Lead Safe Housing Rule. These documents did not support that the developments were specifically built as elderly or disabled housing.

Additionally, 36 of the 61 developments identified as exempt in HUD's response tracking system contained buildings that were designated as housing for the elderly or persons with disabilities or had zero-bedroom units. For these buildings, HUD's internal policy<sup>6</sup> required its staff to verify that no households have a child under 6 residing in an exempt development. However, HUD's staff could not provide documentation showing that it had verified that no children under 6 years of age resided in a unit in the buildings. If it is determined that a child under the age of 6 resides in a unit in an exempt development, the unit and associated common areas are no longer considered exempt<sup>7</sup>, from the Lead Safe Housing Rule. We determined that there were no children in 31 developments; however, children appeared to reside in the remaining 5 developments.<sup>8</sup>

According to the Office of Field Operations, public housing agencies know the most about their developments and are ultimately responsible for ensuring compliance with the Lead Safe Housing Rule. Further, delays in implementing and disseminating its internal policy led to HUD's staff accepting self-certifications and insufficient documentation from public housing agencies. Although there may have been delays in implementing and disseminating its internal policy, the Office's staff designated the 55 developments as exempt without adequate support that they met the requirements for an exception as defined by 42 U.S.C. (United States Code) 4851b, which defines target housing as any housing constructed before 1978, except housing for the elderly or persons with disabilities or any zero-bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing).

Further, as of March 2019, there were 80 housing developments in HUD's response tracker in which the exemption or compliance status had not been determined. The unresolved cases were from REAC inspections from 2013 to 2017. HUD's Office of Field Operations acknowledged

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<sup>4</sup> A designated housing plan allows a public housing agency to operate part of a public housing development as exclusively for the elderly or disabled and must be approved by HUD. Once approved, new plans remain in effect for 5 years from the date of initial approval and at the public housing agencies' request, may be renewed for additional 2-year increments. The designated projects or portions of a project will then convert to a mixed housing development on the date on which the plan expires.

<sup>5</sup> HUD's Field Office Roles and Responsibilities for Lead-based Paint Reporting.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> We were not able to determine the age of the children. See the Scope and Methodology section for more details.



that some cases were missing required supporting documentation within the response tracker and the resolution for some cases had not begun or was not completed. The Office did not know whether the delay in addressing the cases was caused by the public housing agencies or HUD's field office staff. In addition, its internal policy<sup>9</sup> did not include timeframes for resolving cases of potential noncompliance with the Lead Safe Housing Rule. HUD required public housing agencies to complete lead-based paint inspections for public housing developments by March 15, 2000<sup>10</sup>; however, according to the Office of Field Operations, no administrative actions have been taken against public housing agencies that did not comply with the requirements or that remain unresolved.

### **HUD Did Not Always Review Potential Cases of Noncompliance Identified by REAC**

HUD's Office of Field Operations did not ensure that 382 public housing agencies' developments identified by REAC between January 2017 and March 2019 as not having had a lead-based paint inspection were reported in its response tracker. Therefore, its staff did not monitor or follow up with the public housing agencies to determine whether the developments were either exempt from the Lead Safe Housing Rule or required to have a lead-based paint inspection.<sup>11</sup>

According to the Office of Field Operations, staffing changes resulted in a lack of adequate technical knowledge of how to fully use the tracking system, and technical issues with the system's design prevented it from adding cases to the system to seek resolution. Additionally, the Office had identified potential individuals to train and resume the lead inspection review process once the technical issues were resolved, but it was not sure whether the additional staff members would help reduce the backlog.

### **HUD Did Not Ensure That Public Housing Agencies Reported Accurate Construction Dates of Housing Developments**

We reviewed public sources and public housing agencies' websites for 36 developments to determine whether the construction dates in HUD's Office of Public and Indian Housing's (PIH) Inventory Management System (IMS)-PIC were reliable. We found that the construction dates for 29 of the 36 developments were not supported by public records.

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<sup>9</sup> HUD's Field Office Roles and Responsibilities for Lead-based Paint Reporting.

<sup>10</sup> 24 CFR 35.1115(a).

<sup>11</sup> Some developments were inspected and identified by REAC as potentially noncompliant with the Lead Safe Housing Rule more than 1 year ago.

According to a REAC management analyst, the REAC inspector would obtain a public housing development's construction data from HUD's IMS-PIC before scheduling the inspection and then would confirm with the public housing agency the construction date of a building as part of the onsite inspection. If the building was built before 1978, the inspector would request the lead-based paint inspection and lead disclosures. However, if the building was built after 1978, after the inspection, the inspector would enter into HUD's Physical Assessment Subsystem that the Lead Safe Housing Rule was not applicable (exempt) for that development.<sup>12</sup> Therefore, HUD relied on the data in IMS-PIC to determine the applicability of the Lead Safe Housing Rule. However, neither REAC's nor the Office of Field Operations' policies and procedures required the REAC inspector or the Office of Field Operations' staff to obtain and review supporting documentation to verify the accuracy of public housing developments' construction dates in IMS-PIC.

HUD's Office of Field Operations was aware of issues with data in IMS-PIC, in particular, building construction dates, and had tried to have public housing agencies correct information or upload missing information into the system. However, the effort did not achieve substantial results. As of October 2019, the Office had not verified the accuracy of the information in the system.

### **Conclusion**

HUD lacked adequate policies, procedures, and controls to ensure that public housing agencies were either exempt or in compliance with the Lead Safe Housing Rule. Specifically, HUD's Office of Field Operations lacked adequate controls to ensure that its staff followed Federal requirements and its own internal policies to exempt a development from the requirements of the Lead Safe Housing Rule. In addition, the Office of Field Operations (1) did not always monitor or follow up with the public housing agencies that failed to provide adequate supporting documentation and (2) lacked adequate policies and procedures for addressing potential noncompliance with the Lead Safe Housing Rule and verifying information reported by the public housing agencies. Further, staffing changes and technical issues hindered HUD's review process. As a result, HUD lacked assurance that public housing agencies complied with the Lead Safe Housing Rule, thus potentially exposing children under 6 years of age to lead-based paint hazards.

### **Recommendations**

We recommend that the Assistant Secretary for Public and Indian Housing require the Office of Field Operations to

- 1A. Ensure that its staff appropriately determines exemptions from the Lead Safe Housing Rule and documents support of the determinations.

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<sup>12</sup> The determination may change based on the building that was inspected.

- 1B. Ensure that its staff determines whether a child under 6 years of age resides in an exempted development. If a child is determined to reside in an exempted development take appropriate actions in accordance with its internal policies.
- 1C. Ensure that the 55 developments without sufficient support for an exemption either support the exemption status or complete the required lead-based paint inspections and provide the documentation to the appropriate field office.
- 1D. Ensure that the remaining 244<sup>13</sup> developments' exemption status is properly supported.
- 1E. Ensure that the 382 potentially noncompliant developments are reported in its response tracking system and reviewed for compliance with the Lead Safe Housing Rule.
- 1F. Implement adequate procedures and controls for monitoring public housing agencies' compliance with the Lead Safe Housing Rule. Such procedures and controls should include but not limited to establishing timeframes for reporting potentially noncompliant developments in its tracking system and implementing corrective actions and resolution.
- 1G. Develop a framework for taking administrative actions against public housing agencies that do not comply with HUD's Lead Safe Rule.
- 1H. Continue its efforts to identify and train staff on how to use the response tracker.
- 1I. Continue its efforts to resolve technical issues that prevented the addition of new cases into the response tracker.
- 1J. Establish policies, procedures, and controls for validating and correcting construction dates of the public housing developments in IMS-PIC. If the information is determined to be inaccurate, HUD should work with public housing agencies to update the data to ensure accuracy.

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<sup>13</sup> The 305 developments reported in HUD's tracking system as exempt - the 61 developments reviewed as part of this audit.

# Scope and Methodology

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We performed our audit work from April through August 2019 at our office located in Detroit, MI, and other locations as appropriate. The audit covered the period June 1, 2016, through May 31, 2018, but was expanded as necessary.<sup>14</sup>

To accomplish our objective, we reviewed

- Applicable laws, HUD regulations, and program requirements, including 42 U.S.C. 1437d, 4822, 4851, and 4852; the United States Housing Act of 1937 as amended; HUD's program requirements at 24 CFR parts 35, 903, and 960; Notices PIH 2017-13, 2012-32, Rev 3, 2011-44, and 2005-2.
- HUD's policies and procedures for ensuring Lead Safe Housing Rule compliance.
- Information about public housing agencies and their public housing properties in HUD's systems, such as IMS-PIC.
- Information about public housing agency properties in the public record, such as public housing agency websites, property assessor or register of deeds records, and Lexis Nexis Accurint.
- Support documentation in the lead-based paint response tracker, including annual contributions contracts, designated housing plans, lead-based paint inspections, clearance reports, and letters from public housing agencies.

We also had discussions with HUD staff.

We randomly selected 61 developments from a universe of 305 developments classified as exempt (20 percent) in HUD's tracking system to determine whether HUD provided adequate oversight of public housing agencies reporting their developments as exempt. We chose a random sample due to the uniqueness of the cases and because a 100 percent review of the case files was not feasible. Therefore, the results of the sample cannot be projected.

For households exempted as elderly or disabled, we reviewed the support tracker support to determine whether HUD maintained support that it determined whether children were present. Since HUD did not perform this task, we reviewed demographic reports for the developments to identify households with dependents.

HUD provided a table detailing the results of REAC inspections. We filtered the table and identified 742 instances between January 1, 2017, and March 30, 2019, in which REAC inspectors were not provided supporting documentation of a lead inspection for the development

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<sup>14</sup> We expanded our scope to March 2019 because the information provided by HUD included developments that had been classified as exempt as of that date. HUD's Office of Field Operations did not maintain or track dates on which each development had been designated by HUD as exempt from the Lead Safe Housing Rule.

by the public housing agency. We searched for all 742 cases in the response tracker to determine whether the cases had been entered into HUD's tracking system.

To test the reliability of information in HUD's system, we used ACL software and selected a random sample of 36 developments from a population of 201,921 developments. We used public housing agency websites, [www accurint.com](http://www accurint.com), the property assessor, and register of deeds websites to determine whether the construction date reflected in HUD's IMS-PIC was supported. We chose a random sample because a 100 percent review of the case files was not feasible. Therefore, the results of the sample cannot be projected.

To achieve our audit objective, we relied in part on information maintained in IMS-PIC. In cases in which we relied on PIC data, we supported the data with documentation from other sources.

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

# Internal Controls

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

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

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

## **Relevant Internal Controls**

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

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

We assessed the relevant controls identified above.

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

## **Significant Deficiency**

Based on our review, we believe that the following item is a significant deficiency:

- HUD lacked adequate policies, procedures, and controls to ensure that public housing agencies were either exempt or in compliance with the Lead Safe Housing Rule (finding).

# Appendixes


## Appendix A

Ref to  
OIG  
Evaluation

### Auditee Comments and OIG's Evaluation

Comment 1

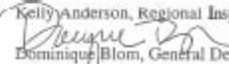
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-5000



FEB 04 2020

OFFICE OF PUBLIC AND INDIAN HOUSING

MEMORANDUM FOR: Kelly Anderson, Regional Inspector General for Audit, SAAGA

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

SUBJECT: Response to Discussion Draft Audit Report – HUD's  
Oversight of Public Housing Agencies' Compliance with the Lead  
Safe Housing Rule: OIG Audit Report 2020-CH-XXXX

Thank you for the opportunity to review and discuss the subject draft Office of Inspector General (OIG) audit memorandum. I also thank your staff for their professionalism in the handling of all aspects of this audit. I have carefully reviewed your report, as well as the analysis and wish to convey that the Department takes the issue of exposure to lead-based paint and hazards seriously.

As a result of the audit, the OIG found that HUD did not have adequate oversight of public housing agencies' compliance with the Lead Safe Housing Rule in its Public Housing Program. The OIG's review focused on public housing developments that may be exempt from the regulations and the documentation provided to support that exemption.

As we discussed, my staff will review PIH's current policies and processes to ensure that they address the findings issued in this report, and if not, ensure they are updated. PIH staff will follow up on instances where documentation did not support an exemption, and either obtain missing documentation or direct the PHA to complete the applicable requirements under the Lead Safe Housing Rule. As of the date of this memo, I expect that much of the missing documentation cited under Recommendations 1C, 1D, and 1E has already been collected through a recent effort to resolve findings from 2016-2018. To resolve these findings, PIH will update its tracking system with updated physical inspections results, train PIH field staff, and follow up with affected public housing authorities.

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

[www.hud.gov](http://www.hud.gov)      [espanol.hud.gov](http://espanol.hud.gov)

## **OIG Evaluation of Auditee Comments**

Comment 1 We commend HUD's ongoing efforts to improve its oversight of public housing agencies' compliance with the Lead Safe Housing Rule. We look forward to working with HUD during the audit resolution process.



## Appendix B

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### Federal Requirements

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

- (i) not less than 25 percent must be performed by January 1, 1998;
- (ii) not less than 50 percent must be performed by January 1, 2000; and
- (iii) the remainder must be performed by January 1, 2002."

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

HUD's regulations at 24 CFR 35.115(a) state that subparts B through R of this part do not apply to the following: (1) a residential property for which construction was completed on or after January 1, 1978, or in the case of jurisdictions, which banned the sale or residential use of lead-containing paint before 1978, an earlier date as HUD may designate; (2) a zero-bedroom dwelling unit, including a single-room-occupancy dwelling unit; (3) housing for the elderly or a residential property designated exclusively for persons with disabilities, except this exemption should not apply if a child less than 6 years of age resides or is expected to reside in the dwelling unit (see definitions of "housing for the elderly" and "expected to reside" in 24 CFR 35.110); and (4) residential property found not to have lead-based paint by a lead-based paint inspection conducted in accordance with section 35.1320(a). Results of additional test(s) by a certified lead-based paint inspector may be used to confirm or refute a previous finding.

HUD's regulations at 24 CFR 960.102 state that a public housing development or portion of a development that was reserved for elderly and disabled families at its inception (and has retained that character) is a mixed population development. If the development was not so reserved at its inception, the public housing agency must have obtained HUD approval to give preference in tenant selection for all units in the development (or portion of development) to elderly families and disabled families.

Notice PIH 2005-02, effective January 5, 2005, states that a public housing agency must submit a designated plan for HUD's approval to designate a project for elderly families only or for persons with disabilities only in accordance with Section 7 of the U.S. Housing Act of 1937.

Notice PIH 2017-13, effective August 10, 2017, states that for a public housing development to be exempt from the Lead Safe Housing Rule, the public housing agency must have an approved designated housing plan showing that the development is for elderly or disabled housing or the original annual contributions contract or similar documentation showing that the development was specifically built as elderly or disabled housing.

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

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

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

HUD's Field Office Roles and Responsibilities for Lead-based Paint Reporting, page 9 states that although sampling is permitted for properties with multiple units of similar characteristics, all units must be covered by the inspection.

HUD's Field Office Roles and Responsibilities for Lead-based Paint Reporting, page 13 states that a PIC designation is not a sufficient tool to determine whether a development is exempt because it is not consistently applied and does not support that the project is operating under a designated housing plan or is exempt from the rules.

HUD's Field Office Roles and Responsibilities for Lead-based Paint Reporting, page 12 states that the elderly or disabled exemption cannot be applied to a unit or property with a resident (or expected resident) under 6 years age and directs its staff to use the HUD PIC system to confirm that no households have a child under 6 residing in an exempt development. If a child under the age of 6 resides in a unit in an exempt development, the unit and associated common areas are no longer considered exempt.

HUD's Field Office Roles and Responsibilities for Lead-based Paint Reporting, page 12 states that each building needs to be judged based on its own original construction date. If there are any pre-1978 buildings, the development cannot be considered exempt, and the old ones need to be documented for compliance.

HUD's Field Office Roles and Responsibilities for Lead-based Paint Reporting, page 12 states that elderly or disabled status may be documented only by a HUD-approved designation in the form of a designated housing plan approval letter or an original annual contributions contract or other sort of originating document if the housing development has been exempted from the designated housing plan requirement.