



Issue Date July 8, 2010
Audit Report Number 2010-PH-1011

TO: Dennis G. Bellintier, Director, Office of Public Housing, Pennsylvania State Office, 3APH

FROM: //signed//
John P. Buck, Regional Inspector General for Audit, Philadelphia Region, 3AGA

SUBJECT: The Philadelphia Housing Authority, Philadelphia, PA, Did Not Ensure That Its Section 8 Housing Choice Voucher Program Units Met Housing Quality Standards

HIGHLIGHTS

What We Audited and Why

We audited the Philadelphia Housing Authority's (Authority) administration of its housing quality standards inspection program for its Section 8 Housing Choice Voucher program as part of our fiscal year 2010 audit plan. This is our second audit report issued on the Authority's program. The audit objective addressed in this report was to determine whether the Authority ensured that its program units met the U.S. Department of Housing and Urban Development's (HUD) housing quality standards.

What We Found

The Authority did not ensure that its program units met housing quality standards as required. Of 67 program units statistically selected for inspection, 62 did not meet HUD's housing quality standards. Moreover, 29 of the 62 units were in material noncompliance with housing quality standards. The Authority spent \$68,900 in program funds and received \$2,100 in administrative fees for these 29 units. We estimate that over the next year if the Authority does not implement adequate procedures and controls to ensure that its program units meet housing

quality standards, HUD will pay more than \$18.6 million in housing assistance on units that materially fail to meet HUD's housing quality standards.

What We Recommend

We recommend that HUD require the Authority to ensure that housing units inspected during the audit are repaired to meet HUD's housing quality standards, reimburse its program from non-Federal funds for the improper use of \$71,000 in program and administrative funds for units that materially failed to meet HUD's housing quality standards, and implement adequate procedures and controls to ensure that in the future, program units meet housing quality standards to prevent an estimated \$18.6 million from being spent annually on units that materially fail to meet HUD's housing quality standards.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

We provided a draft audit report to the Authority and HUD officials on April 23, 2010. We discussed the audit results with the Authority and HUD officials throughout the audit and at an exit conference on May 5, 2010. The Authority's outside counsel provided written comments to our draft report on May 19, 2010. It disagreed with our findings and recommendations. The complete text of the response, along with our evaluation of that response, can be found in appendix B of this report.

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BACKGROUND AND OBJECTIVE

The U.S. Housing Act of 1937 initiated the Nation's public housing program. That same year, the City of Philadelphia established the Philadelphia Housing Authority (Authority) under the laws of the Commonwealth of Pennsylvania to address housing issues affecting low-income persons. A five-member board of commissioners governs the Authority. The current executive director is Carl R. Greene. The Authority's main administrative office is located at 12 South 23rd Street, Philadelphia, PA.

In 1996, Congress authorized the Moving to Work Demonstration program (Moving to Work) as a U.S. Department of Housing and Urban Development (HUD) demonstration program. This program allowed certain housing authorities to design and test ways to promote self-sufficiency among assisted households, achieve programmatic efficiency, reduce costs, and increase housing choice for low-income households. Congress exempted participating housing authorities from much of the Housing Act of 1937 and associated regulations as outlined in the Moving to Work agreements. Participating housing authorities have considerable flexibility in determining how to use Federal funds. In December 2000, the Authority submitted an application to HUD to enter the program, and in February 2002, HUD signed a 7-year agreement with the Authority that was retroactive to April 2001. From April to October 2008, the Authority continued to operate under a HUD-developed plan to transition back to traditional HUD program regulations because the term of its Moving to Work agreement had expired. However, in October 2008, HUD entered into a new 10-year Moving to Work agreement with the Authority. The expiration date of the Authority's new agreement is March 2018.

Under the Section 8 Housing Choice Voucher program, HUD authorized the Authority to provide leased housing assistance payments to more than 18,000 eligible households. HUD authorized the Authority the following financial assistance for housing choice vouchers for fiscal years 2007 through 2009:

Authority fiscal year	Number of vouchers authorized	Annual budget authority
2007	18,075	\$147,066,278
2008	18,185	\$178,940,566
2009	18,349	\$173,891,024

HUD regulations at 24 CFR (Code of Federal Regulations) 982.405(a) require public housing authorities to perform unit inspections before the initial move-in and at least annually. The authority must inspect the unit leased to the family before the term of the lease, at least annually during assisted occupancy, and at other times as needed to determine whether the unit meets housing quality standards.

Our audit objective was to determine whether the Authority ensured that its program units met HUD's housing quality standards.

RESULTS OF AUDIT

Finding: Controls Over Housing Quality Standards Were Inadequate

The Authority did not adequately enforce HUD's housing quality standards. Of 67 program housing units selected for inspection, 62 did not meet HUD's housing quality standards, and 29 materially failed to meet housing quality standards. The Authority's inspectors did not observe or report 228 violations, which existed at the units when they conducted their inspections. This condition occurred because the Authority's inspectors did not consider some deficiencies violations of housing quality standards and the Authority did not implement an effective quality control program for its inspection process. As a result, the Authority spent \$68,900 in program funds and received \$2,100 in administrative fees for 29 units that materially failed to meet HUD's housing quality standards. Unless the Authority implements adequate procedures and controls to ensure that its program units meet housing quality standards, we estimate that it will pay more than \$18.6 million in housing assistance for units that materially fail to meet housing quality standards over the next year.

Housing Units Did Not Meet HUD's Housing Quality Standards

We statistically selected 67 units from unit inspections passed by the Authority's inspectors during the period April 1 to September 30, 2009. The 67 units were selected to determine whether the Authority ensured that the units in its program met housing quality standards. We inspected the selected units between November 30 and December 11, 2009.

Of the 67 units inspected, 62 (93 percent) had 483 housing quality standards violations. Additionally, 29 of the 62 units (47 percent) were considered to be in material noncompliance since they had a number of violations that predated the Authority's last inspection and were not identified by the Authority's inspectors, creating unsafe living conditions. Of the 62 units with housing quality standards violations, three units had violations that were noted on the Authority's previous inspection reports, and the Authority later passed the units. However, during our inspection, it was determined that the violations had not been corrected. The 29 units had 233 violations (including 5 violations identified by the Authority but not corrected) that existed before the Authority's last inspection. HUD regulations at 24 CFR 982.401 require that all program housing meet HUD's housing quality standards at the beginning of the assisted occupancy and throughout the tenancy. The following table categorizes the 483 housing quality standards violations in the 62 units that failed the housing quality standards inspections.

Key aspect ¹	Number of violations	Number of units	Percentage of units
Illumination and electricity	244	48	72%
Structure and materials	156	46	69%
Interior air quality	21	15	22%
Space and security	16	9	13%
Sanitary condition	15	11	16%
Smoke detectors	13	11	16%
Sanitary facilities	5	5	8%
Water supply	5	2	3%
Thermal environment	4	3	5%
Food preparation and refuse disposal	2	2	3%
Access	1	1	2%
Site and neighborhood	1	1	2%
Total	483		

We provided our inspection results to the Authority and to the Director of HUD's Pennsylvania State Office of Public Housing during the audit.

Housing Quality Standards Violations Were Identified

The following pictures illustrate some of the violations we noted while conducting housing quality standards inspections in the 29 units that materially failed to meet HUD's housing quality standards.

¹ 24 CFR 982.401 categorizes housing quality standards performance and acceptability criteria into 13 key aspects.



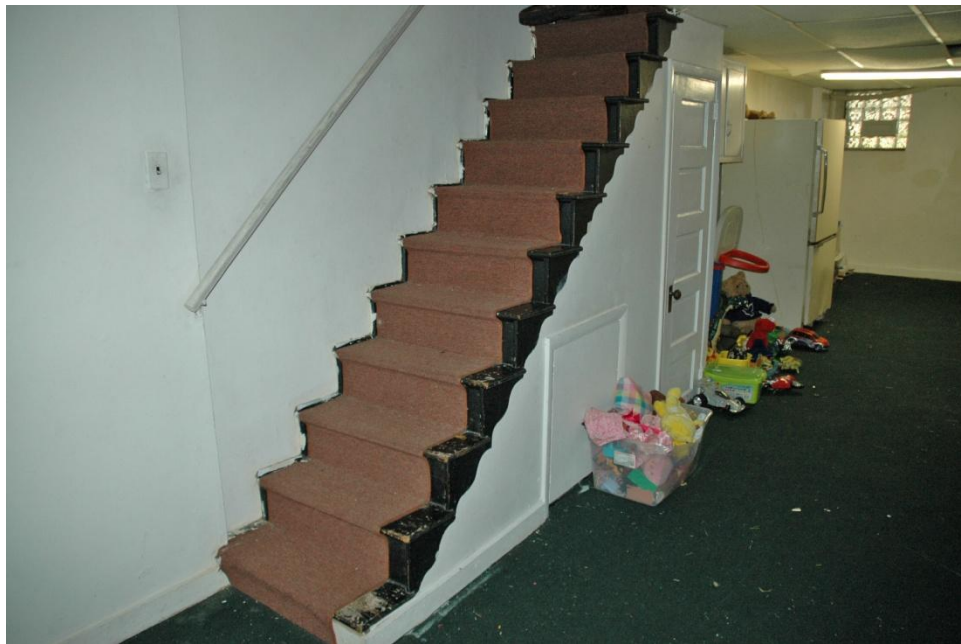
Inspection #25: There is a loose cover on a junction box, and wires are spliced outside a junction box.



Inspection #35: The water heater discharge pipe (left) is too short and the boiler discharge pipe (right) is horizontal.



Inspection #70: The fuse box is unsecured and missing its internal cover, exposing electric contacts.



Inspection #59: The stairway to the basement requires a guardrail on the open side.



Inspection #30: A gap under the front entrance door allows air infiltration and vermin to enter the unit.



Inspection #36: The stairway to the basement requires a handrail. The stairway requires a guardrail on the open side.



Inspection #11: The open side of the rear stairway needs a guardrail.



Inspection #24: The carpet is torn on the stairway to the second floor.



Inspection #72: The front entrance doorway has a large vertical gap along the entire height of the door jamb and the wall.

The Authority Did Not Have Adequate Procedures and Controls Regarding Its Inspections

Although HUD regulations at 24 CFR 982.401 and the Authority's administrative plan required the Authority to ensure that its program units met housing quality standards, it did not do so because its inspectors did not consider some deficiencies violations of housing quality standards and it did not implement an adequate and effective quality control program and give sufficient emphasis to the effectiveness of its inspection program.

Inspectors Did Not Consider Some Deficiencies Violations of Housing Quality Standards

The Authority relied on the inspectors' knowledge of housing quality standards and experience to conduct inspections. Its administrative plan required it to inspect units based upon HUD's housing quality standards and its own requirement that all units meet the minimum standards set forth in the local codes. However, the administrative plan and inspection procedures provided by the Authority to its inspectors primarily addressed the type, scheduling, notification to tenant and owner, and follow-up of housing quality standards inspections rather than detailed instructions for determining the nature and extent of violations and deficiencies. Some inspectors that we interviewed stated that during their inspections, they routinely checked for open grounds in three-pronged outlets, missing handrails and guardrails, and missing knockout plugs and covers on junction boxes and panels. However, the Authority's inspection reports for the units in our sample showed that these inspectors did not identify these deficiencies, although we identified them during our inspections of the same units.

The Authority's Quality Control Program Was Inadequate and Ineffective

The Authority did not perform the number of quality control inspections required by its administrative plan. The Authority's administrative plan required it to perform quality control inspections on 10 percent of housing choice voucher units of all types to ensure consistency in housing quality standards inspections and that rental units continued to meet the program standards. Our review of the Authority's inspection records showed that it conducted more than 13,000 housing quality standards inspections during the period October 1, 2008, through September 30, 2009. The Authority asserted that it performed 414 quality control inspections during the same period. This number represented roughly 3 percent of the universe of completed inspections. However, we reviewed the documentation that the Authority provided for the 414 inspections and determined that only 266 inspections were completed. The other 148 actions did not result in completed quality control inspections because the Authority incorrectly included instances in which its quality control inspectors attempted to conduct a quality control inspection when the inspector may have had the wrong address, the tenant had moved, the tenant refused access to the unit, and/or there was no one at the unit to permit entry into the unit.

The Authority did not use the results of its quality control inspections as a tool to improve its inspection program. HUD's Housing Choice Voucher Guidebook 7420.10G states that the results of the quality control inspections should be provided as feedback on inspectors' work, which can be used to determine whether individual performance or general housing quality standards training issues need to be addressed. The Authority provided no documentation to show

that it used the inspection results to improve its program by giving inspectors feedback on their performance to ensure that there was consistency among the inspections regarding the application of HUD's housing quality standards.

The Authority Did Not Give Sufficient Emphasis to the Effectiveness of Its Inspection Program

The Authority assigned the responsibility for conducting quality control inspections to members of its police department and its investigations unit. The job descriptions for these employees did not include the task of conducting quality control inspections as a duty. Further, their job descriptions did not include a requirement for the employees to possess knowledge, skills, and abilities corresponding to building trades, inspection procedures, or housing quality standards.

The Authority did not complete a planned internal audit of its housing quality standards inspection program. The Authority's inspector general planned to conduct a review of its Housing Choice Voucher Inspection Process and Quality Assurance Inspection Program in the third and fourth quarters of the Authority's fiscal year 2008.² However, the inspector general did not perform the review as planned.

The Authority Is Taking Action

The Authority informed us that it took action to improve controls over the program. In a memorandum, dated March 18, 2010, it reassigned the responsibility for quality control inspections from its police department to its quality assurance department. An attachment to the memorandum specified procedures for quality assurance staff members and asset managers to follow regarding the selection, conduct, timing, analysis, and reporting of housing quality standards quality control inspections. We commend the Authority for taking this step to improve its controls. The Authority will need to provide evidence that the procedures have been implemented and that they are being followed and enforced. Since the new procedures were not operational during the audit period, we did not audit them and, therefore, did not evaluate their adequacy and effectiveness.

Conclusion

The Authority's program participants were subjected to a number of housing quality standards violations, which created unsafe living conditions, and the Authority did not properly use its program funds when it failed to ensure that its program units

² The Authority's fiscal year begins April 1. The third and fourth quarters of the Authority's fiscal year 2008 included the months October 2007 to March 2008.

met HUD's housing quality standards as required. In accordance with HUD regulations at 24 CFR 982.152(d), HUD is permitted to reduce or offset any program administrative fees paid to a public housing authority if it fails to perform its administrative responsibilities correctly or adequately, such as not enforcing HUD's housing quality standards. The Authority disbursed \$68,870 in housing assistance payments to owners and received \$2,062 in program administrative fees for the units that materially failed to meet HUD's housing quality standards. If the Authority implements an effective quality control inspection program and develops and implements controls to ensure that its inspectors are provided with policy and procedural standards for performing consistent inspections, we estimate that more than \$18.6 million in future housing assistance payments will be spent for units that are decent, safe, and sanitary. Our methodology for this estimate is explained in the Scope and Methodology section of this report.

Recommendations

We recommend that the Director of HUD's Pennsylvania State Office of Public Housing require the Authority to

- 1A. Certify, along with the owners of the 62 units cited in this finding, that the applicable housing quality standards violations have been corrected.
- 1B. Reimburse its program \$70,932 from non-Federal funds (\$68,870 for housing assistance payments and \$2,062 in associated administrative fees) for the 29 units that materially failed to meet HUD's housing quality standards.
- 1C. Develop and implement procedures and controls to ensure that program units meet housing quality standards, thereby ensuring that \$18,625,950 in program funds is expended only on units that are decent, safe, and sanitary.
- 1D. Perform quality control inspections in accordance with its administrative plan and use the results of those inspections to provide feedback to its inspectors to correct recurring deficiencies noted.

SCOPE AND METHODOLOGY

To accomplish our objective, we reviewed

- Applicable laws, regulations, the Authority's administrative plan, HUD's program requirements at 24 CFR Part 982, and HUD's Housing Choice Voucher Program Guidebook 7420.10G.
- The Authority's inspection reports; computerized database information including housing quality standards inspection data, housing assistance payment data, and tenant data; employee data; organizational chart; board meeting minutes; employee position descriptions; policies and procedures; and Moving to Work agreement and amendments.

We also interviewed the Authority's employees, HUD staff, and program households. A minimum of two of the Authority's outside attorneys were present at every interview we conducted with its employees during the audit.

To achieve our audit objective, we relied in part on computer-processed data from the Authority's database. Although we did not perform a detailed assessment of the reliability of the data, we did perform a minimal level of testing and found the data to be adequate for our purposes.

We statistically selected 67 of the Authority's program units to inspect from 7,649 unit inspections that passed the Authority's housing quality standards inspections between April 1 and September 30, 2009. We selected 67 units to determine whether the Authority's program units met housing quality standards. We selected the sample based on a confidence level of 90 percent, an estimated error rate of 50 percent, and a precision level of plus or minus 10 percent. We inspected the selected units between November 30 and December 11, 2009. The Authority had one employee, one public housing consultant, and one to three outside attorneys accompany our auditor and appraiser on all of the inspections.

Our sampling results determined that 29 of 67 units (43 percent) materially failed to meet HUD's housing quality standards. We determined that the 29 units were in material noncompliance because they had 233 violations that existed before the Authority's last inspection, creating unsafe living conditions. All units were ranked, and we used auditors' judgment to determine the material cutoff point.

Based upon a sample size of 67 from a total population of 7,649 units, an estimate of 43.3 percent (29 units) of the sample population materially failed housing quality standards inspections. The sampling error is plus or minus 9.9 percent. There is a 90 percent confidence that the frequency of occurrence of program units materially failing housing quality standards inspections lays between 33.4 and 53.2 percent of the population. This equates to an occurrence of between 2,555 and 4,067 units of the 7,649 units in the population. We used the most conservative number, which is the lower limit or 2,555 units.

We analyzed the Authority's automated housing assistance payment register for the period October 1, 2008, through September 30, 2009, and estimated that the average annual housing assistance payment per household was \$7,290. Using the lower limit of the estimate of the number of units and the estimated average annual housing assistance payment, we estimate that the Authority will spend \$18,625,950 (2,555 units times \$7,290, the estimated average annual housing assistance payment) annually for units that are in material noncompliance with HUD's housing quality standards.

This estimate is presented solely to demonstrate the annual amount of program funds that could be put to better use on decent, safe, and sanitary housing if the Authority implements our recommendations. While these benefits would recur indefinitely, we were conservative in our approach and only included the initial year in our estimate.

We performed our onsite audit work from October 2009 through April 2010 at the Authority's office located at 642 North Broad Street, Philadelphia, PA. The audit covered the period October 2008 to September 2009 but was expanded when necessary to include other periods

We performed our 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. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

INTERNAL CONTROLS

Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are achieved:

- Program operations,
- Relevance and reliability of information,
- Compliance with applicable laws and regulations, and
- Safeguarding of assets and resources.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. They 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 objective:

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Validity and reliability of data – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.
- Compliance with 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 significant weakness exists if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

Significant Weakness

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

- The Authority lacked sufficient procedures and controls to ensure that unit inspections complied with HUD regulations and that program units met minimum housing quality standards.

Separate Communication of Minor Deficiencies

Minor internal control and compliance issues were reported to the Authority by a separate letter dated April 29, 2010.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS AND FUNDS TO BE PUT TO BETTER USE

Recommendation number	Ineligible 1/	Funds to be put to better use 2/
1B	\$70,932	
1C		\$18,625,950
Total	\$70,932	\$18,625,950

- 1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations.
- 2/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this instance, if the Authority implements our recommendations, it will cease to incur program costs for units that are not decent, safe, and sanitary and, instead, will expend those funds for units that meet HUD's standards, thereby putting approximately \$18.6 million in program funds to better use. Once the Authority successfully improves its controls, this will be a recurring benefit. Our estimate reflects only the initial year of this benefit.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

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May 19, 2010

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VIA E-MAIL AND HAND DELIVERY

Mr. John P. Buck
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Philadelphia, PA 19107-3380

**Re: Philadelphia Housing Authority's Response to
OIG's Housing Choice Voucher Program Audit**

Dear Mr. Buck:

Enclosed is the response of the Philadelphia Housing Authority ("PHA") to the revised discussion Draft Audit Report (the "Draft Report") regarding PHA's Housing Quality Standard ("HQS") inspections for PHA's Housing Choice Voucher Program ("HCVP"). While we appreciated the opportunity to discuss the Draft Report with you at the May 5, 2010 exit conference, PHA remains troubled by much of the content of the Draft Report as well as the process by which it was produced.

As we discussed at the exit conference — and as explained more thoroughly in our attached response — we disagree with the methodology used by the OIG during the audit. The methodology used in the report was flawed. The Draft Report reviewed HQS inspections that were over ninety (90) days old. The OIG's "Materiality" Standard was exceedingly subjective and based on unsupported conclusions regarding preexisting conditions. Further, your inspector misapplied HQS criteria for many of the units cited in the Draft Report. Despite our numerous attempts to point out these methodological flaws, you have insisted on moving forward with this bad data.

The presentation of your findings is also disturbing. The Draft Report makes inaccurate statements regarding PHA's quality control inspection program and uses inflammatory language to portray alleged minor HQS violations as grave threats to the health and safety of our residents. Additionally, the Draft Report's conclusions about

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Comment 1

Comment 1

Schnader
ATTORNEYS AT LAW

John P. Buck
May 19, 2010
Page 2

"funds called into question" are unsupported with the information uncovered during the audit. Overall, PHA does not believe that the Draft Report contains an accurate portrayal of its Housing Choice Voucher Program.

Finally, we are disappointed that you refused to have further discussion on these concerns or grant us additional time to respond to the draft, particularly after you presented to us an eight page document purporting to be the basis for your findings only one week ago -- a document we have been requesting for months.

Sincerely,

James Eisenhower/mml

James Eisenhower

For SCHNADER HARRISON SEGAL & LEWIS LLP

JE/ml

cc: David Kasperowicz
Ronald Hall
J. Brian Howell, Esq.
John Morris

Schnader Harrison Segal & Lewis LLP

Comment 1

THE PHILADELPHIA HOUSING AUTHORITY'S RESPONSE TO DRAFT OIG AUDIT REPORT

The Philadelphia Housing Authority ("PHA") disagrees strongly with the findings in the draft audit report regarding its Housing Quality Standards ("HQS") inspection program issued on May 11, 2010 ("Audit Report"). The Audit Report issued by the U.S. Department of Housing and Urban Development ("HUD") Office of Inspector General ("OIG") does not accurately reflect the condition of PHA's HCV housing portfolio or the quality of PHA's inspection program. As described in more detail below, the conclusions of the Audit Report are seriously undermined by a number of flaws, including the fact that the OIG reviewed inspections that were over ninety days old contrary to HUD protocols, imposed a subjective materiality standard, and misapplied HQS.

PHA has incorporated in this response and attached hereto a report prepared by McCright & Associates ("McCright Report"), which supports PHA's conclusions. McCright is a nationally-recognized third party inspection firm with expertise in HUD's HCV program. McCright participated in inspections conducted by the OIG, reviewed all sixty-seven OIG inspection reports as well as the Audit Report and concluded that the Audit Report is significantly flawed and does not support the imposition of sanctions against PHA. As the McCright Report makes clear, the conclusions of the OIG's "appraiser" who inspected the units are based on misinterpretations of HUD standards and a lack of understanding of the applicable Philadelphia code.

PHA is also extremely disappointed that the OIG did not follow its own protocols in conducting this audit. Although the OIG standards call for auditors to provide auditees with the criteria upon which its findings are based, the OIG has failed to provide that information despite PHA's repeated requests and the OIG's commitment to do so. Instead, with one exception, the OIG has refused to even consider any of the information PHA provided that contradicts the OIG's findings. The Audit Report is based on the OIG's desire to reach pre-determined conclusions rather than an objective assessment of the information presented, and, as such, the findings are unsupported.

I. The OIG's Conclusions Regarding the Quality of PHA's HQS Inspections Are Not Valid

Under the HCV program, eligible low-income families choose and lease *privately*-owned rental housing. Maintaining the properties is the responsibility of the owners, not that of the housing authority.¹ It is the housing authority's responsibility to inspect each unit

¹ This was specifically recognized by HUD's Deputy Assistant Secretary for Public Housing and Voucher Programs in his response to an internal audit of HUD's controls over the physical condition of the HCV housing stock. This response states, "PHAs administering the voucher program do not own the units and are not responsible for the routine maintenance of the voucher units, and monitoring of tenant damages. It is therefore unfair to hold PHAs solely

(continued...)

once a year, not to ensure that there are no maintenance issues on any given day. PHA has consistently satisfied this inspection requirement, and it is therefore inaccurate for the OIG to conclude that PHA did not adequately enforce HQS simply because HQS deficiencies were found in some of the units when they were inspected by the OIG. The audit's methodology and misapplication of standards seriously undermine the Audit Report's conclusions and misrepresents the quality of PHA's inspection program.

A. The OIG's Flawed Audit Methodology Undermines the Audit Report's Conclusions

1. The OIG's Appraiser Reviewed HQS Inspections That Were Over Ninety Days Old

The OIG's inspections were performed an average of 159 days after the previous inspection, and only eight (11.9%) of the sixty-seven inspections were performed within ninety days. Twenty-three (23) of the inspections – more than one third – were performed over six (6) months after the prior inspection. Any information obtained from such outdated inspections is completely unreliable as a basis for evaluating whether PHA's inspectors are sufficiently enforcing HQS. Indeed, the McCright Report concludes that the lack of timeliness of the audit inspections is severe enough to *nullify the entire audit*. (McCright Report, page 2.)

Any after-the-fact inspection of units by the OIG will not be a true measure of PHA's performance, as it will not account for changes in the condition of units between the PHA inspection and the review by the OIG. If after-the-fact inspections are performed, those inspections must take place close in time to the previous PHA HQS inspection. The farther apart the two inspections are, the more unreasonable it will be for the OIG to draw any conclusions regarding whether HQS violations existed at the time of the PHA inspection or instead had arisen between the time of that inspection and the OIG audit inspection.

HUD's own guidance is unambiguous on the point that untimely inspections can neither reliably assess the quality of an inspection program nor adequately evaluate its protocols. As stated on page 10-32 of the Housing Choice Voucher Program Guidebook (7420.10G), HQS Quality Control Inspections "must be no older than three months at the time of the reinspection." PHA's program is large enough that going back as far as six months was not necessary in order to have a sufficient audit sample size. In similar OIG audits of other housing authorities with similar sized programs, the OIG inspected only units that had inspections conducted in the prior two to three weeks. (E.g., HUD OIG Audit Report, *The Chicago Housing Authority, Chicago, Illinois, Did Not Always Ensure That Section 8 Units Met HUD's Housing Quality Standards*, Feb. 19, 2009.) PHA pointed this out repeatedly to the OIG auditor and his supervisors, yet the OIG insisted on using the flawed selection protocol regardless.

(...continued)
responsible for the quality of the units on a daily basis, between PHA inspections." (2008-AT-0003, Page 18.)

Comment 2

Comment 3

Because of the tremendous time lag, no valid conclusions can be drawn for the vast majority of the inspections conducted by the OIG. At a minimum, the OIG should have removed all cases of inspections older than ninety days from its audit findings.

2. The OIG Employed a Subjective “Materiality” Standard, Based on Unsupported Conclusions Regarding Preexisting Conditions

Comment 4

The Audit Report utilizes a subjective standard for determining whether purported HQS violations were “material” such that PHA should be penalized for having made housing assistance payments (“HAP”) to the owners of the units. This standard appears to be whether the units had “a number of” violations that existed at the time of PHA’s HQS inspection, creating “unsafe living conditions.” (See Audit Report pages 5 & 15.) Obviously, the criteria “a number of” is extremely subjective, as is “unsafe living conditions.” The Audit Report states, “we used *auditors’ judgment* to determine the material cutoff point.” (emphasis added) This is not just subjective – it appears to be entirely arbitrary.

The “pre-existing” component of the materiality standard is extremely problematic. The OIG provided no description of the criteria used to make that determination or empirical data to justify the classification of the deficiencies labeled as “preexisting.” Without objective evidence, PHA has no factual basis upon which to review the findings and provide an adequate response.

Comment 5

In many cases, the OIG appraiser relied solely on subjective judgment to make this determination. This general information is not sufficient evidence or documentation for the preexisting conditions as required by the Government Auditing Standards. In some cases, the OIG’s appraiser depended upon participant interviews to determine whether a deficiency was preexisting. Participant interviews are notoriously bad evidence to rely upon due to the inherent conflict of interest tenants generally have with giving candid responses. Because tenants are responsible for repairing any damage they cause, there is substantial motivation for the tenant to describe every deficiency as “preexisting” to avoid a family violation citation and responsibility for the repair. (See McCright Report, page 4.)

The Audit Report also does not appropriately consider the effects of time or tenant use on the condition of a property. In particular, it is unreasonable to draw the conclusion that a condition was preexisting for any inspection older than 90 days. As a result, all findings for deficiencies that were determined preexisting for inspections over 90 days old are inherently unreliable.

Comment 6

B. The OIG Misapplied HQS Criteria

The HQS standards that are to be applied in inspections of HCV units are contained in HUD’s Housing Inspection Manual, Chapter 10 of the Housing Choice Voucher Handbook, 24 CFR § 982.401, PHA’s Administrative Plan, and applicable portions of the Philadelphia local code. The OIG clearly did not use these standards. Misapplication of HQS criteria is very problematic generally. Property owners will be reluctant to participate in a program with unknown, fluctuating standards that exceed Federal requirements. Moreover, the Audit Report does not take into account that a housing authority’s HQS inspectors are entitled to use their judgment in applying the HQS criteria, as stated in the HCV Guidebook. (Page 10-2.)

In the unit inspection reports provided to PHA, there are numerous cited deficiencies that are either not addressed within HQS or require subjective judgment to determine the condition's acceptability and severity. Approximately sixty-eight percent of the deficiencies cited by the OIG's appraiser as "preexisting" do not constitute a valid HQS deficiency.²

The following summarizes some of PHA's most serious substantive disagreements with the OIG as to whether certain conditions constitute deficiencies under HQS:

1. Ungrounded Outlets Are Not a Deficiency Under HQS

The OIG appraiser identified seventy-two instances of ungrounded deficiencies. These deficiencies are the single largest category of deficiency identified by the inspector and constitute *over thirty-four percent of all preexisting deficiencies identified*. In fact, several properties are listed by the HUD OIG inspector as materially failing to meet HQS solely because of this deficiency.

Ungrounded outlets are not a violation of HQS. The HUD Inspection Manual, the HCV Program Guidebook 7420.7, the PHA Administrative Plan, and the governing local code do not require a grounded electrical system. There is no language in any of these authorities indicating that a functioning, non-hazardous ungrounded outlet constitutes a deficiency. In fact, page 57 of the HUD Inspection Manual shows ungrounded two-prong outlets as examples of what should be counted as a single outlet for the purposes of determining whether a living room has sufficient outlets or lighting to pass inspection. HQS does not require owners to re-wire homes to install grounded outlets, nor does Philadelphia Code. Further, there has been no assertion that each of these outlets are electrical hazards. As a result, the Audit Report's conclusion that ungrounded outlets are deficiencies under HQS is unsupportable.

The OIG auditor stipulated at our April 6, 2010 meeting that two prong outlets are not an HQS violation. Many of the cited outlets reviewed by the OIG's appraiser were two-pronged and, as such, not in violation of HQS. HUD's March 31, 2009 Notice regarding HQS Standards for the first time identified ungrounded three-prong outlets as an HQS violation and clarifies that two prong outlets are compliant. This Notice was not in effect during PHA's inspections that were audited or at the time of the audit. Accordingly, the Notice *supports* the position that ungrounded three-pronged outlets were not an HQS violation during the audit period.

2. HQS Does Not Require a Guardrail Along Steps if the Top Step Is Less Than Thirty Inches from Grade

The OIG appraiser identified twelve preexisting deficiencies relating to missing guardrails on interior and exterior stairs. HQS requires a guardrail in any location where a drop

² PHA questions the OIG's use of an "appraiser" instead of a certified HQS inspector to perform audit inspections. Appraisers are not inspectors, and there are no HQS training requirements for appraisers.

to grade is greater than thirty inches. In at least six of the cited cases (or 50%), the OIG cited a missing guardrail in locations where the drop to grade that would be protected by the guardrail is *less than* thirty inches, because the OIG incorrectly measured from the porch or balcony instead of each of the stairs. (See McCright Report, page 3.) Local code also does not require a guardrail for heights under thirty inches. (Philadelphia Property Maintenance Code § 602.3.)

3. Deficiencies Related to a Minimum Length for PRV Pipes Are Unsupported

The HUD appraiser identified fourteen preexisting deficiencies relating to pressure relief valve discharge pipes ("PRV pipes"). Four (or 29%) of these deficiencies are for PRV pipes that are allegedly too short. However, HQS does not state a minimum length for PRV pipes. In contrast, Section 7.4 of the Housing Inspection Manual requires only that hot water heaters have a discharge pipe sufficient to ensure that "if the relief valve opens, the discharge line will vent the steam and hot water harmlessly to the floor." In each of the four cases at issue, the PRV pipe was present, was vertical, and was directed at the floor. As a result, the OIG appraiser's findings are not supported.

4. When Identifying Deficiencies Relating to Handrails, the OIG Appraiser Failed to Take into Account a Number of Factors Required by HQS

The OIG appraiser identified twelve preexisting deficiencies relating to stairwell/staircase handrails that were too short. However, the OIG appraiser failed to take into account a number of factors indicated by HQS that further clarify the standards to be applied.

The appraiser failed to take into account that six of the twelve staircases were located in basements that appear to be behind closable doors that may have been lockable. Under Housing Inspection Manual Section 5.4, control of access to a room can substantially reduce the risk to occupant. Housing Inspection Manual Section 5.4 and Housing Inspection Manual Appendix B, A-90 provide that the lack of handrail will not cause a stairway to fail if it is located in a little-used portion of the house. Both of these factors support classifying a handrail as a pass with comment as opposed to a fail item. Moreover, the OIG also failed to take into account that for five of the twelve alleged deficiencies, a balustrade on the floor above provides an effective means by which people could steady themselves while ascending the stairs. (See McCright Report, page 3.) As a result, these citations are not valid deficiencies under HQS.

5. Proper Electrical Connections Within a Closable Junction Box Do Not Constitute an HQS Deficiency

The OIG identified six preexisting deficiencies relating to unsecured junction box covers. However, this is not an HQS deficiency. Proper electrical connections within a closable junction box do not constitute either an electrical hazard or an HQS deficiency. There is no requirement that the box be secured. (See McCright Report, page 3.)

Comment 12

Comment 13

Comment 14

Comment 15

II. The Audit Report's Statements Regarding PHA's Quality Control Inspection Program Are Inaccurate

Without citations to any facts whatsoever, the Audit Report concludes that PHA "did not use the results of its quality control inspections as a tool to improve its [HQS] inspection program." The Audit Report also erroneously claims that PHA "provided no evidence to show that it used the inspection results to give feedback on their [inspectors'] performance." Neither of these statements is supported by the more than twenty-five PHA employee interviews that took place during the audit or the numerous documents regarding the quality control process that the auditors reviewed. While PHA understands there is always room for improvement, the assertion made in the Audit Report that its current process is completely lacking in feedback and improvement mechanisms is incorrect.

In fact, feedback and improvement mechanisms have always been a critical part of PHA's quality control inspection process. As explained to the OIG auditors in the PHA employee interviews, under the process in effect during the audit period, the Asset Managers generated a list of passed inspections from which the quality control inspections are scheduled. The results of the quality control inspections were forwarded to the Site Office Asset Manager for follow up. Ideally, this occurred twenty-four hours after the quality control inspection. The head of the quality assurance group prepared a report for the General Manager with the results. That report included data on the number of inspections scheduled, inspections completed, inspections passed, and inspections failed. The General Manager then passed that report along to the appropriate Asset Manager. Feedback on the quality control inspections came from the Asset Manager, which included problems with the specific items uncovered during the quality control inspection. While PHA is pleased that the OIG recognized PHA's efforts to enhance its quality assurance system in its Audit Report, the finding itself is inaccurate and misleading.

Comment 16

Moreover, the fact that PHA has not always performed exactly ten percent of quality control inspections has never affected the ability of PHA to evaluate its HQS inspections. The ten percent number is a goal that PHA set for itself and not a HUD requirement. The focus of PHA's quality control program is to assist in the development and training of its HQS inspectors, and it has been successful in doing so, despite not always meeting the ten percent goal.

Nevertheless, in an effort to further enhance its quality control program, and in response to the feedback from the OIG, PHA has already made a number of changes to its procedures. Under these new procedures, each month, PHA quality assurance staff will be responsible for conducting quality control inspections for ten percent of the prior month's "passed" initial, annual and special inspections. The ten percent will be randomly determined, consisting of ten percent of each individual HCV inspector's prior month's total of passed initial, annual and special inspections. By the 15th of each month, the quality assurance staff will prepare and submit a formal report detailing the results of the quality control inspections completed for the prior month, which will be provided to the General Manager of HCV and the Executive General Manager of Operations, the Director of Quality Assurance and the Compliance Manager. The quality assurance staff will review the report and evaluate its findings at weekly meetings. The quality assurance staff will also prepare and submit a formal, annual report.

Comment 17

III. The OIG Failed to Follow Its Own Protocols in Conducting This Audit and Refused to Consider Information Provided by PHA, Thus the Audit Report Lacks Credibility

The HUD OIG Handbooks and OIG Audit Operations Manual make clear that the OIG audit process is supposed to involve give and take between the auditor and auditee. The process is designed to ensure that (1) the findings are based on complete and accurate information and (2) the auditee has a clear understanding of the standards upon which the OIG's conclusions are based so that the auditee can prepare a complete response. (OIG Audit Operations Manual, page 3-35.) Unfortunately, the OIG failed to follow its own protocols in this case, resulting in a report filled with inaccurate information and unsupported conclusions.

During a two-and-a-half hour meeting with the OIG on April 6, 2010, PHA cited the various sections of the HQS Inspection Manual that supported the position that cited items were not valid HQS deficiencies and also provided a detailed spreadsheet listing each deficiency. Neither the OIG auditor nor its appraiser provided a single citation to authority to support their HQS interpretations, nor did the OIG auditor offer a justification for the findings at the meeting. This meeting was followed up with an April 20, 2010 letter to the auditor providing additional information and copies of sections of HUD's Housing Inspection Manual and other documentation that explains how certain aspects of HQS are to be interpreted and how those interpretations are inconsistent with the interpretations used by the OIG appraiser in a number of areas, most importantly in the areas of electrical outlets and guardrails. None of this information is reflected in the Audit Report, and no explanation was provided.

Comment 18

At the exit conference held on May 5, 2010, OIG representatives finally agreed to provide PHA with specific citations supporting its interpretations of the HQS requirements, including any charts and backup, and they further agreed that there would be a collaborative exchange between PHA and the OIG. It was PHA's understanding that this exchange would take place prior to PHA being required to provide a response to the Audit Report. PHA sent the OIG a letter confirming this understanding on May 6, 2010 and did not receive a response from the OIG indicating a contrary understanding.

Yet, instead of engaging in the agreed-upon collaborative process, the OIG issued a revised draft audit report on May 11, 2010 and asked for PHA's response in three days.³ The OIG has given no indication that any collaborative exchange will be taking place. Moreover, the citations provided by the OIG fall far short of specifically identifying the applicable standards, in that nowhere do they cite to the Housing Inspection Manual. PHA is greatly disappointed by the OIG's failure to abide by the agreements made at the exit conference.

³ This deadline was subsequently extended.

Comment 19

IV. The Audit Report Includes Inflammatory Language

The Audit Report repeatedly mischaracterizes PHA's HCV Program by using language that is inflammatory and misleading, and it leaves the reader with the incorrect perception that residents are subject to wide-spread safety hazards. This hyperbole serves no other purpose but to portray PHA in an unfairly negative light.

The Audit Report states that "[p]rogram participants were *subjected to unsafe living conditions*." This statement is incorrect and should be removed from the Audit Report. There is no support for the claim that residents were living in unsafe conditions. The Audit Report also states that PHA needs to "*ensure* that program participants are living in units that are *decent, safe, and sanitary*." This statement makes it appear that PHA had no procedures in place to monitor HQS and should be revised to say that PHA needs to "further ensure . . ." in order to reflect that PHA has an inspection program in place to ensure that units are decent, safe, and sanitary.

Comment 20

V. The OIG's Conclusions About Funds Called into Question Are Unsupported

The Audit Report concludes that \$68,900 in HAP funds, plus administrative fees, were paid for units that materially failed HQS and also that over the next year, PHA would make an estimated \$18.6 million in HAP payments for such units. Both conclusions are unsupported.

The OIG's review of inspections over ninety days old significantly increased the amount of funds called into question without justification. Because the Audit Report seeks to have PHA refund HAP funds paid between the date of the HQS inspection and the date of the OIG audit inspection, the longer that period of time is, the more money there is at issue. PHA therefore disagrees with the OIG's \$68,900 number. Even if PHA's inspection program failed to identify certain HQS violations in certain units, there is no HUD rule or requirement that would justify PHA being required to pay a penalty from non-federal funds based on the amount of payments between the original inspection date and the date the OIG happened to conduct its inspection.

Comment 21

The Audit Report extrapolates the findings to conclude that significant funds could be "put to better use" if PHA does not correct perceived problems with its inspection system. This methodology is completely unsupported. It is a basic statistical principle that if there are problems in the data from which you are attempting to extrapolate results, any extrapolation will not be valid. As discussed above, there are *numerous* problems with the data, the most serious of which is the review of inspections over ninety days old. The length of time between the original inspection and the OIG inspection grossly artificially inflates this number, which is not even valid. Because of these issues, there should be no extrapolation.

Moreover, PHA has already implemented additional quality assurance procedures. Therefore, there is no basis for the OIG's extrapolation of the error rates during the audit period, when new systems are already in use.

Comment 6

Comment 20

Comment 22

Comment 16

Recommendations

PHA's response to the OIG's Recommendations is as follows:

1A – The vast majority of the deficiencies cited by the OIG are based on faulty interpretations of applicable HUD guidance and the Philadelphia code. To the extent there were valid deficiencies, the applicable HQS violations have been corrected at each of the sixty-two units cited or the HAP payments have been abated for the unit, or the HCV program participant has moved from the unit.

1B - For the reasons discussed above, no reimbursement is appropriate or necessary here.

1C - Although PHA is already in compliance with HUD requirements, PHA has implemented additional procedures and controls to further ensure that HCV units meet HQS standards on the date they are inspected by PHA inspectors.

1D - Although PHA is already in compliance with HUD requirements, PHA has implemented an improved quality assurance program that includes additional controls for monitoring and ensuring consistent, continued compliance.



May 19, 2010

Sharon Wilson Geno
Ballard Spahr LLP
601 13th Street NW
Suite 1000 South
Washington, DC 20005

Re: Philadelphia Housing Authority HQS Inspection Draft Audit Report

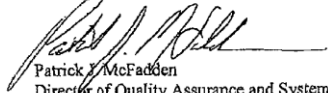
Dear Ms. Geno:

This information is provided at your request in response to the Department of Housing and Urban Development's Office of the Inspector General (HUD OIG) draft audit report resulting from their November - December 2009 HQS inspection audit performed on properties participating in the Philadelphia Housing Authority's (PHA) Housing Choice Voucher (HCV) Program.

Based on our review, we have concluded that the audit is significantly flawed. Attached are a detailed analysis of the inspections as well as a report summarizing our conclusions.

Please let us know if you have any questions concerning this report or the supporting documentation.

Sincerely,



Patrick J. McFadden
Director of Quality Assurance and System Development

P. O. Box 6038 - 928 McCallie Ave. - Chattanooga, TN 37401-6038 Phone: (423) 267-1300 Fax: (423) 265-6222

Comment 23

**REPORT OF
MCCRIGHT & ASSOCIATES
RE HUD OIG AUDIT OF PHA HQS INSPECTIONS
MAY 19, 2010**

Background

Between November 30 and December 11, 2009, the U.S. Department of Housing and Urban Development's Office of the Inspector General (OIG) performed 67 inspections to audit the Philadelphia Housing Authority's (PHA's) Housing Quality Standards (HQS) inspection program. A McCright inspector accompanied the OIG auditor on each of these inspections.

The OIG produced a HUD 523580 (Inspection Checklist) for each inspection in the sample and submitted 148 photographs of many of the cited deficiencies. In March 2010, the OIG submitted its draft findings outline to PHA. The draft findings outline was accompanied by a spreadsheet that summarized the inspection results, ranked the inspection results as to severity, and proposed a financial penalty related to each inspection determined to have "materially failed to meet" HQS. In May 2010, the OIG submitted to PHA its draft audit report for formal response. McCright reviewed the above information as well as HQS, as defined by 24 CFR § 982.401, Housing Inspection Manual, Housing Choice Voucher Program Guidebook (HUD 7420.10G April 2001), the PHA Section 8 Administrative Plan, and applicable portions of the Philadelphia local code.

McCright Credentials

McCright is uniquely qualified to perform this analysis. Working with the public housing industry since 1988, McCright staff performs more than 100,000 HQS inspections per year throughout the country, provides HQS training, and tailors corrective action plans to address inspector deficiencies. Nationally recognized for its industry expertise in the field of HQS inspections, McCright staff has also assisted numerous agencies in reviewing HQS inspection audit reports and framing their responses.

Summary of Findings

The methodology used by the HUD OIG in this audit precludes an accurate analysis of the inspections performed by PHA's HQS inspectors. Among the methodology concerns are:

- Severely Untimely Audit Inspections
- Erroneous Interpretation of Housing Quality Standards
- Unsupportable Citations of Preexisting Conditions

It is our opinion that the lack of timeliness of the audit inspections is severe enough to nullify the entire audit. However, even ignoring the timeliness issue, 81% of the deficiencies cited by the OIG inspector as preexisting conditions are invalid and/or unsupportable and/or misclassified. Therefore, the audit findings do not support the imposition of either regulatory or financial sanctions against PHA.

Comment 2

Severely Untimely Audit Inspections

Page 10-32 of the Housing Choice Voucher Program Guidebook (7420.10G) states that HQS Quality Control Inspections “included in the sample must be no older than three months at the time of the reinspection.” The HUD OIG audit inspections did not adhere to this guidance.

The HUD OIG audit inspections were performed an average of 159 days after the previous inspection. The OIG performed 23 of the 67 audit inspections (more than 1/3rd) *over six months after* the prior inspection, twice the permitted period. Only 8 (11.9%) of the 67 inspections were conducted within HUD guidelines for timeliness.

Statistical studies clearly demonstrate a direct and significant relationship between the number and severity of deficiencies noted during audit inspections and the amount of time that has elapsed since the prior inspection. This research suggests that truly valid audit inspections should occur no more than 30 days after the prior inspection, and many agencies have adopted this standard as their benchmark. Untimely inspections result in distorted results, and many of the HUD OIG-identified deficiencies may be the result of property use. Further, the passage of time complicates an objective determination that a deficiency is preexisting.

Untimely inspections cannot reliably assess the quality of an inspection program or its protocols. The degree to which the HUD OIG ignored HUD’s own guidance regarding audit inspection timeliness is particularly egregious. The small quantity (8) of the audit inspections that meet HUD guidelines for timeliness do not comprise an adequate sample to gauge the effectiveness of PHA HQS inspections. This severe lack of timeliness alone provides ample grounds to nullify the entire audit.

Erroneous Interpretation of Housing Quality Standards

The credibility of any audit program requires that the auditor and the audit subject have a complete understanding of the process and criteria being applied. This is especially true when the results of that audit are accessible to the public and used to impose penalties. Also, to the extent that the OIG claims that its audits are to be used as a tool to assist housing authorities make improvements in their processes and procedures, the housing authority should be given a thorough, clear explanation of the rules that are being applied. With respect to HQS, misapplication can be very problematic for housing authorities in that property owners will be reluctant to participate in a program that holds their properties to a standard they perceive as extraordinarily high or arbitrary.

Comment 6

Based on our review of the HUD OIG audit inspections and related materials, the OIG appraiser cited numerous deficiencies that are either not addressed within HQS or require professional judgment to determine the condition’s acceptability. In total, the OIG incorrectly classified 139 of the 205¹ (68%) preexisting deficiencies as deficiencies. The attached inspection results

¹ The OIG draft audit report states that the total number of pre-existing deficiencies is 233. Apparently, where the deficiency reported was “Open ground at outlets” – plural – the OIG counted this as two deficiencies. We disagree with this method of tallying deficiencies and so have counted such deficiencies as only one deficiency.

spreadsheet details each instance where we disagree with the OIG's classifications. The following is a list of some of the most frequently-occurring issues:

Comment 8

Open Electrical Ground: HQS does not require a grounded electrical system. The HUD OIG appraiser incorrectly classified 72 "Open Ground" conditions as deficiencies. These instances constitute 34.8% of all noted preexisting deficiencies.

Comment 13

Missing Handrails on Little Used Stairways: The HUD Inspection manual specifically exempts little used stairways from the handrail requirement on pages 95 and A-40. In six cases the OIG appraiser cites missing or inadequate handrails in locations that obviously meet the "little used" standard.

Comment 10

Missing Guardrails: HQS requires a guardrail in any location where a drop to grade is greater than 30 inches. In six cases the OIG appraiser cited a missing guardrail in locations where the drop to grade that would be protected by the supposedly missing guardrail is less than 30 inches.

Comment 13

Inadequate Handrail-Does Not Extend to Top of Stairs: HQS requires a handrail on any stair system with more than four risers (steps). HQS provides no description of how that handrail is to be constructed. In five cases, the OIG inspector cites an inadequate handrail because the handrail ends at the upstairs floor system, where the balustrade on the floor above serves as a handrail because it provides an effective means by which people could steady themselves while ascending the stairs.

Comment 14

Unsecured Junction Boxes: HQS requires an HCV property to be free of electrical hazards. In five cases, the OIG cited proper electrical connections made within junction boxes with closable covers as electrical hazard deficiencies. Proper electrical connections within a closed junction box do not constitute either an electrical hazard or an HQS deficiency.

Comment 24

Misclassification of Deficiencies as Emergency Conditions: The designation of a deficiency as an emergency condition is reserved for those situations that present an immediate danger to the health and safety of the participant. 7 of the 21 (33.3%) deficiencies cited by the OIG as emergency pre-existing conditions do not meet this threshold.

Unsupportable Citation of Preexisting Conditions

Comment 3

Deficiencies that existed at the time of the prior inspection but were overlooked by the prior inspector are the primary determinant of the prior inspection's quality. The OIG classified 205 of the 390 total deficiencies² as preexisting during the audit inspections. However, in our professional judgment, at least 36 (17.6%) of the deficiencies claimed by the OIG to be preexisting are just as likely (or even more likely) to not have been existent at the time of the prior inspection.

² See footnote 1, above.

Comment 5

The OIG lacks any empirical data to classify its noted deficiencies as preexisting. In a number of cases, the HUD OIG inspectors depended upon participant interviews to determine if a deficiency existed during the prior inspection. Since the participant is responsible for repairing any damage he/she causes, there is substantial motivation for the participant to describe every deficiency as “preexisting” to avoid a family violation citation and responsibility for the repair. This conflict of interest reduces the validity of these participant interviews. Also, the prior inspections here took place an average of five months earlier, and memories faded in that length of time, further lessening the validity of the interviews.

Comment 3

Importantly, the OIG did not properly consider as a mitigating factor the effect of time or tenant use on its determination as to whether a deficiency existed at the time of the prior inspection. The substantial amount of time between the original inspection and the audit inspection here allowed many deficiencies to develop.

Conclusion

The lack of timeliness of the audit inspections is severe enough to nullify the entire audit. Several other serious methodological problems further undermine the audit’s conclusions. The audit findings do not support the imposition of sanctions against PHA.

OIG Evaluation of Auditee Comments

- Comment 1** The general statements made by the Authority's outside counsel (counsel) and the consultant (consultant) counsel hired to help it refute the audit are addressed below where more specific details are provided. It is important to note again however that we conducted this performance audit in accordance with generally accepted government auditing standards and designed the audit to determine whether the Authority ensured that its program units met HUD's housing quality standards.
- Comment 2** The consultant's statistics are slightly inaccurate. For 24 of the 67 inspections, the Authority's consultant used failed or inconclusive inspection results rather than the most recent passed inspection in its analysis. The average time between our inspection and the Authority's previous inspection was 153 days, and we performed 10 inspections within 90 days. The Housing Choice Voucher Program Guidebook, 7420.10G, does in fact require the Authority's sample to be no older than 3 months. However, although this is a requirement for public housing authorities under the Section 8 Management Assessment program, our audit was not intended to follow the self-assessment process under that program. We performed our audit in much greater detail and broader scope than a housing authority does in its self-assessment. To obtain a representative sample of whether the Authority properly inspected units, we selected a random sample from a 6-month period or approximately one-half (7,649 passed inspections of 13,950 assisted units) of the total units participating in the Authority's leased housing program. Also, in conjunction with our inspections, we took a number of photographs of units, interviewed tenants, and reviewed the Authority's latest inspection reports to help us determine whether a housing quality standards violation existed before the last passed inspection conducted by the Authority or whether it was identified on the last passed inspection conducted by the Authority and was not corrected. As indicated by the pictures in the report, some deficiencies were easily determined to have existed at the time of the Authority's inspection. We were conservative in our determination of preexisting conditions.
- Comment 3** To obtain an accurate determination of whether the Authority properly inspected units, we selected a random sample of units and inspected them. We understand that housing quality standards violations can occur after the last inspection conducted by the Authority, but Federal regulations require that all program housing meet housing quality standards performance requirements at the commencement of the assisted occupancy and throughout the assisted tenancy. Therefore, we reported all violations that we identified at the time of our inspections so that the Authority could ensure that they were corrected. We determined that the Authority did not observe or report 228 violations which existed at the units when it conducted its most recent inspection. We were conservative in our approach and used our professional knowledge, tenant interviews, and the Authority's latest inspection reports in determining whether a

housing quality standards violation existed before the last passed inspection conducted by the Authority or whether it was identified on the last passed inspection conducted by the Authority and was not corrected. In the event that we could not reasonably make that determination, we did not categorize the violation as preexisting.

Comment 4 As stated in the audit report, we determined that 29 of 67 units (43 percent) materially failed to meet HUD's housing quality standards. We determined that the 29 units were in material noncompliance because they had 228 violations that existed before the Authority's last inspection, creating unsafe living conditions. We were conservative in our approach and used our professional knowledge, tenant interviews, and the Authority's latest inspection reports in determining whether a housing quality standards violation existed before the last passed inspection conducted by the Authority or whether it was identified on the last passed inspection conducted by the Authority and was not corrected. In the event that we could not reasonably make that determination, we did not categorize the violation as preexisting.

Comment 5 Contrary to counsel's and its consultant's assertion, the testimony of the tenant is a helpful method to use in assisting to determine the existence of deficiencies. HUD's Housing Choice Voucher Program Guidebook, 7420.10G, section 10.9, states that often the tenant can describe when the deficiency occurred and will be helpful in making this determination. For the vast majority of the preexisting violations that we identified, such as ungrounded electrical outlets, missing or improperly sized discharge pipes, missing knockout plugs on junction boxes, missing or defective guardrails and handrails on stairs, and improperly joined flue pipes, the tenants had no motivation to be less than candid in their statements.

Comment 6 Contrary to counsel's and its consultant's assertion, we used HUD regulations at 24 CFR 982.401, the Authority's Section 8 Tenant Based Assistance Housing Choice Voucher Program Administrative Plan, the HUD Housing Choice Voucher Program Guidebook, 7420.10G, and the City of Philadelphia Property Maintenance Code as the underlying criteria to identify housing quality standards violations. We performed our inspections accurately and appropriately applied HUD's housing quality standards. In no instance did we apply a higher standard than was required by HUD regulations.

Counsel's position on housing quality standards also directly conflicts with the prudent actions of Authority officials directly responsible for executing the program. On November 4, 2009, shortly after we began the audit, the Authority's executive general manager for operations sent a letter to owners of its leased housing units. In the letter, the executive general manager reminded owners that the Housing Choice Voucher program is funded by HUD and instructed them that HUD officials planned to conduct a routine review of units that participate in the program, which would include onsite inspections of a sample of units.

Accompanying the letter was a copy of a September 2009 Housing Quality Standards Inspection Bulletin published by the Philadelphia regional HUD office. The purpose of the bulletin was to provide a detailed summary of housing quality standards violations identified by OIG during five recently conducted audits within the jurisdiction of the Philadelphia regional HUD office. The summary identified violations such as missing or damaged exterior and interior handrails (four or more steps); peeling and chipping paint; cracks and stains in ceilings; loose carpet tripping hazards; inadequate weather stripping; inoperable stove burners; loose commodes; inoperable ground fault circuit interrupters; open ground outlets; knockout plugs missing from junction boxes; unsecured electrical panels, fuse boxes, and junction boxes; heating flue or water heater flue disconnected from wall; and, windows that did not shut or lock as intended. The letter pointed out that the bulletin described some housing quality standards violations that have been identified in similar audits, and it encouraged owners to review the information immediately and continue to manage and maintain their properties in accordance with the housing quality standards. We applaud Authority officials for proactively taking these measures to help ensure program participants are living in decent, safe, and sanitary housing. However, we are puzzled why counsel and its consultant are now erroneously contending that conditions addressed in the bulletin are not violations of housing quality standards.

Comment 7 As described in the audit report, the audit found 29 units were in material noncompliance with housing quality standards with 233 violations (including 5 violations identified by the Authority but not corrected) that existed before the Authority's last inspection. Of these 29 units, 26 units had numerous other preexisting deficiencies besides ungrounded electrical outlets such as missing or damaged exterior and interior handrails (four or more steps), peeling and chipping paint, cracks and stains in ceilings, loose carpet tripping hazards, inadequate weather stripping, inoperable stove burners, loose commodes, and inoperable ground fault circuit interrupters. The 3 remaining units had up to 10 ungrounded electrical outlets which we considered a potential safety hazard

Comment 8 Counsel and its consultant fail to make a very key distinction here between the acceptability criteria for two-pronged versus three-pronged outlets. Two-pronged ungrounded systems and outlets are in fact acceptable under housing quality standards as long as the outlet is in proper operating condition. However, all of the ungrounded outlets the audit cited as violations were three-pronged outlets. A three-pronged outlet that is not in proper operating condition (e.g., ungrounded) and not functioning as designed is a potential hazard and a violation of housing quality standards. Regulations at 24 CFR 982.401(f)(2), when referring to outlets in both sections (ii) and (iii), specifically state that outlets must be in proper operating condition. Further, section 10.3 of HUD's Housing Choice Voucher Program Guidebook, 7420.10G, discusses acceptability criteria for each of 13 housing quality standards performance requirements. The acceptability criteria

for illumination and electricity performance requirements states, in part, that public housing agencies must be satisfied that the electrical system is free from hazardous conditions, including improper grounding of any component of the system. If outlets do not function as designed, they are a potential hazard. Three-pronged outlets are safe and functioning as designed only when (1) a ground wire is connected to the outlet, or (2) a Ground Fault Circuit Interrupter (GFCI) protects the outlet. Lastly, the Philadelphia Property Maintenance Code, section PM-407.2, states that all electrical equipment, wiring, and appliances shall be properly installed and maintained by a qualified licensed electrical contractor in accordance with subcode E and that every fixture and outlet shall function properly and shall be properly fastened in place. Ungrounded three-pronged outlets are not considered properly installed.

Comment 9 We informed counsel during the audit and at the exit conference that all of the ungrounded outlets we cited as violations were three-pronged outlets. We are not aware of a HUD notice, dated March 31, 2009, regarding housing quality standards but we believe counsel is referring to the HUD Office of Public and Indian Housing (PIH) Notice PIH 2010-10 (HA), dated March 31, 2010, regarding guidance related to electrical outlets. As stated in its purpose, the notice reviews the existing housing quality standards requirements and existing guidance that public housing authorities may rely upon when conducting inspections and also offers additional guidance on what types of three-pronged electrical outlets an inspector should consider acceptable under the standards. The notice clarifies existing requirements and guidance. It does not create or implement new requirements related to the three-pronged electrical outlets.

Comment 10 Counsel's statements regarding the guardrail violations are unsupported and inconsistent with housing quality standards. We measured the height of every landing, stoop, and stairway before determining them to be deficient for not being protected on the open side or for not having a handrail at all. In every instance, the drop to grade was more than 30 inches. The consultant provided no pictures or other evidence to demonstrate that the drop to grade was less than 30 inches. Section PM-602.3 of the City of Philadelphia Property Maintenance Code states that every portion of a stair which is more than 30 inches above the floor or grade below shall have guards. The code does not specify that the top riser of a stair is not a portion of the stair. Thus, as a minimum in measuring the height of the stair, the height of the top riser must be included for purposes of determining whether every portion of the stair is more than 30 inches above the floor or grade.

Comment 11 The OIG appraiser (official job title) who conducted our inspections is an eminently qualified and certified housing quality standards inspector.

Comment 12 Counsel's statements regarding deficiencies related to a minimum length for pressure valve discharge pipes are unsupported and inconsistent with housing quality standards. Regulations at 24 CFR 982.401(g)(1) require that the dwelling

unit not present a threat to the health and safety of the occupants and protect the occupants from the environment. HUD's Housing Choice Voucher Program Guidebook, 7420.10G, requires that water-heating equipment be installed safely and not present safety hazards to families. The Philadelphia Property Maintenance Code, section PM-405.3, requires every plumbing fixture to be properly installed and maintained in a safe, sanitary, and functional condition. Section PM-405.3.2.1 of the code requires that water heaters be equipped with a combination temperature and pressure relief valve and relief valve discharge pipe which is properly installed and maintained. Section 10.16.6.e of the National Standard Plumbing Code specifies that when relief valves discharge to the floor, the discharge pipe shall terminate not more than 6 inches or less than 2 inches above the floor. When relief valves and/or discharge pipes do not meet this standard, they present a scalding hazard to the tenants.

Comment 13 Counsel's statements regarding deficiencies related to handrails are unsupported and inconsistent with housing quality standards. Regulations at 24 CFR 982.401(g)(2)(iv) state that the condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., must not present a danger of falling. HUD's Housing Choice Voucher Program Guidebook, 7420.10G, reiterates this requirement. The Philadelphia Property Maintenance Code, section PM-602.3, requires that every exterior and interior flight of stairs having more than three risers has handrails. The code makes no reference to "little used" as a qualifying factor in determining applicability. Neither 24 CFR Part 982, the HUD Housing Choice Voucher Program Guidebook, 7420.10G, nor the Philadelphia Property Maintenance Code states that a balustrade is an acceptable substitute for a required handrail.

Comment 14 Counsel's and its consultant's statements regarding deficiencies related to unsecured closable junction boxes are unsupported and inconsistent with housing quality standards. The Philadelphia Property Maintenance Code, section PM-407.2, states that all electrical equipment, wiring, and appliances shall be properly installed and maintained by a qualified licensed electrical contractor in accordance with subcode E and that every fixture and outlet shall function properly and shall be properly fastened in place. This section of the code also states that every switch plate and outlet plate shall be properly fastened in position and no obvious shock hazard shall exist. The purpose of this requirement is to isolate electrical contacts by providing a separation that cannot be undone manually. By logical extension, for the same reason that a switch or outlet shall have a plate properly fastened, so should a junction box, disconnect box, or electric panel box. An obvious hazard exists if a junction box, disconnect box, or electric panel box can be opened by hand and expose electrical contacts.

Comment 15 We revised the language in the report to state that the Authority provided no documentation to demonstrate that it used the results of its quality control inspections to give feedback to its inspectors on their performance.

Comment 16 Regulations at 24 CFR 982.54(c) require the Authority to comply with and administer its program in accordance with its administrative plan. The Authority failed to comply with its administrative plan requiring it to conduct quality control inspections on 10 percent of Housing Choice Voucher program units of all types to ensure consistency in housing quality standards inspections and that rental units continue to meet the program standards.

Comment 17 We disagree with counsel's assertion that there were inadequate opportunities for give and take on this audit. As stated in the scope and methodology section of this report, at least two of the Authority's outside attorneys were present at every interview we conducted with Authority employees during the audit. The Authority had one employee, one public housing consultant, and one to three outside attorneys accompany our auditor and appraiser on every inspection allowing even more opportunities for give and take. We further provided copies of all of our inspection reports and the corresponding photographs to the Authority during the audit. Throughout the audit, we cited HUD regulations at 24 CFR 982.401, the Authority's Section 8 Tenant Based Assistance Housing Choice Voucher Program Administrative Plan, the Housing Choice Voucher Program Guidebook, 7420.10G, and the City of Philadelphia Property Maintenance Code as the underlying criteria that we used to identify housing quality standards violations. We provided the Authority the criteria in a finding outline on March 22, 2010, and discussed the criteria in a meeting on April 6, 2010. At that meeting, the auditors attempted to provide specific citations from the applicable regulations and guidance; however, the four outside attorneys and one Authority official at that meeting dismissed and rejected the documentation that the auditors offered because they did not agree that the majority of the conditions we identified during our inspections were violations of housing quality standards. At the exit conference, we agreed to again provide the Authority the basis for our findings in the form of a detailed spreadsheet listing the specific citation from the provisions of HUD's housing quality standards (regulations at 24 CFR 982), the Housing Choice Voucher Program Guidebook, 7420.10G, and the City of Philadelphia Property Maintenance Code for each violation that we identified. It is apparent that the Authority does not agree with our interpretation and application of housing quality standards. We do not agree with the Authority's assertion that we failed to follow our protocols in conducting this audit.

Comment 18 We issued the discussion draft audit report to the Authority on April 23, 2010. After the exit conference, we made minor changes to the draft report and issued the Authority an updated discussion draft report on May 11, 2010.

Comment 19 We are confident that this report accurately and fairly depicts the conditions we found in the units when we performed our inspections.

Comment 20 Contrary to counsel's assertion, regulations at 24 CFR 982.404(a) state that if the owner fails to maintain the dwelling unit in accordance with HUD's housing

quality standards, the public housing authority must take prompt and vigorous action to enforce the owner obligations. The authority must not make housing assistance payments for a dwelling unit that fails to meet housing quality standards unless the owner corrects the defect within the period specified by the authority and the authority verifies the correction. Further, regulations at 24 CFR 982.152 allow HUD to reduce or offset any administrative fee paid to a public housing authority if it fails to perform administrative responsibilities correctly or adequately, such as not enforcing HUD's housing quality standards. For the units that materially failed to meet HUD's housing quality standards, we did not calculate ineligible housing assistance payments for the first 30 days after the date of the Authority's inspection.

- Comment 21** The calculation of funds to be put to better use is based on the results of our inspections of a random sample of program units that statistically represents the population from which it was drawn. We commend the Authority for recognizing the need for improvement and taking action to improve its quality assurance procedures. However, our projection is what we expect would occur if we had not performed our audit which brought about these changes in the Authority's quality control inspection program.
- Comment 22** We disagree with counsel's assertion. As stated in the audit report, our sampling results determined that 29 of 67 units (43 percent) materially failed to meet HUD's housing quality standards. This percentage equates to failure of between 2,555 and 4,067 units of the 7,649 units in the population. We used the most conservative number, which is the lower limit or 2,555 units, and estimate that the Authority will spend \$18,625,950 annually for units that are in material noncompliance with HUD's housing quality standards.
- Comment 23** The consultant's report included 4 spreadsheets totaling 14 pages containing data to support assertions it made in its narrative response. Because the content of the spreadsheets was addressed in the consultant's narrative response, we did not include the spreadsheets in the final report.
- Comment 24** We disagree with the consultant's assertion. We disagree that a malfunctioning stove burner, a faulty ground circuit fault interrupter, and holes in electrical boxes and panels exposing wire connections and contacts do not present an immediate danger to the health and safety of the tenants.