

# MEMORANDUM

December 17, 2018



U.S. DEPARTMENT  
OF HOUSING  
AND URBAN  
DEVELOPMENT

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

A handwritten signature in black ink, appearing to read 'Brian T. Pattison', written over a horizontal line.

From: Brian T. Pattison  
Assistant Inspector General for Evaluation, G

Subject: Review of Data Related to Our Report: HUD's Oversight of the Alexander County Housing Authority in Cairo, IL, 2017-OE-0014

## Introduction

On July 24, 2018, the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), issued a report on HUD's oversight of the Alexander County Housing Authority (ACHA) in Cairo, IL. The report concluded that HUD could and should have done more to oversee the decade-long deteriorating conditions at ACHA.

Due to the time between the events under review and our fieldwork, some HUD officials could not recall specific dates, individuals involved, and actions taken over the course of their involvement with ACHA. To bridge this information gap, we requested that HUD provide us with the contents of several officials' email accounts and storage drives. Our goal was to determine what these officials knew and communicated about ACHA at the time the issues occurred there.

We requested these data in November 2017, and HUD produced nearly 50 gigabytes worth of data in June 2018, a month before our planned release of the July 2018 report. We decided to continue with the release of our report without a review of the electronic data to ensure that the report's issuance was not further delayed. This memorandum conveys the results of our review of the relevant emails and documents contained in the data we received.

Of the approximately 1.2 million emails received, dating from January 1, 2011, through December 31, 2017, we selected 142,082<sup>1</sup> for review. The contents of these emails further supported the findings and recommendations in our report. Specifically, HUD officials had been aware of gross mismanagement at ACHA for years, but senior leadership within the Office of Public and Indian Housing (PIH) hesitated to place it into receivership because they believed they lacked a sufficiently strong, documented administrative record of problems there. The emails confirmed that after ACHA violated a voluntary compliance agreement (VCA) and

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<sup>1</sup> We received all emails from the requested HUD officials' accounts for the specified period, which included a significant volume of data not related to HUD's oversight of ACHA. We used search parameters to identify emails relevant to HUD's oversight of ACHA, which produced 142,082 total emails for our review.

pressure mounted in the HUD and PIH front offices, PIH senior officials considered receivership.

## Background

PIH is a program office within HUD with a mission to ensure safe, decent, and affordable housing; create opportunities for residents' self-sufficiency and economic independence; and assure the fiscal integrity of all program participants. One of the divisions within PIH, the Office of Public Housing, was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. Approximately 1.2 million households live in public housing units managed by approximately 3,300 public housing agencies (PHAs).

PHAs are the "caretakers" of public housing funds and must ensure that the funds are properly managed. The PHA's executive director, board, or commission operates and manages the PHA. PHAs are responsible for operating their housing developments to ensure that the PHA complies with its annual contributions contract. This contract is an agreement between the PHA and HUD, which outlines the applicable regulations and procedural requirements that PHAs must abide by to receive Federal funding.

PIH is responsible for monitoring the PHA's compliance with program requirements and ensuring that effective controls are in place to prevent potential problems. In addition to these activities, PIH inspects and scores HUD properties to ensure that units are decent, safe, sanitary, and in good repair. Using this information, PIH designates the PHA as a high, standard, substandard, or troubled performer.

PIH policy requires that the field office initiate the PHA Recovery and Sustainability (PHARS) protocol for PHAs designated as troubled. In 2011, PIH launched the PHARS protocol as a four-phased approach to recover PHAs. HUD created this protocol as a holistic approach to solving and remediating systemic issues at PHAs. When PIH designates a PHA as troubled, the regional director usually assigns a PHARS team to lead in the recovery effort of that PHA. Although HUD generally follows the PHARS protocol to remedy negative conditions at PHAs, HUD also has the authority to step in and take over the PHA in a last resort option known as receivership. Typically, PIH would be responsible for creating an administrative record, which documents the negative conditions at the PHA that justify receivership. However, in emergency situations, HUD does not have to provide the PHA an opportunity to respond or cure negative conditions when it determines that

- existing conditions pose an imminent threat to the life, health, or safety of public housing residents or residents of the surrounding neighborhood or
- the events or conditions precipitating the default are determined to be the result of criminal or fraudulent activity.

ACHA was a moderate-size PHA in Cairo, IL, with nearly 500 units in its inventory. Since 2010, ACHA failed to demonstrate substantial improvement to its physical, governance, financial, and operational conditions. Despite HUD's attempts to bring ACHA into compliance,

the negative conditions remained. ACHA was generally uncooperative in addressing the negative conditions HUD identified during its initial assessments and reviews. In an effort to improve conditions at ACHA, various program offices within HUD conducted a cross-programmatic review in June 2014. HUD issued several reports and enforcement actions following this review. Notably, the Office of Fair Housing and Equal Opportunity (FHEO) issued a VCA in August 2015. This agreement was a contract between HUD and ACHA that required ACHA to comply with specific actions regarding fair housing, security of housing for the residents, and equal employment opportunities. On January 21, 2016, FHEO issued a notice to ACHA, citing that it failed to comply with the VCA's provisions. As a result, on February 19, 2016, HUD removed ACHA's board and took possession of ACHA, declaring it in substantial default of its contract with HUD. At that time, HUD assumed the role of administrative receiver of ACHA.

We issued a report in July 2018, which assessed HUD's oversight of ACHA and determined whether HUD met its program requirements. In this report, we offered PIH the following four recommendations:

1. Create agreements and strategies with other program offices that describe when cross-programmatic reviews and enforcement actions against PHAs are required,
2. Train PIH officials on the authority and processes for declaring PHAs in substantial default and for taking PHAs into HUD possession,
3. Update and strengthen the training program for HUD receivers of PHAs, and
4. Update procedures for receiverships to include specific guidance on when initiating a receivership may be appropriate.

PIH agreed with each of our four recommendations and offered management decisions describing planned actions to address the recommendations. The status of each recommendation will remain "resolved-open" until we receive further documentation outlining PIH's completed actions on each recommendation.

## Results of Review

### **PIH Field Office Personnel Provided a Warning About Gross Mismanagement at ACHA Years Before PIH Senior Leadership Considered Receivership<sup>2</sup>**

In our July 2018 report on ACHA, we noted that HUD had been aware of negative conditions at ACHA since at least 2010, when the Chicago field office conducted a review, made nine findings, and then closed the findings.

In July 2013, the PIH field office Director emailed the Region V Public Housing Director and notified her that ACHA was having significant problems, telling her that it was in a "downward

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<sup>2</sup> We used job titles to identify each individual in the report instead of specific names. During the period of the emails we reviewed, which were sent from 2011 through 2017, some officials changed roles. Therefore, when we use a title to describe emails from different periods, it may not refer to the same person. In addition, different titles from different periods may refer to the same person due to a promotion. We felt that tying specific emails to individuals was less important than showing the flow of information and decision making within HUD.

spin” and citing fair housing issues, the poor physical condition of the buildings, and labor relation issues. Following this email conversation, the Chicago field office conducted an on-site review of ACHA, which confirmed the concerns. The team members involved in this review cited several issues at ACHA, including civil rights violations, pest infestations, and the poor physical condition of the buildings.

In 2014, PIH field office staff continued to raise issues at ACHA to PIH management. In a March 2014 email, a PIH field office staff member informed the Region V Public Housing Director that there were potential criminal matters occurring at ACHA, which the staff member believed needed to be referred to the U.S. Attorney's Office. In May 2014, a cross-programmatic review was formed, which involved staff from the Departmental Enforcement Center (DEC), the Office of Field Policy and Management (FPM), FHEO, the Office of Davis-Bacon and Labor Standards (Labor Standards), and PIH. FHEO made the most significant findings and issued its findings to ACHA in a separate memorandum, dated September 30, 2014.

In November 2014, information about the cross-programmatic review and the conditions at ACHA advanced from the Region V Public Housing Director to the PIH General Deputy Assistant Secretary (GDAS). In a December 2014 email, the PIH Acting Deputy Assistant Secretary (DAS) for Field Operations described the discovery of negative conditions by HUD to the PIH GDAS as recent, specifically stating that the Region V Public Housing Director was made aware of these conditions “only a short time before [the PIH Acting DAS for Field Operations was].” However, the Region V Public Housing Director was made aware of some of these conditions as early as July 2013, when the PIH field office Director notified her of ACHA's “downward spin.”

### **PIH Senior Leadership Began To Seriously Consider Receivership in November 2015**

We identified a November 2014 email between the PIH Acting DAS for Field Operations and PIH GDAS, in which the PIH Acting DAS for Field Operations mentioned that she had a conversation with the Region V FHEO Director, who believed ACHA needed to go into receivership as soon as possible. However, the emails indicated that senior PIH officials did not seriously consider receivership until November 2015. In the November 2015 email, the PIH Director of Field Monitoring and Evaluation suggested that ACHA might need to go into receivership, and the PIH DAS for Field Operations stated that a “stumbling block” to placing ACHA into receivership was the PIH field office's inaction. Specifically, as mentioned in our July 2018 report, several senior officials in PIH believed that the field office did not have a strong enough administrative record to justify receivership. However, our July 2018 report showed that by November 2015, the PIH field office and several other program offices had already conducted multiple reviews of ACHA. For example, in its 2013 review, PIH field office staff provided a results and determination letter to ACHA, highlighting several areas of mismanagement. According to an email sent from a PIH field office staff member to the field office management, ACHA “refuted every single results and determination” and had no intent to change anything. The 2014 cross-programmatic review echoed the concerns stated in the 2013 review, and this review resulted in reports from DEC, Labor Relations, and FHEO, which described poor conditions at ACHA.

In addition to those reviews, we identified an email in November 2014 from a PIH field office staff member to the Region V Public Housing Director, which stated that the PIH field office had a deeper administrative record than anyone realized. Furthermore, the emails indicated that PIH field office staff was equally frustrated with PIH management's inaction and directly expressed this frustration in a December 2015 email. The PIH field office Director told the PIH Director of Field Monitoring and Evaluation that he expected the PIH Director of Field Monitoring and Evaluation to resolve issues at ACHA, to include assigning a more experienced PHARS team, instead of continuing to focus on the quality of the field office's performance in handling matters related to ACHA.

In addition to the staff's presented concerns, in October 2015 Senators Chuck Grassley and Mark Kirk sent an email to the Secretary of HUD, stating that they wanted to "...better understand the extent of HUD's oversight over ACHA mismanagement." In this correspondence, the Senators cited an article in the Southern Illinoisian, dated August 23, 2015, which described very serious financial and administrative management issues at ACHA. The Senators requested several types of documentation from HUD and sent this correspondence directly to the HUD Secretary. The Secretary's office forwarded this correspondence to PIH for action. The congressional officials' concerns underscored the increased need for action at ACHA.

Later in December 2015, the Regional Administrator for FPM sent an email to 12 other HUD officials expressing his extreme dissatisfaction with HUD's management of ACHA. Specifically, he stated that he was disturbed by the "stalemate" between HUD and ACHA and how this issue was affecting the quality of life of the residents on whose behalf he felt HUD was morally obligated to speak and act. This official ended his email by stating, "...despite the best intentions, [HUD's] efforts [were] coming up short, and at a great cost to real people." In response to this email, the Region V FHEO Director expressed the same frustration. He believed that while documentation existed to take action against ACHA (such as the violation of the VCA in December 2015), PIH was the only program office that had the programmatic authority to make a meaningful decision.

In early January 2016, PIH received a letter from the Cairo Public Housing Advocacy Group, citing several poor conditions at ACHA properties, such as bed bugs, roaches, mice, rats, electrical and plumbing code violations, and civil rights issues, among others. When the PIH Director of Field Monitoring and Evaluation received the forwarded letter, he stated that it was "quite alarming," based upon the concerns identified in the letter. Afterwards, he spoke with the PIH DAS for Field Operations and PIH GDAS about these issues and directed his staff to conduct an immediate onsite review of ACHA. In 2013 and 2014, the PIH field office staff conducted this same type of review. The findings in those reviews were similar and, at times, identical to the concerns identified in the 2016 letter.

In addition to PIH's approach to resolving issues at ACHA, in January 2016, FHEO issued a notice to ACHA, citing that it had failed to comply with the provisions of the VCA. The Region V FHEO Director also sent a memorandum via email in January 2016 to the PIH field office, stating that the FHEO field office had determined that ACHA was not complying with its civil rights-related program requirements contained in section 12 of ACHA's contract with HUD. Due to this noncompliance, the Region V FHEO Director issued a memorandum to the Region V

Public Housing Director, which questioned whether the contract ACHA had with HUD was still in effect. This request was elevated from the PIH field office to PIH headquarters, where the PIH GDAS stated that the Office of Field Operations at that time was engaging with the Office of General Counsel (OGC) to discuss whether there were grounds for receivership. HUD then received an inquiry from congressional officials in February 2016, requesting the status of the initial request sent by congressional officials in October 2015 about ACHA.

We observed a spike in emails discussing receivership options in February 2016. In early February 2016, a PIH staff member prepared a briefing document for PIH senior leadership discussing the state of ACHA and oversight steps PIH was to take. Following the creation of this briefing document, the Director of Field Monitoring and Evaluation emailed the GDAS about next steps for ACHA. He informed the GDAS that the field office was drafting the default notice and receivership authority for OGC's review. Later that day, the PIH GDAS stated in an email to the Director of Field Monitoring and Evaluation and the PIH DAS for Field Operations that she had discussed issues and concerns regarding ACHA with PIH's Principal Deputy Assistant Secretary (PDAS). The PIH GDAS also mentioned that the PDAS was scheduled to meet with the HUD Secretary the next day. Following this conversation, the Director of Field Monitoring and Evaluation and the PIH DAS for Field Operations created another briefing document for the PDAS' meeting with the Secretary, which described impending "repositioning actions" with ACHA, to include HUD's pursuing receivership. On February 19, 2016, PIH sent a final default letter to ACHA to notify the housing authority that it was in substantial default of its contract with HUD. PIH used the following factors to justify the default:

- 2013 PHARS results and determination letter,
- 2014 cross-programmatic team assessment,
- 2015 PHARS recovery agreement and action plan,
- 2015 VCA, and
- 2016 FHEO letter to ACHA, notifying it of its violations of the VCA.

On February 22, 2016, HUD announced that it had taken possession of ACHA.

## Conclusion

The report we issued in 2018 stated that senior PIH officials hesitated to take ACHA into receivership because they believed they lacked a strong, documented administrative record that could justify receivership, among other factors. Yet, when HUD declared that ACHA was in substantial default, it cited a documented administrative record that had existed for years. Senior PIH officials were aware of or should have been aware of these documents when they were created. However, they did not consider them sufficient to justify receivership until February 2016, when they cited them as part of the rationale for taking ACHA into receivership. In our July 2018 report on HUD's oversight of ACHA, we concluded that HUD could and should have done more to oversee ACHA. The additional emails and documents that we reviewed after the issuance support this conclusion. We offered four recommendations to assist PIH in ensuring that another situation, similar to ACHA does not occur again.

cc:

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