Top Management Challenges Facing the U.S. Department of Housing and Urban Development in 2021

OFFICE of INSPECTOR GENERAL

UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

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Memorandum

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Subject: Management and Performance Challenges for Fiscal Year 2021

From: Rae Oliver Davis
             Inspector General, G

To: Benjamin Carson, Sr.
             Secretary, S

The Reports Consolidation Act of 2000 requires the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), to issue a report summarizing what we consider to be the most serious management and performance challenges facing the Department. In turn, HUD is required to include this report in its annual agency financial report. This report represents HUD OIG's independent perspective on the top management challenges facing HUD in fiscal year 2021 and beyond.

The challenges discussed in this report represent our view of HUD's greatest vulnerabilities to waste, fraud, abuse, and mismanagement, and the most significant barriers to HUD's success in accomplishing its mission. In developing this report, we considered the issues affecting HUD based on our oversight work and research, reports published by other oversight bodies, and perspectives from key HUD officials, and applied our own judgment in determining which management challenges need to be HUD's top priority. The challenges are not listed in order of severity or significance. We view all of the challenges as vital and critical to HUD's work.

This year, many of the challenges identified remain from prior years. We added 2 additional challenges, which are focused on HUD's response to the COVID-19 pandemic and its ability to procure necessary goods and services efficiently. Our discussion of each challenge also includes acknowledgement of the HUD actions taken and progress made in addressing the challenge.

HUD's Top Management and Performance Challenges for Fiscal Year 2021 include:

- Responding to the COVID-19 Pandemic.
- Financial Management.
- Management and Oversight of Information Technology.
- Monitoring and Mitigating Risk.
- Ensuring the Availability of Affordable Housing That is Decent, Safe, Sanitary, and in Good Repair.
- Protecting the FHA Insurance Fund.
- Administering Disaster Recovery Assistance
- Human Resource Management Challenges.
- Increasing Efficiency in Procurement Processes.
- Ensuring Ethical Conduct.

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Responding to the COVID-19 Pandemic

The pandemic caused by the coronavirus disease of 2019 (COVID-19) created unprecedented challenges for American families, communities, and the economy. When the Coronavirus Aid, Relief, and Economic Security (CARES) Act was passed into law on March 27, 2020, Congress provided more than $12 billion in funding to HUD to assist renters, landlords, vulnerable populations, and impacted communities in preventing, preparing for, and responding to the COVID-19 pandemic through its grant programs. The CARES Act also created protections for renters, homeowners, and landlords participating in HUD programs through temporary moratoriums on evictions and certain foreclosure actions and forbearance on payments of federally backed mortgaged loans.

In June 2020, the Pandemic Response Accountability Committee released its report on *Top Challenges Facing Federal Agencies: COVID-19 Emergency Relief and Response Efforts*,[1] which included the Office of Inspector General's (OIG) assessment of the top challenges HUD faced in the early phases of the pandemic.[2] That report included OIG's analysis of the challenges the pandemic presented to (1) rental assistance programs, (2) mortgage loan forbearance administration, (3) assistance for vulnerable populations, (4) assistance for communities' response, and (5) HUD's mission performance.

HUD, like all Federal agencies, was challenged initially with implementing the substantial program changes required by the CARES Act and communicating to the public and program administrators about those changes during a rapidly evolving pandemic that required nearly all staff to work remotely. Additionally, the pandemic presents new challenges for HUD and its program participants in implementing necessary changes to their programs operations. OIG is concerned that the pandemic will exacerbate HUD's already existing Top Management and Performance Challenges.

To evaluate HUD's pandemic response, OIG has initiated agile engagements that are limited in scope so that OIG can complete this work quickly and offer insights to policymakers and the public in a timely manner. Through OIG's initial work and continuous risk assessments, as well as its communications with HUD leadership and its program participants, OIG has identified several ongoing challenges: (1) ensuring that the public receives accurate information about HUD's pandemic response and relief programs, (2) ensuring that CARES Act grant funds reach intended beneficiaries in a timely manner and are used appropriately, (3) implementing mortgage loan forbearance requirements in HUD's programs, and (4) performing HUD's mission operations through the pandemic.

Ensuring That the Public Receives Accurate Information

It is critical that the American public has complete and accurate information about HUD's pandemic response and its implementation of the CARES Act relief provisions. OIG has completed reviews of HUD's communications with renters about the CARES Act eviction moratorium[3] and of HUD's responses to homeowners' and mortgage servicers' inquiries

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[1] Top Challenges Facing Federal Agencies: COVID-19 Emergency Relief and Response Efforts, https://oversight.gov/report/prac/top-challenges-facing-federal-agencies-covid-19-emergency-relief-and-response-efforts.
[2] The HUD Inspector General was designated as a Pandemic Response Accountability Committee (PRAC) member on April 1, 2020, by PRAC Chairman-DOJ Inspector General Michael Horowitz.
[3] Audit Memorandum 2021-NY-0801, Opportunities Exist To Improve HUD's Communication to Renters About Eviction Protections, issued October 13, 2020

regarding forbearance.[4] In both reviews, OIG found many instances in which HUD's communications were clear and sufficient but also identified several opportunities for improvement. OIG also completed an initial review[5] and a followup assessment[6] of the websites of mortgage loan servicers, evaluating whether they are offering complete and accurate information to homeowners with mortgages insured by the Federal Housing Administration (FHA). Through this work, OIG has highlighted for FHA leadership several ways in which the servicers participating in its programs could improve the quality of information they provide to homeowners with FHA loans.

OIG will continue to assess these areas as the pandemic evolves and HUD continues to communicate with the public about its response. OIG has also issued nine bulletins to raise awareness about fraud schemes in HUD's grant and mortgage programs and to highlight best practices for program participants.[7] OIG will issue similar bulletins to help prevent fraud, waste, and abuse throughout HUD's pandemic response.

Ensuring Timely and Appropriate Use of CARES Act Grant Funding

HUD faces challenges in overseeing the substantial increase in grant funding that the CARES Act provided to supplement rental assistance subsidies and assist public housing agencies (PHA) ($2.6 billion) to prevent homelessness and assist the elderly and people with HIV-AIDS ($4.1 billion) and to support local communities' pandemic response ($5 billion). HUD has taken actions necessary to make CARES Act funding available to grantees through its existing formulas and also developed new methodology to allocate funds to jurisdictions based on pandemic-related needs. HUD also made substantial changes to its grant programs in order to provide guidance and flexibility for grantees. However, OIG remains concerned about the grantees' capacity to manage and spend these funds, considering that some grantees have previously been designated as slow spenders by HUD. Additionally, OIG has highlighted in recent years that HUD's Office of Community Planning and Development (CPD) faces substantial challenges in monitoring its grantees, which may be amplified by the increase in funding to these grantees coupled with the constraints on CPD operations resulting from the pandemic.

OIG is closely following grantee spending rates and trends. OIG is also surveying the grantees to understand the challenges they are facing during the pandemic and is conducting a review to identify the causes of slow spending in CPD programs. Additionally, OIG staff is reviewing prior work to identify lessons learned from HUD's previous responses to natural disasters that might assist policymakers in responding to the COVID-19 pandemic.

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[4] Audit Memorandum 2020-PH-1801, Opportunities Exist to Improve HUD's Responses to Inquiries From Borrowers, Industry Partners, and the General Public Regarding Forbearance and Foreclosure Relief Provided by the CARES Act, issued September 22, 2020

[5] Evaluation Memorandum, Some Mortgage Loan Servicers' Websites Offer Information about CARES Act Loan Forbearance That Is Incomplete, Inconsistent, Dated, and Unclear, issued April 27, 2020, https://www.hudoig.gov/sites/default/files/2020-04/Single%20Family%20Mortgage%20Forbearance%20Brief.pdf

[6] Evaluation Memorandum, Some Mortgage Loan Servicers' Websites Continue To Offer Information about CARES Act Loan Forbearance That Could Mislead or Confuse Borrowers, or Provide Little or no Information at all, issued September 30, 2020, https://www.hudoig.gov/sites/default/files/2020-10/Single%20Family%20Mortgage%20Forbearance.pdf

[7] https://www.hudoig.gov/priority-focus-areas/covid-19-oversight

Implementing Forbearance Requirements in HUD's Mortgage Programs

The CARES Act provides financial relief to homeowners with HUD-insured mortgage loans experiencing COVID-19-related hardships by permitting forbearance of their mortgage payments for up to 360 days. FHA moved quickly to make program changes to account for forbearance and allow servicers to file partial claims for insurance benefits to recoup missed payments from borrowers. However, FHA is currently facing challenges in ensuring that it has accurate and complete data from its servicers regarding loans in forbearance, which is necessary to estimate and prepare for the processing of future partial claims. OIG is also concerned that inaccuracies in forbearance data reported by servicers could mean that servicers are not complying with HUD's forbearance requirements.

OIG is currently conducting reviews of the forbearance data provided by servicers to FHA and the forbearance options servicers are offering to homeowners. OIG is also reviewing its prior work to identify lessons learned from previous reviews of FHA's oversight of default reporting and partial claims processing to provide applicable insights to FHA's leadership during the pandemic.

Performing HUD's Mission Operations Through the Pandemic

As OIG has outlined in prior Top Management and Performance Challenges reports, HUD already experiences significant challenges in the areas of human capital and procurement, financial management, information systems technology, and monitoring and oversight. OIG is concerned that the new work required by HUD under the CARES Act could amplify these challenges.

Early in the pandemic, OIG conducted a limited-scope survey of HUD staff members to assess the challenges they faced in a full-time telework environment, and most reported that they were able to perform their job functions. However, OIG also found that HUD's paper-reliant processes were severely slowed and HUD's network bandwidth was strained and limited some work functions.[8] OIG is conducting a follow-up assessment of HUD's information technology (IT) infrastructure and whether it has the capability to support long-term telework.[9] OIG also plans to review the pandemic's impact on HUD's IT modernization plan and efforts. OIG is reviewing HUD's procurement actions and contract administration during the pandemic to assess HUD's implementation of pandemic-related contract guidance and further assess any contracting challenges it faces.

It is particularly important that HUD protects the health and safety of staff members as they continue to perform HUD's mission operations and begin to return to the workplace. OIG is currently reviewing how HUD has implemented its plan for *Resuming Normal Operations Guide* when it has reopened Federal office space.

OIG is also concerned about the operational challenges that the pandemic places on HUD's ability to perform its mission work that requires contact with the public. Many HUD program offices suspended their onsite monitoring of program participants during the

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[8] Evaluation Memorandum Report 2020-OE-0006, Survey of HUD Employees Regarding Telework and its Impact on HUD Operations during COVID-19 Pandemic, issued June 1, 2020

[9] Audit Notification of Review, Assessment of HUD's IT Infrastructure to Support Telework Due to COVID 19, dated June 23, 2020, https://www.hudoig.gov/sites/default/files/2020-06/Assessment%20of%20HUD%27s%20IT%20Infrastructure%20to%20Support%20Telework%20Due%20to%20COVID%2019_0.pdf

pandemic, thereby creating uncertainty about the true state of its program activities. OIG is currently reviewing the Office of Public and Indian Housing's plans for resuming health and safety inspections in HUD-assisted housing. OIG is also assessing the impact the pandemic has had on the Office of Fair Housing and Equal Opportunity's ability to conduct investigations and respond to complaints.

Financial Management

- HUD's Financial Management Leadership and Governance

- HUD's Internal Control Framework

- HUD's Financial Management Systems Weaknesses

- HUD's Financial Management Maturity

- Financial Management Challenges From the COVID-19 Pandemic

HUD continued to make progress during fiscal year 2020 in addressing its financial management weaknesses. For fiscal year 2020, HUD received an unmodified opinion[10] on its consolidated financial statements, the first such opinion since fiscal year 2012; and, OIG reported only one material weakness in internal control over financial reporting and one instance of noncompliance with applicable laws and regulations. OIG attributes this substantial improvement in financial management to the Office of the Chief Financial Officer's financial transformation initiative and coordination with program offices.

HUD needs to be able to sustain the improvements it has made so that HUD and its components can operate at a level that will consistently produce reliable and timely financial reports and ensure continuity during challenging times, such as those brought on by the COVID-19 pandemic. Additionally, HUD needs to increase the effectiveness of its complementary user entity controls and enhance the portions of its financial management system that consist of legacy systems and manual processes.

HUD needs to maintain the current momentum it has achieved in resolving material weaknesses and significant deficiencies and continue its work to remediate the effects of years of financial management inattention.

HUD's Financial Management Leadership and Governance

HUD experienced an extended period in which vacancies in key financial management positions remained open and HUD followed a siloed approach to financial management, which weakened its internal control environment and framework. This condition led to

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[10] The American Institute of Certified Public Accountants' The Clarified Statements on Auditing Standards, AU-C 700.18 which states: "The auditor should express an unmodified opinion when the auditor concludes that the financial statements are presented fairly, in all material respects, in accordance with the applicable financial reporting framework."

preventable financial management deficiencies that were not resolved in a timely manner.

HUD's current financial management leadership has made a concerted effort to address these deficiencies. In fiscal year 2018, HUD's Office of the Chief Financial Officer (OCFO) developed a financial management transformation strategy to address the challenges resulting from the Department's past weaknesses in financial management leadership and governance. OCFO continued to implement this strategy during fiscal year 2020, which included (1) improving governance and communication and building relationships across the agency, (2) improving internal controls by evaluating audit findings and developing overall remediation plans and executions, and (3) working with HUD's Chief Information Officer on an IT strategy to address OCFO data needs.

The transformation strategy has been successful and is beginning to show tangible results. As of June 2020, more than 140 open audit recommendations from prior-year Annual Financial Statement and Federal Information System Controls Audit Manual audits remained open, a decrease from more than 250 open recommendations listed in June 2019. During the 2020 fiscal year, HUD fully implemented its Accountability, Integrity, and Risk (AIR) Program, led by OCFO, which promotes fiscal accountability as a central focus of its mission. AIR's goals are to help HUD, its offices, and components accomplish their objectives and achieve strategic priorities by following a systematic, disciplined approach to evaluate and improve the effectiveness of governance, operations, risk management, and controls.

To maintain and successfully complete the implementation of its transformation strategy and to sustain the progress already made, OCFO needs continued financial and human resource commitments from the Secretary, Congress, and other stakeholders.

HUD's Internal Control Framework

In fiscal year 2019, HUD performed a limited assessment of the effectiveness of its internal controls over financial reporting, including reviews of its complementary user entity controls and funds control matrices. In fiscal year 2020, HUD performed a more complete assessment, including reviews of complementary user entity controls and internal controls over its fund balance with Treasury and several programs within the Offices of Public and Indian Housing (PIH), Community Planning and Development (CPD), and Housing. As of September 30, 2020, HUD determined that 66 percent of the complementary user entity controls assessed were designed effectively, an improvement from 50 percent in fiscal year 2019. Additionally, in the other areas tested, between 86 to 100 percent of the key controls identified were found to have been effectively designed.

The AIR program described in the previous section integrates HUD's assessment of internal controls and enterprise risk. Full implementation of the AIR program will contribute greatly to improving HUD's internal control framework and maturity level, ensuring compliance with the Federal Manager's Financial Integrity Act.

HUD's improvement and renewed focus on internal controls is starting to show results, but it is important that HUD continues to work toward a complete financial management transformation to ensure a full implementation of the AIR program and a sustained commitment to the identification and mitigation of internal control weaknesses and significant risks. This is especially important in light of the COVID-19 pandemic environment, in which waivers of normal processes and controls and competing priorities may pressure components to forgo proper financial management and accounting processes.

HUD's Financial Management Systems Weaknesses

Several significant financial business processes continue to be manual or nonexistent, resulting in unreliable and untimely financial reporting and poor financial management oversight. For example, PIH uses manual processes and Excel spreadsheets to comply with cash management requirements, resulting in untimely reports on HUD's prepayments, accounts payable, and accounts receivable. HUD also does not have a cost accounting system that can accurately report program costs, and, specifically, PIH lacks a system capable of fully accounting for its loan guarantee programs.

> HUD continues its efforts to implement financial management systems in all program areas and offices and is also making progress in its efforts to bring its financial management system into compliance with the Federal Financial Management Improvement Act (FFMIA).

HUD continues its efforts to implement financial management systems in all program areas and offices. HUD plans to start implementing a cost accounting system and a system to address PIH's cash management needs during 2020, but neither system is expected to be fully operational by the time its fiscal year 2020 financial reporting is due.

HUD is also making progress in its efforts to bring its financial management system into compliance with the FFMIA. During fiscal year 2020, HUD brought four systems into compliance with FFMIA and assessed a fifth that was previously determined as non-compliant as a non-financial system due to the implementation of a new module within HUD's financial management system that replaced its functionality. However, the challenges in maintaining and ensuring that HUD's legacy systems can support the proper financial management of HUD's programs and operations will persist until they are modernized.

HUD's Financial Management Maturity

While HUD has made significant progress in resolving material weaknesses and significant deficiencies and closing recommendations, HUD continues to operate at a "basic" level of financial maturity, based on the U.S. Treasury's Financial Management Maturity Model. HUD is still reporting a low rate of operational effectiveness for its complementary user entity controls and continues to not be fully compliant with FFMIA. HUD also maintains and relies on several customized legacy systems with some automated interfaces, resulting in unresolved FISMA financial findings.

OIG found that HUD generally complied with the DATA Act in its fiscal year 2019 review.[11] Also, as mentioned above, HUD has been able to bring a few systems into

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[11] Audit Report 2020-CH-0001, DATA Act Compliance Audit of the U.S. Department of Housing and Urban Development, issued November 7, 2019

FFMIA compliance. In prior years, OIG has cited HUD as being at an "inadequate" level of financial management maturity, however, some of HUD's financial management areas now meet the definition of the "capable" classification for financial management maturity, and HUD is trending toward an overall classification of "capable." HUD's enterprise risk management program is approaching a classification of "effective." HUD needs to continue to remediate OIG's open recommendations and improve its internal control effectiveness to ensure reliable and accurate financial reporting and compliance with laws and regulations.

Financial Management Challenges From the COVID-19 Pandemic

In response to the supplemental funds received in the CARES Act, signed into law on March 27, 2020, HUD established the HUD CARES Act Compliance Response Team (HCCRT) to specifically focus on the impact the CARES Act will have on HUD personnel, processes, and technology. The HCCRT verifies that CARES Act funding is distributed through existing program office channels, where processes and controls are already designed and operational. The HCCRT also monitors the status of the funds, confirms compliance with legislative requirements, and reviews obligations and expenditures.

While HUD was generally well prepared for mandatory telework[12] and was able to handle most financial processes through electronic means, the COVID-19 pandemic has limited HUD's access to the historic documents and contracts that are solely maintained in paper records. This has led to difficulties in the program areas that rely on paper records, such as the Section 184 loan guarantee program, in which HUD is working to resolve issues related to the reporting of the amount of outstanding principal guaranteed. Challenges were also encountered as HUD conducted its AIR program during the fiscal year.

HUD needs to remain committed to improving its internal controls and financial processes and modernizing its financial systems to ensure that it can continue to operate as effectively and efficiently as possible during challenging times, such as the pandemic, as well as in times of normalcy.

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[12] OIG Evaluation Report, 2020-OE-0006, Telework Impact on HUD's Operations Due to the COVID-19 Pandemic, issued June 1, 2020

Management and Oversight of Information Technology

- IT Project Management and Modernization

- IT Procurement

- Cybersecurity and the Federal Information Security Modernization Act

- Privacy and Data Protection

For years, HUD has struggled to maintain its outdated information technology (IT) systems, which cannot be adapted to handle HUD's current complex mission and its demands for accountability. HUD's IT developments have been hindered for a number of reasons, but one significant problem has been the poor management of HUD's IT resources. Not all IT resources have been under the Chief Information Officer's (CIO) authority but, rather, distributed across multiple program offices. In response, HUD has made a concerted effort to fill key IT leadership positions that have been vacant for multiple years. HUD is confident that the advancement of skilled leadership will successfully execute its strategic direction. HUD continues to rely heavily on contract support for its operational and modernization efforts, making procurement activities vital to HUD's ability to progress. HUD's information security program remains at a maturity level that is determined to not be effective.

Since 2009, OIG has issued many audit and evaluation recommendations related to HUD's IT issues. Before fiscal year 2020, HUD had more than 230 IT-related recommendations that were either open or unresolved, while the U.S. Government Accountability Office (GAO) also had many open recommendations related to HUD's IT issues. Over the past year, the primary goal of the CIO was to reduce open and unresolved recommendations. As a demonstration of these efforts, as of August 2020, the OIG Office of Evaluation (OE) has recently received 78 closure requests of its 147 open IT recommendations, and OIG is in the process of reviewing those requests.

Under the current CIO, HUD is making progress with a number of its longstanding IT deficiencies, but the depth and breadth of the remaining management challenges will require ongoing financial support, a well-defined strategy, and ongoing leadership commitment.

IT Project Management and Modernization

The majority of HUD's IT systems were used to support its essential program and business processes between 1974 and 1995. These systems are outdated and incompatible with current technology, resulting in a higher susceptibility to failure and

breach as they are no longer supported by their vendors for patches and updates. HUD has long struggled with its IT management capabilities and has reported overlapping and antiquated systems that are costly to maintain and prevent the collection of accurate program data. In November 2019, HUD presented its most recent enterprise-level modernization roadmap, which establishes activities for modernizing HUD's IT systems.

> *The Office of the Chief information Officer has 31 active projects that address the modernization of key HUD IT systems and anticipates that an additional 24 modernization projects are needed to move HUD toward a more modern and secure IT environment.*

In addition, the Office of the Chief Information Officer (OCIO) plans to consolidate six major HUD data warehouses into one enterprise analytics platform, which would create efficiencies and properly secure personally identifiable information (PII) and sensitive data. Each individual project demands successful project management implementation and oversight to ensure that best practices are developed and followed. HUD faces great challenges in sustaining its momentum for IT projects because it has limited expertise in managing a project's technical aspects, schedules, and funding and ensuring that the project owners are held accountable.

An example of a recent modernization success is HUD's deployment of the FHA Catalyst platform on December 16, 2019. The system enabled HUD to electronically receive FHA loan files in early 2020, at the onset of the Pandemic, which previously demanded the transmittal and handling of hardcopy binders. The technology and processes used for FHA loan processing were leveraged to address the modernization needs of the Section 184 Office of Native American Programs' (ONAP) Loan Origination System. HUD OCIO established a detailed Section 184 program roadmap and is progressing on all phases of the project. Unfortunately, the modernization plan began after ONAP had already failed to implement a project that had cost $4 million and did not satisfy the program requirements

An example of a significant modernization challenge for HUD is updating the Public and Indian Housing Information Center (PIC) Inventory Management System (IMS), which processes more than 50 percent of HUD's budget. The updated version of PIC IMS is called PIC Next Generation (NG) and has been in development since 2016, when HUD had a different CIO. Despite spending more than $8 million on development, PIC NG does not have a system architecture that aligns with HUD's OCIO strategy or an approved authorization to operate, as OCIO had minimal involvement in its development. As a result, a major issue that OCIO must resolve is that most web browsers will no longer support all of the PIC IMS capabilities after 2020 and PIC NG needs at least 2 more years of development before reaching full operational capability. IT project management with an enterprise view is necessary for HUD to successfully modernize its IT environment.

Despite HUD's modernization progress, enterprisewide improvements are challenging because many of HUD's IT systems are not centrally managed. Program offices continue to autonomously operate their applications and initiate development actions that are not in agreement with the enterprise-level modernization roadmap or Federal guidance. The Federal Information Technology Acquisition Reform Act (FITARA) was instituted in 2015 to help minimize waste resulting from the failure to follow

enterprisewide IT modernization efforts. Some program offices within HUD have not complied with the FITARA controls, which hinders HUD's modernization and cybersecurity efforts. With program offices implementing unauthorized IT actions, OIG has repeatedly found instances in which OCIO did not maintain an accurate inventory or knowledge of its web application environment,[13] which makes modernization efforts extremely challenging.

HUD's outdated systems create reliability and security risks for HUD information. HUD needs to continue prioritizing and implementing oversight and performance checks for modernization projects based on their security risks, operational inefficiencies, and limitations. While FITARA ensures that CIOs play a significant role in the development, approval, and budgeting for IT investments, HUD has not always been successful in meeting FITARA's expected outcomes. To meet key FITARA requirements and implement a coordinated and effective modernization effort, HUD offices should receive approval from HUD's CIO or the CIO's delegated representative before using appropriations for IT services, purchases, or acquisitions.

The concerns and risks associated with HUD's supply chain have not been incorporated into its contingency planning program. Many IT systems that are critical to HUD's mission are operating on outdated technology, which adds to HUD's challenges and intensifies its urgency to modernize its systems. Within the current infrastructure, there are risks associated with the following: alternative suppliers of system components, alternative suppliers of systems and services, denial of service attacks to the supply chain, and planning for alternative processes if critical systems are unavailable. OCIO has an open recommendation to define the supply chains' risks in the contingency planning program.

OIG continues to believe that multiyear development, modernization, and enhancement project funding will help modernize HUD's IT systems and reduce recurring system operation and maintenance costs. HUD must continue to identify, prioritize, and successfully implement modernization and IT security program improvements and institute proper oversight to ensure that information security is built into all future modernization projects.

IT Procurement

HUD's procurement capacity is a key potential risk area within HUD's IT environment. While HUD's existing IT systems and its modernization plans depend heavily on contractors, HUD has historically faced significant challenges with implementing effective procurement processes. These challenges, if not effectively addressed, could impede HUD's IT modernization progress and significantly disrupt IT services that support HUD programs nationwide.

OIG has recently initiated multiple reviews of HUD's acquisition capacity. OIG's ongoing evaluation of HUD's processes for managing IT acquisitions will examine IT-related contracts that have lapsed in the past 2 years. Such lapses could impede program functions and impact system maintenance due to a break in associated IT services. We are also reviewing IT contract awards during this 2-year period that required a "bridge" contract extension to mitigate or avoid a lapse in services. Although necessary in some cases, bridge contracts are provisional measures that can increase overall costs, reduce

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[13] HUD Fiscal Years 2016 and 2018 Federal Information Security Modernization Act of 2014 (FISMA) Evaluation Reports, respectively 2016-OE-006, issued November 9, 2016, and 2018-OE-0003, issued October 31, 2018 (nonpublic)

value normally achieved through competition, and increase HUD's already significant procurement staff workload, which further strains its ability to process other planned acquisitions. Although HUD's published internal metrics for acquisition timeliness had not been updated recently, a report from early fiscal year 2019 showed that HUD program offices failed to complete timely requisitions for 74 percent of planned contract actions. These results indicate that the challenges with HUD's acquisition capacity persist and could pose significant ongoing risks to HUD's IT environment.

HUD also faces significant risk related to contractor oversight. A 2016 GAO report[14] found that HUD historically lacked the robust processes necessary to ensure that its contractors met their obligations and achieved expected outcomes. OIG has recently observed during its Federal Information Security Modernization Act of 2014 (FISMA) evaluation that contractors often understand HUD's IT environment better than HUD government employees due to the breadth of HUD systems that contractors maintain and a lack of government employee expertise or involvement in operations and maintenance. This skills gap between HUD employees and its contractors presents an additional risk to HUD's acquisition process as it can limit HUD's ability to implement effective contract oversight.

Cybersecurity and the Federal Information Security Modernization Act

In fiscal year 2019, HUD set a goal to have a more proactive approach in maintaining security compliance, preventing cyber threats, and addressing security weaknesses that had been longstanding at HUD. To accomplish this goal, HUD developed five major cybersecurity initiatives; identity management, remediation for OIG findings, security governance, the strengthening of cybersecurity capabilities, and continuous monitoring. As HUD executes these initiatives, it is also identifying new challenges. Challenges related to personnel and human error persist at HUD and apply to all of HUD's cybersecurity challenges as follows: awareness, willingness to comply, skills, and knowledge.

HUD has been planning identity management improvements for years. HUD initially established a strategy in 2017, the same year new Federal requirements were issued for identity management. Despite having implemented a proof-of-concept for these improvements, HUD is experiencing challenges in incorporating the knowledge gained from the proof-of-concept into the broader enterprise IT portfolio. Delays in implementing identity management improvements are partially attributed to the lapse in a contract that was supporting the improvements and to changes in leadership throughout the project phases.

HUD established a "tiger team" to complete remediation activities on open OIG recommendations. Most open OIG findings related to cybersecurity were issued in conjunction with FISMA, a series of evaluations that require inspectors general to annually assess the effectiveness of a Federal agency's information security program. At the start of fiscal year 2020, 108 recommendations issued in FISMA reports since fiscal year 2013 have remained open. Of these recommendations, 26 were from fiscal year 2019, and 82 were from fiscal years 2013 to 2018. HUD closed 6 prior-year FISMA recommendations in fiscal year 2019 and 27 prior-year FISMA recommendations in fiscal year 2020. As of September 30, 2020, HUD had submitted an additional 29

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[14] GAO (public release 2016, August). Actions Needed to Incorporate Key Practices into Management Functions and Program Oversight. (GAO-16-497)

recommendation closure requests, pending HUD OIG review, showing considerable progress toward closing years of recommendations. HUD must continue with these efforts and actively manage OIG's open recommendations to prevent the number of future security remediation issues from growing into the hundreds again.

Improvements in HUD's security governance can be directly attributed to new leadership and increased resources. HUD filled its Chief Information Security Officer (CISO) position and increased cybersecurity spending in fiscal year 2019. However, the increased amount of spending was still significantly less than the amount other agencies have spent on cybersecurity as a percentage of the overall IT budget.

In fiscal year 2018, HUD budgeted $16.6 million and in fiscal year 2019, $18.7 million for cybersecurity spending. This amount is just 5 percent of the total fiscal year 2019 HUD IT budget, compared to other Federal agencies' allocation average of 14 percent.

HUD's actual expenditures in fiscal year 2019 for cybersecurity were close to $35 million, well in excess of the budgeted amount. The CISO plans to use some of the additional funds to shore up staffing to support a planned reorganization of HUD's cybersecurity program.

HUD formed the Security Operation Center (SOC) in August 2019 to strengthen its cybersecurity capabilities. However, the SOC did not consistently monitor the entirety of HUD's network.[15] HUD OCIO is developing a plan to monitor all HUD devices as well as all inbound and outbound network traffic, a capability that HUD did not previously have. Additionally, HUD has not implemented a data loss prevention tool but has established a goal to implement it in late fiscal year 2020, which should assist HUD in addressing its data management challenges. HUD will need to finalize a plan for monitoring all HUD devices and ensure that the current cybersecurity capabilities are not diminished due to funding and contract delays.

The annual FISMA assessment broadly reports on all of the Department's previously described cybersecurity challenges. The most recent assessment, the fiscal year 2019 FISMA, is based on the Office of Management and Budget (OMB) fiscal year 2019 OIG metrics, which consist of eight domains aligned with the five functional areas (identify, protect, detect, respond, and recover) from the National Institute of Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity. Based on these metrics, OIG assessed HUD's information security program efforts using a maturity model. According to OMB and the FISMA OIG metric guidance, a "managed and measurable" maturity level, or level 4, represents an effective level of security. In the fiscal year 2019 FISMA report, OIG assigned maturity levels based on these OMB metrics and found that the continuous challenges HUD faces have resulted in an overall "defined" level of maturity, or 2 out of 5 levels. Table 2.1 below shows the FISMA report's overall results.

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[15] HUD's network consists of dozens of network devices, hundreds of servers, and thousands of workstations located at multiple data centers, HUD headquarters, field offices, regional offices, and cloud service providers.

Table 2.1: FISMA results

FISMA Criteria	Maturity Level				
	1	2	3	4	5
Risk Management	🟢	🟢	🔴	🔴	🔴
Configuration Management	🟢	🟢	🔴	🔴	🔴
Identity and Access Management	🟢	🟢	🔴	🔴	🔴
Data Protection & Privacy	🟢	🟢	🔴	🔴	🔴
Security Training	🟢	🟢	🔴	🔴	🔴
Information Security Continuous Mointoring	🟢	🟢	🔴	🔴	🔴
Incident Response	🟢	🟢	🔴	🔴	🔴
Contingency Planning	🟢	🟢	🟢	🔴	🔴

Key: 1-ad hoc, 2-defined, 3-consistently implemented, 4-managed and measurable, 5-optimized (level 4 = effectively implemented according to OMB)

From fiscal year 2018 to fiscal year 2019, HUD maintained a defined level (level 2) in all categories, except incident response and contingency planning. HUD improved in contingency planning, raising its maturity level from level 2 to level 3, but fell from level 3 to level 2 in incident response. OIG assessed HUD's incident response program as "consistently implemented" in fiscal year 2018 and as "defined" in fiscal year 2019 primarily because HUD's computer incident response team (CIRT) contract was expired for most of 2019. HUD did not integrate a new incident response contract until August 2019. Therefore, HUD's CIRT duties were either suspended, modified, or delegated to personnel with other duties for most of fiscal year 2019.

HUD matured in contingency planning because its policies, procedures, and strategies for contingency planning were consistently defined and communicated. Since the current OMB metrics and maturity model were introduced in 2016, HUD has remained overall at level 2. In order to achieve a managed and measurable level 4 maturity level, HUD will need to face the challenges of closing both the gaps in its cybersecurity program and the 90 open FISMA recommendations.

Privacy and Data Protection

HUD continually faces longstanding privacy and data protection issues, which pose significant risk to the agency. HUD does not have the capability to label, fully identify, and inventory its extensive holdings of PII and has not developed the tools needed to search for electronic PII or to track and limit its access and dissemination within its IT environment. Additionally, HUD cannot detect or monitor unauthorized transmissions or the sharing of PII outside the agency. The exfiltration of data is a significant area of concern, as HUD's data loss prevention solution is limited to the detection and encryption of emails containing Social Security numbers. While HUD policy allowed employees to transport files containing PII to their residences for telework purposes; this policy had recently been rescinded. HUD's inability to identify and protect its sensitive information poses significant risk to both the agency and private individuals. HUD is taking actions to protect sensitive information, however the technology and processes are not consistently implemented.

Further, while some privacy program governance issues have been addressed, HUD faces additional governance challenges. HUD has conducted a program staffing analysis but has not determined whether resources could be allocated to address the critical staffing shortages. HUD has also been assessing the appropriate organizational placement for its Privacy Office.

OIG noted several program improvements during its FISMA evaluation in 2019. HUD filled its long-vacant Chief Privacy Officer position, and OIG observed increased prioritization and executive leadership support for its privacy program. HUD has addressed and closed several of OIG's longstanding privacy program recommendations. The Privacy Office has updated several privacy policies and procedures, improved its privacy impact assessment processes, upgraded its specialized privacy training, and taken a more collaborative approach with OCIO to determine whether privacy protection is being properly addressed in the agency's technology and business operations. HUD has also strengthened its data breach response plan, issued formal requirements for compliance, and exhibited an ability to consistently implement the plan. Through its Privacy Office, HUD has regularly conducted table-top exercises for breach response.

HUD's governance of records and data programs continues to be an area of concern. For the records program, HUD had not met the U.S. Office of Personnel Management (OPM) requirement to establish a Senior Agency Official for Records Management (SAORM) at the appropriate Assistant Secretary level. Positioning the SAORM at the proper level would improve HUD's ability to mature its records program and integrate records management with other programs, including privacy, IT, data, and enterprise risk management.

HUD acknowledged that there is currently no enterprise data governance in place. Federal requirements, including The Foundations for Evidence-Based Policymaking Act, the Federal Data Strategy, and OMB Memorandum M-19-23, require agencies to establish specific data governance functions. HUD is only now establishing relevant charters, creating steering committees and advisory groups, and hiring its first Chief Data Officer (CDO). As a result of a fiscal year 2019 audit, OIG found that HUD was generally in compliance with the Digital Accountability and Transparency Act (Data Act) requirements.[16] HUD plans to realign the Office of the CDO under the CIO and is requesting additional staff positions for fiscal year 2021. HUD has drafted a strategic "Master Data Management Program" that is currently pending CDO review. HUD acknowledged that it has not finalized its standard measures for data quality. HUD must continue to prioritize these efforts at the highest level to overcome these existing privacy and data protection challenges.

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[16] Audit Report 2020-CH-0001, HUD's Office of Chief Financial Officer Generally Complied With the Digital Accountability and Transparency Act of 2014 With a Few Exceptions, issued November 7, 2019

Monitoring and Mitigating Risks

- Insufficient Monitoring of Operations

- Office of Community Planning and Development Monitoring of Grantees

- Monitoring Public Housing Agencies

- Ginnie Mae Counterparty Risk

- Monitoring of Section 232 Residential Care Facilities

- Monitoring of Indian Community Development Block Grant Closeout Process

- COVID-19's Impact on HUD's Monitoring of Program Participants

HUD implements many of its programs through grants, subsidies, and other payments to State, territorial, and local government entities; Indian tribes; and private organizations. HUD's program funding amounts to more than $50 billion per year. The funds include amounts for beneficiaries and program oversight. HUD relies heavily on partners, such as State, territorial, and local governments; PHAs; Indian tribes; private housing providers; and others, to operate its programs for its intended beneficiaries. To protect the Federal funds and ensure that the intended beneficiaries receive the benefits of these programs, HUD must regularly evaluate the programs' effectiveness and monitor its partners' and its own use of these funds.

While HUD has taken steps to improve programmatic risk management and management controls, HUD continues to struggle to effectively manage its own operations and oversee its program participants' activities. Several monitoring areas of concern have existed for years, and nominal progress has been made. HUD has demonstrated a lack of guidance for the appropriate review of programmatic management controls, a lack of staff to conduct the necessary monitoring, and a lack of reliable information from program partners used to assess program performance and compliance.

New Initiatives to Monitoring of Operations

For years, OIG had identified HUD's failure in performing its programs' management control reviews (MCR), which was a monitoring tool intended to provide reasonable assurance that programs and activities are effectively and efficiently managed and are protected against fraud, waste, and abuse. The MCR previously played a significant role in HUD's internal control framework that helped ensure that HUD has complied with GAO's Standards for Internal Control in Federal Government.[17] However, from 2015 to 2019, HUD had not conducted any routine or timely MCRs, depriving management of an important monitoring tool that would provide key feedback on the effectiveness and efficiency of departmental operations. To address this weakness, HUD adopted and fully

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[17] GAO report, Standards for Internal Control in the Federal Government, GAO-14-704G (September 10, 2014)

implemented a new Accountability, Integrity, and Risk program charter during 2020 to replace its MCR process.

> *HUD adopted a new Accountability, Integrity, and Risk program charter in March 2020 to replace its MCRs.*

The Accountability, Integrity, and Risk (AIR) program's mission is to promote fiscal accountability, integrity, and risk management through a strong governance system with agencywide coordination and collaboration. Planning and documentation of tests of the design of key controls were performed in early 2020, testing of its operating effectiveness occurred in July 2020, and the project was completed in September 2020.

Part of the AIR program includes the integration of risk assessments, evaluations, and internal controls as part of its enterprise risk management program. HUD has made progress in assessing enterprise risk, as required by OMB Circular A-123; however, the enterprise risk management program modules have not been fully implemented. Enterprise risk and fraud management is one of HUD's eight priority areas in its transformation program.

Another important monitoring tool is HUD's front-end risk assessment (FERA).[18] Until recently, HUD has not performed FERAs for several years, despite significant changes to various programs within HUD's portfolio. In July 2019, HUD issued a new FERA Policy Handbook, which is applicable to new and substantially amended HUD programs. HUD performed a pilot FERA in 2019 and subsequently initiated four FERAs in 2020. As of September 30, 2020, two have been completed.

Office of Community Planning and Development Monitoring of Grantees

HUD's Office of Community Planning and Development's (CPD) mission is to develop viable communities by promoting integrated approaches that provide decent housing and suitable living environments and expand economic opportunities for low- and moderate-income households. To accomplish this mission, CPD awards grants to fund community development projects, such as local affordable housing programs, homeless assistance programs, direct rental assistance to low-income people, and disaster recovery efforts.[19]

Since 2015, OIG has consistently found that HUD needs to increase monitoring of CPD program grantees. For instance, in 2018, OIG performed a comprehensive review of CPD's Community Development Block Grant (CDBG) monitoring model and found that CPD did not have effective supervisory controls and its risk assessment and monitoring did not provide effective oversight of programs and grantees.[20]

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[18] A front-end risk assessment is a formal, documented review by management to determine the susceptibility of a new or substantially revised program or administrative function to waste, fraud, abuse, and mismanagement.
[19] Because of the scope of HUD disaster recovery efforts, this report addresses those management challenges separately.
[20] Audit Report 2018-FW-0001, CPD's Risk Assessment and Monitoring Program Did Not Provide Effective Oversight of Federal Funds, issued June 26, 2018

> *HUD's Office of Community Planning and Development's risk assessment and monitoring do not sufficiently provide effective oversight of programs and grantees.*

CPD continues to provide waivers to grantees for an OMB reporting requirement that would require them to provide information on their grant's obligations, disbursement, and program income, despite OIG making recommendations since 2014 to discontinue this practice.[21] Without the information from this reporting requirement, CPD cannot fully determine whether grantees complied with the applicable regulations and statutes, making oversight of grantees a challenge.

Monitoring Public Housing Agencies

The Office of Public and Indian Housing (PIH) administers public housing, tenant subsidy, and resident self-sufficiency and economic independence programs. More than 61 percent of HUD's 2020 appropriations were for PIH programs.[22] Public housing agencies (PHA) are key partners in PIH programs, such as the Housing Choice Voucher Program. HUD electronically monitors the voucher program through a system that relies on PHAs' self-assessments and self-reported information. Past audits and HUD's onsite reviews have confirmed that these self-assessments are not always accurate, questioning the reliability of the information in PIH systems.

PIH employs a risk-based approach to monitoring. Currently, HUD uses a Two-Year Tool to analyze a PHA's utilization rate and a National Risk Assessment Tool to determine which PHAs need increased monitoring or technical assistance, which is based on their performance, amount of funding, and compliance scores.

Last year, OIG found that HUD had not been referring troubled PHAs to the Assistant Secretary for Public and Indian Housing for receivership as the law and regulations require.   Additionally, 18 PHAs that have been identified as "troubled" for more than 2 years and had not been referred. Further, HUD had not submitted an annual troubled PHA report to Congress for at least 11 years but recently started to submit the reports. HUD is working to address these recommendations.[23]

PIH allows PHAs to use a fee-for-service model by paying a central office cost center for certain expenses rather than allocating overhead costs. This practice affects the funding of the Housing Choice Voucher Program, Public Housing Operating Fund, and Public Housing Capital Fund. Once the allocated funds are paid to the central office cost center, the funds are defederalized and are no longer required to be spent on their respective PIH programs. When OIG questioned HUD's lack of support for its central office cost center fee limits, it found that PHAs transferred ineligible and unsupported funds to the central office cost centers. OIG also found that HUD lacked adequate justification for allowing PHAs to charge an asset management fee, which allows PHAs to defederalize more than $81 million annually.[24]

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[21] OMB Standard Form 425 - Federal Financial Report.
[22] This calculation did not include supplemental appropriations for disaster recovery.
[23] OIG Evaluation Report, 2019-OE-0001, HUD Has Not Referred Troubled Public Housing Agencies as the Law and Regulations Require, issued February 4, 2020
[24] Audit Report 2014-LA-0004, HUD Could Not Support the Reasonableness of the Operating and Capital Fund Programs' Fees and Did Not Adequately Monitor Central Office Cost Centers, issued June 30, 2014

In December 2018, HUD and OIG reached an agreement on corrective action to address HUD's previous recommendations on funds paid to central office cost centers. HUD agreed to issue rules restricting the use of program funds paid to the central office cost center by requiring those funds to benefit low-income households. HUD also agreed to regularly assess the reasonableness of the central office cost center fee limits. Because of the significance of this issue, PHAs' central office cost center funding will remain a top management challenge until HUD's new rule is adopted and implemented. Final action for all recommendations is targeted for completion by October 2020.

Ginnie Mae Counterparty Risk

The Government National Mortgage Association (Ginnie Mae), a Federal Government corporation within HUD, guarantees payment on mortgage-backed securities (MBS), which are created by MBS issuers pooling their government-insured loans. The MBS are then sold to investors in a secondary mortgage market. The sale of Ginnie Mae guaranteed MBS in the secondary mortgage market allows the lenders to recoup funds and replenish their liquidity. Ginnie Mae's MBS portfolio continues to grow in 2020. As of June 2020, Ginnie Mae issued $522.1 billion in MBS while the total outstanding unpaid principal balance in Ginnie Mae's MBS portfolio was $2.1 trillion. Issuers are responsible for servicing, remitting, and reporting activities on the mortgages that collateralize the MBS. These issuers must have sufficient liquidity to advance payments to investors when a borrower does not pay. They must also have sufficient funds to repurchase defaulted loans from the MBS pools to address defective loans or provide a defaulting borrower revised loan terms. If any issuers fail to advance such funds, Ginnie Mae steps in to make the principal and interest payments to the investors. Ginnie Mae is a self-funded entity that finances its operations through guarantee and commitment fees charged to MBS issuers.

The percentage of Ginnie Mae's nonbank issuers continues to increase. According to a report from the Housing Finance Policy Center, Ginnie Mae's nonbank issuers' shares reached 74 percent in June 2020. Nonbanks are financial institutions that only offer mortgage services, have no depositor base, and are less regulated than banking institutions. Both OIG and Ginnie Mae have reported that as more nonbanks issue Ginnie Mae's securities, monitoring costs and risks increase because a majority of these institutions involve more complex third-party transactions, rely more on credit lines, and conduct more frequent trading of mortgage servicing rights (MSR). Ginnie Mae must be prepared to seize a portfolio if an issuer defaults but remains dependent on the servicers or master subservicers that Ginnie Mae has contracted with to transfer and service the seized portfolio.

In addition to an increase in the overall number of nonbank issuers, the concentration of MSR ownership continues to rise. According to Ginnie Mae, as of May 2020, close to half (46.7 percent) of the Ginnie Mae MSRs were owned by its top six issuers. Five of the top six issuers were nonbanks, with a total of 36.9 percent concentration, while the remaining top bank issuer retained 9.8 percent of the portfolio. Also, out of a total of more than 376 Ginnie Mae issuers, the top 30 issuers collectively owned 77.6 percent of Ginnie Mae's MBS portfolio. Twenty of these were nonbanks, with the remaining 10 being banking institutions. The distribution of the 77.6 percent of Ginnie Mae's MBS portfolio among the top 30 issuers poses a concentration risk exposure. The combination of market volatility, concentration risk, and the inherent complexity and less liquidity of nonbank issuers will continue to be a prominent challenge to Ginnie Mae's future.

The 2020 CARES Act has directly impacted Ginnie Mae issuers with prolonged mortgage forbearance granted to borrowers. Forbearance places greater financial strains on issuers of MBS, who must continue to make investor payments and advance borrower taxes and insurance, while forgoing servicing fees, even when the loans comprising the MBS are in forbearance. Since March 2020, FHA borrowers have been entitled to forbearance of up to a year. In addition, a July 2020 monthly chartbook from the Housing Finance Policy Center reported that 10.3 percent of Ginnie Mae's pooled loans were in forbearance.

As of September 2020, issuers appear to be managing the additional liquidity requirements through additional leveraging to MSRs. Ginnie Mae has offered a Pass-Through Assistance Program (PTAP), which provides pass-through assistance to issuers who are facing a temporary liquidity shortage due to a major disaster occurrence, foregoing the immediate consequence of termination and extinguishment. This assistance is only available to issuers as a last resort, and few issuers have participated in PTAP. As of September 2020, there has not been a recorded instance of issuer defaults resulting from extended forbearance; however, it is unclear whether this condition will change as forbearance continues. To protect Ginnie Mae investors from significant early prepayments, Ginnie Mae has required that loans in forbearance be removed from MBS pools, modified, and not be repooled until the loans are current for 6 months. This restriction will require issuers to carry mortgages in forbearance that were modified to bring the borrower current for 6 months. It will also require these issuers to have additional liquidity.

Monitoring of Section 232 Residential Care Facilities

FHA provides residential care facilities, such as nursing homes, assisted living facilities, and board and care homes, with mortgage insurance, which can cover the purchase, refinancing, new construction, or substantial rehabilitation of a facility. HUD has increased liability because it does not properly inspect or monitor the physical condition of these facilities. Since 2012, HUD has allowed skilled nursing facilities to be exempt from HUD physical inspections. Because nursing facilities are subject to inspections by the U.S. Department of Health and Human Services' Centers for Medicare & Medicaid Services (CMS), HUD relies solely on CMS to perform the necessary inspections and does not perform its own inspections through HUD's Real Estate Assessment Center (REAC). This creates a monitoring challenge because CMS' inspections do not accurately capture the entire physical condition of the facilities. In 2018, OIG issued a management alert about HUD's failure to oversee the physical condition of these facilities.[25] OIG's work has highlighted that CMS inspections do not include a roof inspection and do not check fire doors, emergency lighting, fire extinguishers, and electrical panels that REAC inspectors would typically examine.[26]

OIG continues to believe that HUD, not an outside agency, needs to conduct the physical inspections of care facilities in support of the mortgages HUD insures.[27]

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[25] Management Alert 2018-CF-0801, HUD Did Not Provide Acceptable Oversight of the Physical Condition of Residential Care Facilities, issued January 2018
[26] Evaluation Memorandum, OIG Topic Brief - Skilled Nursing Facilities Currently Exempted from Real Estate Assessment Center Inspections, issued February 22, 2019
[27] Evaluation Memorandum, OIG Topic Brief - Skilled Nursing Facilities Currently Exempted from Real Estate Assessment Center Inspections, issued February 22, 2019

In a 2018 audit of 18 financially challenged Section 232 residential care facilities, OIG found that 4 of the nursing homes had been in default for up 6.5 years and an additional 9 nursing homes, with more than $82.4 million in HUD-insured mortgages, were at risk of default.[28] Along with multiple regulatory agreement violations, OIG found that a majority of the facilities provided untimely, inaccurate, or incomplete financial data. Since the 2018 audit, HUD has taken steps to monitor the financial performance of Section 232 residential care facilities; however, HUD continues to insure many troubled facilities and allow defaulted loans to remain in its portfolio. In December 2018, HUD stated that it planned to update its computer system to identify missing and inaccurate financial data by 2021.

Monitoring of the Indian Community Development Block Grant Closeout Process

HUD's Office of Native American Programs (ONAP) administers housing and community development programs for the benefit of American Indians and Alaska Native governments, tribal members, the Department of Hawaiian Home Lands, and Native Hawaiian and other Native American organizations. ONAP distributes Indian Community Development Block Grants (ICDBG) to eligible grantees for housing rehabilitation, land acquisition, community facilities, infrastructure construction, and economic development activities that benefit primarily low- and moderate-income persons. ONAP is required to ensure that the closeout procedures are performed after ICDBG activities are completed. Closeout procedures include submitting final financial and performance reports, executing closeout agreements, and canceling the remaining grant funds.

In a prior OIG audit,[29] OIG found that HUD lacked sufficient policies and procedures for grant closeouts, resulting in nearly $4 million in funds that could be put to better use. This same OIG audit found that ONAP's Performance Tracking Database (PTD) had inaccurate or missing data. It took HUD 6 years to take corrective action on recommendations contained in the audit.[30]

According to the PTD, as of February 20, 2019, there were 278 open ICDBG grants totaling approximately $176.3 million. As ONAP considers untimely grant closeout as part of its competitive grant award rating process, improper reporting of grant information in the PTD could potentially impact a grantee's rating and future funding.

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[28] Audit Report 2018-BO-0001, HUD's Office of Residential Care Facilities Did Not Always Have and Use Financial Information To Adequately Assess and Monitory Nursing Homes, issued September 17, 2018
[29] Audit Report 2014-LA-0006, HUD's ONAP Lacked Adequate Controls Over the ICDBG Closeout Process, issued August 19, 2014
[30] Audit Memorandum 2019-LA-0802, The Office of Native American Programs Did not Satisfactorily Complete the Agreed-Upon corrective Actions for Three of the Four Recommendations Prior OIG Report 2014-LA-0006, issued July 18, 2019

COVID-19's Impact on HUD's Monitoring of Program Participants

The COVID-19 pandemic has had a negative impact on HUD's ability to monitor its partners. Due to the pandemic, HUD limited some types of monitoring, including onsite monitoring visits, and completely stopped other types, including REAC physical inspections at various program participant locations. Affected HUD program offices include CPD, the Office of Multifamily Housing Programs, ONAP, the Office of Public Housing, the Office of Single Family Housing, and the Office of Fair Housing and Equal Opportunity.

OIG anticipates that HUD will face challenges monitoring and mitigating program risks as it administers the CARES Act provisions.

For rental assistance, the pandemic challenges HUD to ensure that supplemental fund recipients properly provide tenants with rental subsidies in a timely manner and accurately track and report on the expenditure of these funds. There may also be challenges related to deferred inspections and maintenance on aging property portfolios and ensuring that landlords comply with eviction moratoriums and other protections for renters. There has also been notable media coverage indicating that tenants are being sexually harassed and assaulted by their landlords when they are unable to meet rent obligations. HUD will face challenges in mortgage forbearance, including ensuring that borrowers protected by forbearance are aware of their rights and HUD monitors that forbearance amounts are repaid. HUD needs to address the risk for its various grantees and vulnerable populations, including ensuring that funds are appropriately targeted to and received by at-risk populations and that grantees will maintain operations and meet program requirements.

Ensuring the Availability of Affordable Housing That Is Decent, Safe, Sanitary, and in Good Repair

- Increasing Access to Affordable Housing
- Protecting the Health and Safety of Residents in HUD Assisted Housing
- Effectively Inspecting Property Conditions

HUD provides affordable housing to more than 4.3 million low-income families through public housing, rental assistance, and voucher programs. In addition, HUD is responsible for ensuring that the housing it offers is decent, safe, sanitary, and in good repair. As the demand for affordable housing continues to grow, creating and preserving the Nation's existing affordable rental housing for America's most vulnerable families continues to be one of HUD's most critical roles.

Increasing Access to Affordable Housing

Very low-income renter households continually face challenges in finding affordable housing due to severe rent burden and increased competition for affordable rental housing. HUD defines "severe rent burden" as paying more than 50 percent of one's income on rent.[31] HUD's 2019 Worst Case Housing Needs report found that in 2017, more than 7.5 million renter households with very low income experienced severe rent burden. While the report found that renter households with "worst case housing needs" decreased in 2017, renter households with very low incomes, incomes of no more than 50 percent of the area median income, continued to face challenges in finding affordable rental housing units.[32] The report also found that the number of higher income renters increased in 2017, which created a tougher competition in the affordable housing market for very low-income renter households.[33] In May 2020, GAO reported that the overall number of renter households increased by almost 7 million between 2010 and 2017.[34]

HUD has implemented programs that use public-private partnerships to address affordable housing issues. In 2015, HUD estimated that housing choice vouchers supported about 2 million low-income families in finding housing in the private market

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[31] Office of Policy Development and Research (PD&R) (2020, June). Worst Case Housing Needs: 2019 Report to Congress.
[32] PD&R, Worst Case Housing Needs. 2019 Report to Congress.
[33] PD&R, Worst Case Housing Needs. 2019 Report to Congress
[34] GAO (2020, May), As More Households Rent, the Poorest Face Affordability and Housing Quality Challenges (GAO-20-427).

through a contract between PHAs and private entities. In addition, HUD administers the Rental Assistance Demonstration Program (RAD), which allows PHAs and owners of other HUD-assisted properties to convert units into project-based Section 8 contracts, giving them more flexibility to access private and public funding sources.[35] RAD preserves affordable homes and addresses the nationwide backlog of deferred maintenance, estimated in 2010 at $26 billion, through access to private capital and public-private partnerships. In September 2018, HUD reported that RAD had converted 100,000 public housing homes and planned to preserve or redevelop another 250,000 homes.[36] Although RAD is still in the demonstration phase, HUD reported in May 2018 that Congress had increased the unit cap[37] for RAD conversions from an initial 60,000 units to 455,000 units.

These mixed-finance housing assistance programs pose challenges to HUD's oversight capability. OIG's past work highlighted a weakness in HUD's oversight of PHAs administering housing choice vouchers and RAD conversions, which could result in less availability of affordable housing for eligible families and improper allocation of assistance funding.[38] OIG is continuing to monitor RAD conversions and assess their effectiveness. OIG has also conducted oversight of portability in the Housing Choice Voucher Program[39] and is currently reviewing its voucher utilization rates to better understand why certain communities take advantage of the program, while others do not. OIG will continue to assess the extent to which HUD public-private partnership programs meet residents' needs and PHAs' outstanding capital needs.

Under the CARES Act, HUD has awarded more than $1.1 billion to support affordable housing through a series of funding allocations. On May 1, 2020, HUD announced that it would allocate $685 million in COVID-19 relief funding to help low-income families living in public housing.[40] Additionally, on August 10, 2020, HUD announced that it would use $472 million in CARES Act funding for PHAs to help families assisted by housing choice and mainstream vouchers. OIG will continue to assess HUD's strategies to increase the availability of quality, affordable housing.

Protecting the Health and Safety of Residents in HUD Assisted Housing

In addition to providing quality, affordable housing, HUD is responsible for ensuring that all properties proposed for use in HUD programs are free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard

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[35] PD&R (2014, August). Status of HUD's Rental Assistance Demonstration Evaluation and Results to Date
[36] Office of Multifamily Housing Programs (2018, September). 100,000 Homes Preserved. RAD Newsletter. Retrieved from https://www.hud.gov/RAD/news/newsletter
[37] "Unit Cap" is set by Congress and is the maximum number of units that may be converted under RAD. PD&R (2016, September). Interim Report: Evaluation of HUD's Rental Assistance Demonstration (RAD).
[38] Audit Reports: 2020-LA-1002, The Housing Authority of the City of Long Beach, CA, Did Not Administer Its Housing Choice Voucher Program in Accordance With HUD Requirements, issued March 5, 2020; 2019-PH-1001, The Housing Authority of the City of Easton, PA, Did Not Always Properly Administer Its Housing Choice Voucher Program, issued July 30, 2019; 2019-LA-1008, The Compton Housing Authority, Compton, CA, Did Not Administer Its Housing Choice Voucher Program in Accordance With HUD Requirements, issued July 11, 2019; 2020-AT-1001, The Christian Church Homes, Oakland, CA, Did Not Ensure That the Rental Assistance Demonstration Program Conversion Was Accurate and Supported for Vineville Christian Towers, issued November 4, 2019 and 2019-FW-1001 The Little Rock Housing Authority, Little Rock, AR, Did Not Fully Meet Rental Assistance Demonstration Program Requirements, issued April 23, 2019
[39] Audit Report 2020-CH-0006, HUD Could Improve Its Oversight of Portability in the Housing Choice Voucher Program, issued September 9, 2020
[40] HUD Public Affairs, HUD (2020, May 1). HUD Allocates Second Wave of Relief Funds, Over Half a Billion Dollars to Help Protect Law-Income Americans. Retrieved from https://www.hud.gov/press/press_releases_media_advisories/HUD_No_20_058

could affect the health and safety of occupants or conflict with the intended utilization of the property.[41]

> *HUD's most challenging housing-related health and safety issues include lead-based paint hazards, hazardous radon levels[42], and risk of hazardous waste sites.*

The Lead Safe Housing Rule ensures that HUD is responsible for evaluating lead-based paint hazards in the Nation's housing stock and the reduction of childhood lead poisoning in federally assisted housing.[43] In its fiscal year 2021 Performance Plan, HUD announced that its goal is to make 17,800 at-risk housing units healthy and lead safe by September 30, 2021.[44] However, OIG's past work has demonstrated that HUD could further improve its oversight of PHAs' compliance with the Lead Safe Housing Rule. For instance, the New York City Housing Authority, the Nation's largest PHA, violated both HUD's and the Environmental Protection Agency's (EPA) lead paint safety regulations for years, putting tens of thousands of children living in its development at risk. In response to these findings, HUD and the U.S. Department of Justice reached an agreement with the Authority in January 2019 to address these health and safety hazards. In another example, a March 2020 OIG audit found that HUD lacked assurance that PHAs complied with the Lead Safe Housing Rule, potentially exposing children under age 6 to lead-based paint hazards.[45]

In August 2020, OIG issued two audit reports that found that HUD continued to face challenges in ensuring that its housing stock and insured properties had a sufficient supply of safe drinking water, free of lead contaminants. In both reports, OIG found that public water systems servicing the PHAs' assisted units and multifamily housing properties had reported levels of lead above EPA's lead action level. However, HUD had limited requirements concerning lead in the drinking water of assisted or insured properties and generally did not require PHAs and multifamily property owners or management agents to take action. HUD relied too heavily on EPA to ensure that public water systems provided water that was safe to drink, and as a result, HUD's internal measures lacked assurance that affected households, including households with children age 6 or under, had a sufficient supply of safe drinking water.

The OIG is also conducting work to understand HUD actions related to other significant health risks for residents in HUD-assisting housing. OIG is currently conducting an evaluation on the efforts HUD has made to determine and mitigate potential health risks posed to residents in HUD-funded properties near Superfund sites and other contaminated sites. Superfund sites are areas contaminated by hazardous waste that was dumped, left out in the open, or otherwise improperly managed. The Superfund sites include manufacturing facilities, processing plants, landfills, and mining sites.

The West Calumet Housing Complex, located in East Chicago, IN, was a public housing development built on top of a former lead smelting plant. In 2018, the U.S. Department of

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[41] 24 CFR 50.3(i)(1) and 24 CFR 58.5(i)(2)(i)
[42] EPA recommends that homes with radon levels at or above 4 picocuries per liter should mitigate radon.
[43] HUD's Lead Safe Housing Rule at 24 CFR part 35 implemented the Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as Title X, Sections 1012 and 1013
[44] HUD (2020, February). Fiscal Year 2019 Annual Performance Report and Fiscal Year 2021 Annual Performance Plan
[45] Audit Report (2020-CH-0003), HUD's Oversight of Public Housing Agencies' Compliance With the Lead Safe Housing Rule (March 18, 2020)

Health and Human Services concluded that a child living in the Complex between 2005 and 2015 had almost a three times greater chance of having an elevated blood lead level.[46] Because children's bodies are not fully developed, lead poisoning can cause serious health and developmental problems, including slowed growth, learning disabilities, and hearing loss.[47]

To address the Superfund site issue, in 2017 HUD and EPA established a memorandum of understanding to improve interagency communication and information sharing regarding certain public and HUD-assisted housing near Superfund sites in order to protect residents against health and environmental risks.[48]

Additionally, OIG is evaluating the Office of Multifamily Housing Programs, PIH, and CPD radon policies and approaches for testing and mitigating residents' exposure to elevated levels of radon. Radon is a colorless and odorless radioactive gas which occurs naturally in soil and may cause lung cancer. Physical testing is the only way to determine radon levels.[49] EPA recommends radon mitigation for homes with radon levels at or above 4 picocuries per liter of air. EPA estimates that about 21,000 people in the United States die annually of radon-induced lung cancer.[50] For fiscal year 2021, HUD requested a $5 million budget for a Radon Testing and Mitigation Safety Demonstration[51] in order to determine the feasibility of radon testing in public housing.

Effectively Inspecting Property Conditions

HUD is responsible for ensuring that its properties are decent, safe, sanitary, and in good repair. In September 1998, HUD created the Uniform Physical Condition Standards (UPCS) to standardize the physical inspection process for its real estate portfolios. Based on the UPCS, HUD's Real Estate Assessment Center (REAC) performs inspections that assess the physical condition of FHA-insured multifamily properties and public housing properties and issue a Physical Inspection Score.[52] In August 2019, REAC reevaluated its 20-year-old physical inspection process and found that it had a number of limitations and deficiencies that had been overlooked for years.[53]

HUD has acknowledged the limitations of the current REAC inspections and the need to update its 20-year-old physical inspection process to more accurately reflect the physical conditions of HUD properties. HUD stated that the deficiencies that negatively affect the current REAC Physical Inspection Scores do not accurately represent the residents' actual living conditions. For example, in 2019, a GAO report found that properties with poor unit conditions could still pass a REAC inspection.[54] Some property owners would hire current or former REAC contract inspectors to help them prepare for the official

[46] U.S. Department of Health and Human Services (2018, August). Health Consultation: Historical Blood Levels in East Chicago, Indiana Neighborhoods Impacted by Lead Smelters. Atlanta, GA
[47] EPA. Learn about Lead. https://www.epa.gov/lead/learn-about-lead#effects
[48] HUD (2017, August).) MOU Between HUD and EPA Regarding Improving Communication About Certain Public and HUD-Assisted Multifamily Housing Near Superfund Sites. https://www.hudexchange.info/resources/
[49] Environmental Protection Agency. *Radon.* https://www.epa.gov/radon
[50] EPA. Health Risk of Radon. https://www.epa.gov/radon/health-risk-radon
[51] HUD. Fiscal Year 2021: Budget In Brief. https://www.hud.gov/budget
[52] https://www.huduser.gov/portal/datasets/pis.html
[53] GAO (2019, March). Real Estate Assessment Center: HUD Should Improve Physical Inspection Process and Oversight of Inspectors. (GAO-19-254)
[54] GAO (2019, March). Real Estate Assessment Center: HUD Should Improve Physical Inspection Process and Oversight of Inspector. (GAO-19-254)

inspection and pass the minimal inspection requirements instead of performing year-round maintenance.[55]

Further, the current REAC inspection process creates obstacles that make it difficult for HUD to address a troubled PHA's outstanding issues in a timely manner. If the PHAs receive 60 percent or less in the overall inspection scores, REAC designates them as substandard or troubled, which requires HUD to monitor the property closely and develop a corrective action plan.[56] However, in some instances, by the time these PHAs receive their substandard or troubled designation, they have already been experiencing deferred or nonexistent maintenance or capital improvements for years or even decades, a situation that may be made worse if the PHA is experiencing financial issues. Therefore, it may not be feasible for HUD to effectively remediate some of the designated substandard or troubled PHAs with longstanding issues.

In August 2019, HUD launched a 2-year, voluntary National Standards for the Physical Inspection of Real Estate (NSPIRE) demonstration to reexamine its 20-year-old REAC physical inspection process. The NSPIRE model is designed to more accurately reflect the residents' living conditions and simplify the inspection process. However, HUD has identified some challenges that the NSPIRE demonstration is facing, including the procurement of a viable and secure IT system. OIG has initiated an evaluation on HUD's process for managing IT acquisitions and its IT contracts concerning NSPIRE.

Following the Centers for Disease Control and Prevention's (CDC) guidance on the Covid-19 pandemic, REAC has postponed all NSPIRE field testing until further notice.

As NSPIRE demonstration faces a series of issues to become fully operational, the reformation of REAC's inspection process remains one of HUD's most critical challenges in providing quality, affordable housing to residents.

Additionally, REAC suspended all physical inspections of HUD housing properties from March 16 to August 7, 2020, due to COVID-19. The inspections resumed in August under strict safety protocols.[57] OIG is concerned that the limited inspections and repairs will cause HUD's public housing stock to further deteriorate, as many of its properties are aging and in disrepair.[58] It is critical for HUD to maintain strict pandemic safety protocols to keep both the residents and inspectors safe while resuming REAC inspections to preserve HUD's aging housing stock.

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[55] GAO (2019, March) Real Estate Assessment Center: HUD Should Improve Physical Inspection Process and Oversight of Inspector. (GAO-19-254)
[56] HUD. Lead the Way: PHA Governance and Financial Management. Understanding Public Housing Assessment System (PHAS)
[57] Public Affairs, HUD (2020, August). Secretary Carson Announces HUD Will Safely Resume Physical Inspections: Inspections Previously Pause During COVID-19 outbreak due to health concerns. https://www.hud.gov/press/press_releases_media_advisories/HUD_No_20_119
[58] Urban Institute (2020, February). The Future of Public Housing: Public Housing Fact Sheet

Protecting the FHA Mortgage Insurance Fund

- FHA's Mortgage Insurance Programs Continue To Lack Sufficient Safeguards

- HECM Losses Undermine FHA's MMI Fund

- The MMI Fund and HUD Programs Face Potential Risk on Increased Claims Due to COVID 19 and the CARES ACT

FHA programs are designed to provide government insurance on mortgage loans on single-family homes, apartment buildings, residential healthcare facilities, and hospitals, as well as reverse mortgages, referred to as home equity conversion mortgages (HECM). Each year, more than 1 million home buyers benefit from FHA's single-family mortgage insurance programs, and FHA insurance allows more than 300,000 affordable rental units, including those for seniors and people with disabilities, to become available through FHA's multifamily mortgage insurance programs. FHA is one of the largest mortgage insurers in the world, with an active insurance portfolio of more than $1.3 trillion as of July 2020.

Through FHA mortgage insurance programs, HUD ensures the timely repayment of insured loans that go into default as a result of a borrower's failure to make their mortgage payments. Upon a borrower default, FHA will pay an approved single family mortgage lender's insurance claim from the Mutual Mortgage Insurance (MMI) Fund, which as of the end of fiscal year 2020 had significant capital resources. FHA funds the MMI Fund through the mortgage insurance premiums it receives from borrowers. If the MMI Fund fails to maintain an adequate level of capital, due to payment of too many claims resulting from a significant number of borrower defaults, or the failure to collect adequate insurance premiums, then FHA must seek an appropriation from Congress consistent with the Federal Credit Reform requirements.[59]

FHA's Mortgage Insurance Programs Continue To Lack Sufficient Safeguards

To maintain the solvency of the MMI Fund, FHA must ensure that its lenders only approve borrowers who meet statutory, regulatory, and program eligibility requirements

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[59] Federal Credit Reform § 504(b)(1) (1) requires that new direct loan obligations may be incurred and new loan guarantee commitments may be made of fiscal year 1992 and thereafter only to the extent that new budget authority to cover their costs is provided in advance in an appropriations Act.

and also strengthen its policies and controls to curtail the lengthy process of foreclosure and conveyance.

HUD-approved lenders who originate the FHA-insured loans perform the necessary eligibility screenings and decisions on HUD's behalf. OIG has found that HUD did not always adequately protect the mortgage insurance fund and repeatedly failed to ensure that FHA mortgage insurance was not extended to ineligible borrowers. In a 2019 report, OIG discovered that FHA insured more than 56,000 single-family loans, worth $13 billion in fiscal year 2018, to borrowers who were not eligible for insurance because they had delinquent Federal tax debt.[60] A previously published OIG audit report also found that FHA insured an estimated 9,507 loans worth $1.9 billion during calendar year 2016 to ineligible borrowers with delinquent Federal debt or who were subject to Federal administrative offset for delinquent child support.[61] The violations occurred even though FHA provided lenders with the Credit Alert Verification Reporting System (CAIVRS)[62] to screen borrowers for delinquent Federal debt. Additionally, OIG is currently conducting an audit into whether FHA provided insurance for loans that did not meet the underwriting requirements for special flood hazard areas.

As of July 2020, FHA plans to work with Internal Revenue Service (IRS) to establish a method of borrower consent that verifies the existence of delinquent Federal taxes and complies with the requirements established under the Tax Payer First Act of 2019,[63] as well as to modernize its technology to operationalize the annual screening of FHA's approximately 2 million borrowers for such delinquent debt. FHA also plans to integrate the U.S. Department of the Treasury's Do Not Pay (DNP) portal as part of the FHA insurance endorsement process for the identification of ineligible applicants who are delinquent on child support. DNP is a no-cost analytics tool, which helps Federal agencies detect and prevent improper payments made to vendors, grantees, loan recipients, and beneficiaries. FHA intends to participate in a pilot project that will expand the screening of all delinquent Federal debt.

Another challenge HUD faces in protecting the MMI Fund is a lengthy foreclosure and conveyance process, which negatively impacts the MMI Fund. When an FHA-insured loan defaults and the lender submits a claim, HUD is obligated to reimburse the lender for its losses, including the unpaid principal balance, accrued interest, and the holding costs of the lender during the foreclosure and conveyance process. HUD regulations require the lender to obtain a good and marketable title and then convey the property to HUD, generally within 30 days of the date on which the lender filed the foreclosure deed for recordation.

GAO reported that from July 2010 to December 2017, the process for conveying foreclosed-on properties to FHA took a median of 70 days, with servicers exceeding the required conveyance timeframe 55 percent of the time.[64]

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[60] Audit Report 2019-KC-0003, FHA Insured at Least $13 Billion in Loans to Ineligible Borrowers With Delinquent Federal Tax Debt, issued September 30, 2019

[61] Audit report 2018-KC-0001, FHA Insured $1.9 Billion in Loans to Borrowers Barred by Federal Requirements, issued March 26, 2018

[62] CAIVRS is a shared database of defaulted Federal debtors developed by HUD to provide information to processors of applications seeking Federal credit benefits.

[63] Public Law No: 116-25. (2019, July). *Taxpayer First Act*. This Act was signed into law on July 1, 2019. It aims to broadly redesign the IRS, which includes expanding and strengthening taxpayer rights and to reform IRS into a more taxpayer friendly agency by requiring it, among other things, to modernize its technology and improve customer service.

[64] GAO (2019, June). Federal Housing Administration: Improved Procedures and Assessment Could Increase Efficiency of Foreclosed Property Conveyances. (GAO-19-517)

OIG found that HUD paid an estimated $413 million in unnecessary interest and other costs for preforeclosure claims after lenders failed to complete servicing actions for defaulted loans within established timeframes.[65] FHA has addressed some of these challenges by improving its data system for conveyed properties and conducting property inspections before conveyance as a way to decrease the number of properties FHA reconveys to servicers for not complying with Federal standards. However, GAO found that FHA policies, procedures, and assessment efforts were inconsistent with Federal evaluation criteria and internal control standards.[66] As of July 2020, FHA had not fully implemented OIG recommendations to improve its inconsistencies in policies, procedures, and controls. Next year HUD is planning to amend 24 CFR part 203, which will require the curtailment of preforeclosure interest and other costs caused by lender servicing delays.

In July 2020, FHA issued Mortgagee Letter 2020-21 with additional guidance to enhance the effectiveness of the Claims Without Conveyance of Title (CWCOT) process. CWCOT is a claim option that allows FHA to pay insurance benefits to a lender after the property is sold to a third party at the foreclosure of the FHA-insured mortgage or through a postforeclosure sale. With CWCOT there is no property conveyance to HUD. CWCOT is designed to expedite the disposition of foreclosed-on properties and reduce the amount of time a property sits vacant. This benefits HUD by reducing administrative, holding, and servicing costs associated with the lengthy conveyance and real estate-owned (REO) disposition process. It also serves the goals of HUD's Housing Finance Reform Plan. While the newly introduced CWCOT enhancements will help reduce reliance on the lengthy process of foreclosure and conveyance, FHA needs to remain vigilant and flexible in responding to emerging challenges and risks faced by the MMI Fund during the COVID-19 pandemic.

HECM Losses Undermine FHA's MMI Fund

Although the HECM portfolio improved in fiscal year 2019, its longstanding negative impact on the MMI Fund continues to be a major challenge for HUD. In HUD's 2019 Annual Report to Congress, HUD reported on the financial status of the MMI Fund, listing the net worth of its HECM portfolio at negative $5.92 billion. As in previous years, the HECM portfolio continues to be subsidized by the positive performance of the forward (single-family programs) portfolio with a negative 9.22 percent capital ratio in fiscal year 2019. HECM claims paid by the MMI Fund on assigned reverse mortgages were $9.56 billion for fiscal year 2019, an increase from the $6.15 billion reported in fiscal year 2018. The causes for some of the HECM portfolio's negative performances were attributed to HUD's internal control weaknesses.

GAO reported that the rate of FHA-insured HECM loans terminated due to borrower defaults increased from 2 percent in fiscal year 2014 to 18 percent in fiscal year 2018.[67]

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[65] Audit Report 2018-LA-0007, HUD Paid an Estimated $413 Million for Unnecessary Preforeclosure Claim Interest and Other Costs Due to Lender Servicing Delays, issued September 27, 2018
[66] GAO (2019, June). Federal Housing Administration: Improved Procedures and Assessment Could Increase Efficiency of Foreclosed Property Conveyances. (GAO-19-517)
[67] GAO (2019, September). Reverse Mortgages: FHA Needs to Improve Monitoring and Oversight of Loan Outcomes and Servicing. (GAO-19-702)

The majority of these HECM loan defaults resulted from borrowers either not meeting the property's occupancy requirements by maintaining the property as their primary residence or failing to pay property charges, such as property taxes or homeowners' insurance. Since 2015, FHA has allowed HECM servicers to put borrowers with outstanding property charges into repayment plans as a way to help prevent foreclosures. However, as of the end of fiscal year 2018, only 22 percent of these borrowers had received this option. FHA's control weaknesses associated with HECM borrowers not meeting occupancy requirements have been reported by OIG audits in fiscal years 2012, 2014, and 2015.

GAO also reported that due to the HECM program's weaknesses in monitoring, performance assessment, and reporting, FHA lacks assurance that servicers are following federal requirements.[68] FHA officials said that they planned to resume the reviews of servicers in fiscal year 2020; however, as of July 2020, FHA had not finalized the process of developing and implementing procedures for conducting onsite reviews of HECM servicers, including a risk-rating system for prioritizing and determining the frequency of reviews.[69]

Numerous sources estimate that older Americans lose billions of dollars a year to financial exploitation schemes and scams that specifically target them. With a potential increase in the number of borrowers in financial distress due to the COVID-19 pandemic, OIG issued a fraud bulletin in August 2020, describing and warning against various HECM-related schemes that target the vulnerable elderly population.[70]

HUD must strengthen its effort to ensure that the lenders participating in the HECM program comply with its regulatory and administrative requirements and minimize claim costs. From the onset of underwriting to the timing of a claim, if HECM requirements are not properly observed by lenders or strictly enforced by HUD, the MMI Fund would be adversely affected due to the potential risk of improper payments to lenders. HUD has collaborated with OIG to take action against lenders who violate program requirements to recapture funds paid as a result of false claims and prevent future losses. For instance, the U.S. Department of Justice announced in March 2020 that one HECM lender agreed to pay a $2.47 million settlement to resolve allegations of a False Claims Act violation after knowingly originating and underwriting hundreds of FHA-insured HECM loans that did not meet HUD requirements. In September 2020, the United States filed a complaint[71] against a prominent HECM lender alleging the company forged certifications on HUD documents and used unqualified underwriters to approve FHA HECMs.

The MMI Fund and HUD Programs Face Potential Risk Due to COVID-19 and the CARES ACT

As part of its response to the COVID-19 pandemic, HUD issued multiple temporary waivers of certain requirements for borrower communication, HECM repayment plans, origination and underwriting, appraisals, and early payment default quality control. Although these waivers are meant to protect HUD employees, contractors, lenders, servicers, and borrowers from COVID-19 exposure while providing the needed flexibilities

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[68] GAO (2019, September). Reverse Mortgages: FHA Needs to Improve Monitoring and Oversight of Loan Outcomes and Servicing. (GAO-19-702)
[69] GAO (2019, September). Reverse Mortgages: FHA Needs to Improve Monitoring and Oversight of Loan Outcomes and Servicing. (GAO-19-702)
[70] https://www.hudoig.gov/sites/default/files/2020-08/Fraud%20Bulletin_Reverse%20Mortgages.pdf
[71] https://www.justice.gov/opa/pr/united-states-files-complaint-against-nutter-home-loans-forging-certifications-and-using

to borrowers suffering financial distress, the temporary waiver of requirements creates a higher risk of fraud, waste, and abuse in HUD programs and the MMI Fund.

The COVID-19 pandemic and legally mandated forbearance provided for in the CARES Act could negatively affect HUD's programs. According to the Mortgage Bankers Association's estimate, 3.9 million homeowners have forbearance plans as of July 2020.[72] Information from the single-family residential mortgage industry indicates that the nationwide scale of the CARES Act forbearance caused fears of a liquidity crunch for servicers, a collapse in mortgage servicing asset values, and a tightening of credit as lenders reduced risk. Also, there is a concern that distress in the industry at a time when borrowers most need assistance can lead to poor servicing outcomes for consumers.

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[72] https://www.mba.org/2020-press-releases/july/share-of-mortgage-loans-in-forbearance-decreases-for-fifth-straight-week-to-780

Administering Disaster Recovery Assistance

- Codifying the CDBG-DR and CDBG-MIT Programs
- Ensuring That Expenditures Are Eligible, Supported, and Administered in a Timely Manner
- Ensuring and Certifying That Grantees Are Following Federal Procurement Regulations
- Addressing Concerns That People Encounter When Seeking Disaster Recovery Assistance
- Preventing Fraud in Disaster Recovery Assistance

HUD plays a vital role in the long-term recovery efforts following a disaster by addressing unmet needs in a community after the initial emergency disaster relief efforts have come to an end. Although HUD may access existing funds to provide assistance to impacted areas, the primary method by which HUD provides disaster recovery assistance is through the Community Development Block Grant Disaster Recovery (CDBG-DR) program. After the President declares a disaster, Congress may appropriate funds for these grants, which can be used for a broad range of initiatives and activities.

Since fiscal year 2001, Congress has appropriated $83.7 billion to HUD in the aftermath of presidentially declared disasters. As of September 30, 2020, of the active grants, $71.9 billion has been obligated, and more than $42.7 billion has been disbursed.

In February 2018, Congress appropriated $12 billion to mitigate disaster risks and reduce future losses through the Community Development Block Grant Mitigation Program (CDBG- MIT). This funding was set aside for mitigation activities pertaining to qualifying disasters in 2015, 2016, and 2017.[73]

Through these programs, HUD awards grants to States, territories, tribes, and units of local government for disaster recovery efforts. The State and local units work with subgrantees and contractors to implement the necessary recovery programs.

Over the years, HUD has made progress in assisting communities recovering from disasters, but it continues to face the following challenges in administering and overseeing these grants:

- codifying the CDBG-DR program;

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[73] Disaster Relief Requirements Act BIPARTISAN BUDGET ACT OF 2018, PL 115-123, February 9, 2018, 132 Stat 64 (Division B, Subdivision 1)

- ensuring that expenditures are eligible, supported, and administered in a timely manner;

- ensuring and certifying that grantees are following Federal procurement regulations;

- addressing concerns that citizens encounter when seeking disaster recovery assistance; and

- preventing fraud in disaster recovery assistance.

Codifying the CDBG-DR and CDBG-MIT Programs

The CDBG-DR and CDBG-MIT funds are not provided under a codified program in the Code of Federal Regulations. The CDBG program requirements at 24 CFR part 570 only outline the framework for providing the funds. Instead, HUD issues the program requirements and waivers in Federal notices for each supplemental appropriation. Approximately 80 Federal Register notices have been issued since the funding of the 9/11 disaster recovery efforts. With each newly issued Federal Register notice, grantees are forced to study the notices, decide how to proceed given the unmet needs of their communities, and then develop a program outlined by an action plan. All of these steps are expected to be completed during a time of great uncertainty, given that personnel and infrastructure may have been impacted, and can create delays up to 9 to 12 months.[74]

Since 2017, OIG has recommended that HUD codify the CDBG-DR program to simplify the process and standards and to speed up allocation. In May 2019, Secretary Carson testified that he would support codification.[75]

Both the U.S. House of Representatives and U.S. Senate have introduced versions of the *Reforming Disaster Recovery Act* (H.R. 2702/S. 2301). These bills seek to codify CDBG-DR, which will shorten the time it takes for HUD to get funds to the communities in need.

Although these bills may improve HUD's ability to distribute funding in a timely manner, they fall short of an all-encompassing cure. HUD should consider defining invariable program requirements. For example, these bills do not address the "affordability period." An affordability period is the length of time a project is required to be affordable to low- and moderate-income households. An OIG audit found that a CDBG-DR grantee arbitrarily chose an affordability period that was not consistent with other parts of the program and that the same grantee did not have a process in place for enforcing the affordability period requirements.[76]

HUD should also consider limiting its current practice of permitting its grantees to incorporate their own interpretations of statutory and programmatic requirements for maximum feasible deference. Because the State CDBG program is a pass-through program, HUD grants maximum feasible deference to a State's interpretation of the statutory and programmatic requirements as long as the State's interpretations are not plainly inconsistent with the Housing and Community Development Act of 1974, as amended. HUD will defer to a State's definitions as long as the definitions are explicit,

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[74] The Evidence Base on How CDBG-DR Works for State and Local Stakeholders by Carlos Martin, Senior Fellow at the Urban Institute. See also GAO report, Better Monitoring of Block Grant Funds is Needed, GAO-19-232 (March 25, 2019) https://www.gao.gov/assets/700/697827.pdf.

[75] May 21, 2019, testimony of Secretary Ben Carson before the House Financial Services Oversight Committee (May 21, 2019) https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=403654

[76] Audit Report 2019-FW-1007, The Texas General Land Office, Jasper, TX, Did Not Ensure That Its Subrecipient Administered Its Disaster Grant in a Prudent and Cost-Effective Manner, issued September 30. 2019

reasonable, and not plainly inconsistent with the Act. However, the term of maximum feasible deference is not in the Housing and Community Development Act of 1974. Instead, CPD noted in its public guidance regarding State CDBG that the term was created by HUD's Office of General Counsel (OGC). The guidance states that HUD created the theory of maximum feasible deference to (1) provide for minimal regulation beyond the statute and (2) allow States to adopt more restrictive requirements as long as they do not contradict or are not inconsistent with the 1974 Act. In practice, however, States have used this concept, with the implicit support of HUD, to adopt less restrictive requirements.

Ensuring That Expenditures Are Eligible, Supported, and Administered in a Timely Manner

HUD disaster relief assistance has funded a broad range of activities over the course of many years, making oversight difficult to maintain. As disaster funding grows in size and complexity, the staffing levels at HUD's Office of Block Grant Assistance (OBGA) have not kept up with the changes. A March 2019 GAO report found that HUD was not sufficiently staffed to meet its oversight objectives. The report noted that HUD needed to hire dedicated staff specifically trained in disaster recovery who did not have competing obligations, such as oversight of regular CDBG activities.[77] According to HUD, in response to the influx of funds from the 2017 disasters, HUD created a staffing plan in fiscal year 2019 to address staffing challenges. To date, HUD has filled 36 of the 42 positions identified in the staffing plan and has added staff to field offices to help balance workload. Currently, the understaffed OBGA office must monitor CDBG-DR grantees at least once per year.[78] HUD must ensure that grantees have the capacity to administer the funds and are using disbursed disaster funds for eligible and supported items. The March 2019 GAO report noted that HUD's monitoring plan for the 2017 funding pot was insufficient because the onsite monitoring visits were not defined and the risk analyses were deficient. In its fiscal year 2021 Congressional Justification, HUD requested funding for 10 full-time employees in the OBGA, Disaster Recovery and Special Issues Division, in order to create a Federal Financial Monitoring Team (FFMT) for Hurricanes Maria and Irma.[79] However this level of oversight is not being provided to other high-risk grantees. In the face of these challenges, HUD has improved its efficiency in providing funds over the last few years. The time between the initial supplemental appropriation and the allocation of funds decreased an average of 7.2 percent per year from 2005 to 2015.[80]

The Puerto Rico grants present additional challenges. In the wake of Hurricanes Maria and Irma, Puerto Rico was awarded more than $20 billion in CDBG-DR funds, which is the largest allocation of funds in the history of the program.[81]

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[77] GAO (2019, March). Report to Congress March 2019—Disaster Recovery-Better Monitoring is Needed. (GAO-19-232)
[78] Various federal register notices which allocate disaster funding contain a reference to annual monitoring requirements.
[79] See HUD FY21 Congressional Justifications, https://www.hud.gov/program_offices/cfo/reports/fy21_CJ
[80] See Carlos Martín, Brett Theodos, Brandi Gilbert, Dan Teles, and Christina Plerhoples Stacy. Improving the Speed of Housing Recovery after Severe Disaster: A Mixed-Methods Analysis of HUD's Community Development Block Grant Disaster Recovery Program
[81] CDBG-Disaster Grant History 1992-2020 dated March 31, 2020
https://files.hudexchange.info/resources/documents/CDBG-DR-Grant-History-Report.pdf (March 31, 2020)

As of September 30, 2020, $9.7 billion has been allocated by HUD, with only $3.2 billion released to Puerto Rico to spend. Puerto Rico has disbursed $112 million of the grant funds.

According to HUD, the first wave of funding was used to establish best practices, test systems, and controls designed to prevent waste, fraud, and misuse of funds.[82] The FFMT will monitor all disaster recovery funds previously awarded or scheduled to be awarded and will include 100 percent of expenditures. In a recent audit, OIG recommended that the Puerto Rico Department of Housing (1) review and update its policies and procedures to prevent duplication of benefits, (2) review and update its procurement policies and procedures, and (3) continue to fill its job vacancies.[83]

Additionally, HUD's monitoring systems do not have the capacity to effectively oversee the delivery of all funding to grantees. The Disaster Recovery Grant Reporting (DRGR) system is used by grantees to access grant funds and report performance accomplishments for grant-funded activities. The DRGR system is also used by HUD staff to review grant-funded activities, prepare reports to Congress and other interested parties, and monitor program compliance. OIG found that DRGR has material control weaknesses that have enabled grantees to not follow the Disaster Relief Appropriations Act of 2013.[84] For example, OIG found that DRGR had material control weaknesses which enabled grantees to spend more funds than they were obligated or budgeted. The system also failed to prevent grantees from making adjustments to a completed voucher months or even years after the transaction. HUD's fiscal year 2019 Annual Performance Report says that DRGR has been updated to require its highest risk grantees to upload the necessary voucher documents. However, with the exception of onsite monitoring reviews, HUD does not have access to most of its grantees' voucher documentation, making broad-based monitoring for fraud, waste, and abuse difficult. HUD's fiscal year 2021 Congressional Justification states that it intends to enhance DRGR capabilities to improve oversight, but it is unclear whether the proposed improvements will address these weaknesses.[85]

HUD monitors its grantees but heavily relies on these same grantees to oversee their associated subgrantees and beneficiaries. In one 2019 audit report, OIG found that one grantee responsible for quality control and monitoring its subgrantees did not incorporate effective oversight practices.[86] The audit describes how the grantee did not ensure that the appraisals used to buy out flood-damaged homes were conducted in accordance with industry standards. Additionally, the grantee did not have the necessary documentation to support its appraisers' qualifications.

Based on HUD's Monthly CDBG-DR Grant Financial Report, as of February 28, 2020, HUD identified 49 grantees as slow spenders for disasters that impacted major areas

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[82] HHRG-116-AP20-Wstate-DennisI-20191017
https://docs.house.gov/meetings/AP/AP20/20191017/110073/HHRG-116-AP20-Wstate-KirklandJ-20191017.pdf.
[83] Audit Report 2020-AT-1002, The Puerto Rico Department of Housing, San Juan, PR, Should Strengthen Its Capacity To Administer Its Disaster Grants, issued March 16, 2020
[84] Audit Report 2019-FW-0001, CPD Did Not Enforce the Disaster Appropriations Act, 2013, 24-Month Grantee Expenditure Requirement, issued May 17, 2019
[85] HUD FY21 Congressional Justifications https://www.hud.gov/program_offices/cfo/reports/fy21_CJ
[86] Audit Report 2019-NY-1002, The State of New York Did Not Ensure That Appraised Values Used by Its Program Were Supported and Appraisal Costs and Services Complied With Requirements, issued May 29, 2019

from 2011 to 2017. HUD needs to ensure that funds are disbursed in a timely manner to benefit those impacted. This delay in funding increases the risk of not meeting program objectives and results in victims waiting for assistance years after the disasters.

Ensuring and Certifying That Grantees Are Following Federal Procurement Regulations

HUD has issued two Federal Register notices intended to strengthen its procurement requirements.[87] These notices require States to incorporate the principles of full and open competition and include an evaluation of cost and price of products and services.

Federal Register notice 83 FR 5844 requires the HUD Secretary to certify that grantees have sufficient procurement processes in place before executing a grant agreement. However, the notice allows grantees to use certifications that were completed before the notice's publication. OIG has raised concerns about these certification standards, which allow States to certify that these requirements are met based on their own standards, if determined to be equivalent, rather than the Federal standards.[88] Prior audits have found that grantees could not demonstrate that their procurement processes were equivalent to Federal requirements.[89] In one audit, OIG found that a grantee without a written procurement policy had deficiencies in 100 percent of the procurement files sampled.[90]

HUD should identify and use a "best practices" approach that adequately addresses the needs of the grantees receiving assistance in future disaster areas. Grantees have spent a significant amount of time and effort to develop various systems and methods for tracking their beneficiary data, with some spending tens of millions of dollars to develop a system. One audit showed that a grantee was awarded a contract of more than $38 million to develop and manage a system and also had option years totaling more than $21 million to maintain the system.[91] The grantee did not show that the initial contract price was fair and reasonable, did not ensure that option years were awarded competitively, and included provisions in its request for quotations that restricted competition.

Addressing Concerns That People Encounter When Seeking Disaster Recovery Assistance

OIG has raised concerns that citizens who apply for disaster recovery assistance encounter a convoluted process and face substantial difficulties, depending on how, when, and where they submit a request for Federal assistance.[92] People may experience lengthy delays between the initial application process and the closing of their cases due to inconsistent communication, coordination, and collaboration between HUD and the

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[87] 83 FR 5844, 84 FR 47528

[88] Audit Report 2017-PH-0002, HUD Did Not Provide Sufficient Guidance and Oversight To Ensure That State Disaster Grantees Followed Proficient Procurement Processes, issued September 22, 2017

[89] Audit Report 2018-FW-1003, The Texas General Land Office, Austin, TX, Should Strengthen Its Capacity To Administer Its Hurricane Harvey Disaster Grants, issued May 7, 2018

[90] Audit Report 2020-AT-1002, The Puerto Rico Department of Housing, San Juan, PR, Should Strengthen Its Capacity To Administer Its Disaster Grants, issued March 16, 2020

[91] Audit Report 2015-PH-1003, The State of New Jersey, Trenton, NJ, Community Development Block Grant Disaster Recovery-Funded Superstorm Sandy Housing Incentive Program Contract, issued September 30, 2016

[92] Evaluation Memorandum 2017-OE-0002S, Navigating the Disaster Assistance Process, issued April 10, 2017

grantees. Citizens may also experience delays in funding, duplication of benefits, and other challenges after the process is completed. OIG suggested that HUD improve communication, coordination, and collaboration among nonprofits and volunteers, as well as Federal and State agencies with disaster-related roles before the next disaster occurs. OIG has also suggested that HUD document any challenges reported by citizens to prepare for future disasters.

A great body of research has been conducted, which shows that people of lower socio-economic status are less prepared and are more vulnerable to the impact of disasters.[93] On February 19, 2020, GAO notified HUD that it intends to review the type of disaster assistance needed among the various demographic groups. The outcome of this review should shape HUD's policy on administering assistance to its most vulnerable populations.

Preventing Fraud in Disaster Recovery Assistance

OIG investigations in disaster recovery assistance fraud have resulted in numerous indictments and convictions and have led to substantial recoveries. With a large amount of funds available for disaster recovery, preventing fraud, waste, and abuse in these programs remains a major challenge for HUD. OIG will continue to work to bring those involved in schemes to defraud HUD and HUD programs to justice. See Figure 1 below for more information on the most prevalent fraud schemes identified by investigators during previous disasters that have resulted in indictments, convictions, and recoveries.

Figure 1

Grantee fraud
- Corruption in administering the funds
- Procurement fraud
- Embezzlement

Contractor-subgrantee fraud
- Contractors not completing contracted work after being paid in part or in full
- Collusion in providing goods and services
- Embezzlement

Recipient fraud
- Homeowners fraudulently identifying a second home or an investment property as their primary residence
- Homeowners falsely purporting damage to properties that did not sustain damage during the disaster
- Homeowners disregarding the program requirements
- Sale of a rental property before the receipt of the homeowner rental assistance grant

Third-party fraud
- Identity theft using documents or materials left in evacuated areas
- Identity theft by unscrupulous actors posing as government officials or contactors

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[93] Substance Abuse and Mental Health Services Administration (SAMHSA) Disaster Technical Assistance Center Supplemental Research Bulletin Greater Impact: How Disasters Affect People of Low Socioeconomic Status https://www.samhsa.gov/sites/default/files/dtac/srb-low-ses_2.pdf

False statement and false claim warnings and accompanying perjury certifications enable HUD and its partners to hold parties responsible for fraud resulting in civil and criminal penalties. Civil penalties allow the agency to recoup its limited resources. As a result, such warnings and certifications should be standard language in any document provided to a grantee, subgrantee, or recipient. The language should include an advisement that the grantee must maintain full and open cooperation with OIG, and the certification should require an accompanying signature. OIG found that that while some contracts contained appropriate warnings and certifications, others did not.[94]

In the past, OIG has partnered with HUD's Disaster Recovery Special Issues Division, the National Center for Disaster Fraud, and the U.S. Department of Justice to provide adequate disaster and fraud training to grantees, subrecipients, and contractors. HUD should continue to offer these training forums. Any receipt or referral of fraud allegations should be tracked by HUD and its grantees to ensure that the proper authorities are notified. HUD should ensure that it continues conducting the proper training for its grantees and subgrantees. Grantees and subgrantees should then provide their employees with information on the types of fraud schemes and how to report these schemes through the appropriate channels.

Duplication of benefits continues to plague the agency. While legislation codification could address data sharing agreements across government agencies, OIG suggests that HUD consider enhancing the availability of universal access to insurance claim data to prevent duplication of benefits when a recipient receives funds from an insurance claim and also seeks government funds. Grantees and subgrantees should be trained to use this information to prevent the duplication of benefits at the outset of a grant award. In a recent audit, one grantee stated that it encountered obstacles in negotiating some data sharing agreements and was unable or unwilling to negotiate other data sharing agreements.[95] In addition, CARES Act funding could create an environment for additional duplications of benefits. According to HUD, in 2019, it revised its guidance to grantees regarding duplication of benefits requirements[96] to respond to both changes in Federal law and to clarify longstanding questions encountered by CDBG-DR grantees. Additionally, HUD initiated a series of on-site "launch" engagements and webinars in 2019 and 2020 and provided on-going training to its CDBG-DR grantees on how to comply with duplication of benefit requirements. In 2020, HUD is completing revisions of its CDBG-DR monitoring exhibits to reflect its most recent duplication of benefits guidance. HUD has also made sample data sharing agreements available to its grantees through its "launch" tool kit on the HUD CDBG-DR website.

OIG has partnered with other OIGs to review agency preparedness for future disasters. OIG anticipates that the Council of the Inspectors General on Integrity and Efficiency (CIGIE) will assist Federal agencies with implementing the recommendations resulting from that review to ensure that each agency is better prepared to respond to any future nationally declared disasters.

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[94] Audit Report 2018-FW-1003, The Texas General Land Office, Austin, TX, Should Strengthen Its Capacity To Administer Its Hurricane Harvey Disaster Grants, issued May 7, 2018
[95] Audit Report 2020-AT-1002, The Puerto Rico Department of Housing, San Juan, PR, Should Strengthen Its Capacity To Administer Its Disaster Grants, issued March 16, 2020
[96] 84 FR 28836; 84 FR 28848

Human Resource Management

- Recruiting and Attrition
- Vacant Positions, Succession Planning, and Use of Contractors
- Implementation of the CARES Act

Over the past 10 years, HUD's staffing levels have declined, while its programs and responsibilities have increased. Additionally, HUD's attrition rate outpaces its current hiring capacity, and employees often do not have the right skill sets, tools, or capacity to perform the range of functions needed within HUD. Leadership gaps resulting from extended vacancies and constant turnover have contributed to poor or delayed decisions and an inability to sustain positive changes. Many, if not all, of the mission challenges HUD faces are impacted by its staffing issues.

In April 2018, CIGIE released a consolidated report of the top management and performance challenges 61 Federal agencies face in fiscal year 2017. One of the top challenges most frequently reported by the 61 Inspectors General was human capital management, which "impacts the ability of Federal agencies to meet their performance goals and to execute their missions efficiently."[97] The CIGIE report identified four key areas of concern as part of the human capital management challenge:

1. inadequate funding and staffing;
2. recruiting, training, and retaining qualified staff;
3. agency cultures that negatively impact the agency's mission;
4. and the impact of the lack of succession planning and high employee turnover.[98]

According to HUD's top 10 risk list, 4 of the 10 risks relate to staffing: retaining skilled employees, hiring staff with appropriate skills, training for staff specialization, and overall inadequate staffing. Additionally, by HUD's own assessment, its decline in staffing has

- eroded HUD's ability to monitor compliance on properties, loans, grants, PHAs, and other areas of responsibility,
- significantly limited HUD's ability to address systemic issues, and

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[97] CIGIE Report, Top Management and Performance Challenges Facing Multiple Federal Agencies, issued April 2018 (https://www.oversight.gov/sites/default/files/oig-reports/CIGIE_Top_Challenges_Report_April_2018.pdf)
[98] CIGIE Top Management and Performance Challenges Facing Multiple Federal Agencies, April 2018: https://www.oversight.gov/sites/default/files/oig-reports/CIGIE_Top_Challenges_Report_April_2018.pdf

- adversely impacted long-term productivity improvements and innovation within HUD's programs.[99]

Recruiting and Attrition

Recruiting and hiring qualified employees has been a growing concern for the Federal Government. In March 2017, OPM predicted that within the next 5 years, the Federal Government would "lose a significant portion of its valued workforce through attrition, primarily due to retirement." OPM further predicted that the government's ability to replace these skill and experience losses with new talent will depend on the Department's capability to efficiently and effectively recruit, hire, and retain high performing employees.[100] OPM developed an 80-day average time-to-hire model as a guide for agencies in its End-to-End Hiring Initiative in March 2017. According to HUD, its average time-to-hire was 150, 113, and 102 calendar days in fiscal years 2017, 2018, and 2019, respectively. See table 7.1 below.

Table 7.1

Fiscal year	HUD's average time-to-hire (in calendar days)[101]	Program offices[102] with highest average time-to-hire (in calendar days)			Percentage of program offices meeting OPM 80-day standard
2017	150	OLHCHH	OFPM	OCPO	11%
2018	113	OGC	OFPM	GNMA	20%
2019	102	DEEO	OGC	OCIO	6%
2020 (Quarters 1, 2, 3)	153	OCPO	OGC	Housing	12%

According to HUD's 11th strategic objective, HUD plans to organize and deliver services more effectively by "developing a diverse, skilled, and accountable workforce that effectively meets HUD business needs."[103] Additionally, HUD plans to slow attrition and increase hiring by using the human capital strategies detailed in HUD's Office of the Chief Human Capital Officer's (OCHCO) Human Capital Operating Plan.[104] According to that plan, hiring at HUD continues to be a challenge in the quality of candidates, staffing resource levels, and classification of new positions.[105] A major HUD strategy is to "improve the hiring and human capital functions, to reduce the average time-to-hire and improve managers' satisfaction with the quality of hires." [106] One planned action to

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[99] HUD Fiscal Year 2021 Budget in Brief, issued February 6, 2020, p.27
[100] OPM End to End Hiring Initiative, March 2017: https://www.opm.gov/policy-data-oversight/human-capital-management/hiring-reform/reference/end-to-end-hiring-initiative.pdf
[101] OIG has had trouble verifying the accuracy of the average time-to-hire data in this table. Additionally, this table excludes hiring data for OIG.
[102] OLHCHH – Office of Lead Hazard Controls and Healthy Homes; OFPM – Office of Field Policy and Management; OGC- Office of General Counsel; DEEO – Office of Departmental Equal Employment Opportunity; OCPO – Office of the Chief Procurement Officer; OCIO – Office of the Chief Information Officer
[103] HUD Strategic Plan 2018-2022, issued May 2019, p.39
[104] HUD Fiscal Year 2021 Annual Performance Plan and Fiscal Year 2019 Annual Performance Report, p. 89
[105] HUD Human Capital Operating Plan 2020-2021, December 12, 2019, p. 5
[106] HUD Fiscal Year 2021 Annual Performance Plan and Fiscal Year 2019 Annual Performance Report, p. 90

reduce the average time-to-hire is to identify bottlenecks and needed resources. [107] Successful completion of these actions will be challenging, due to the limited OCHCO resources; the current hiring workload, which may be worsened due to the COVID-19 pandemic; and the Bureau of the Fiscal Service's and OCHCO's ability to communicate with HUD program office hiring managers.

In fiscal year 2019, only 6 percent of HUD's 20 program offices were meeting OPM's 80-day standard.

Historically, HUD's staffing levels have declined by more than 51 percent since its highest staffing levels in 1991. As of September 30, 2020, HUD had 7,300 employees, which is nearly 30 percent lower than its staffing levels 20 years ago. During the 10-year period from 2008 to 2017, HUD lost 18.5 percent of its full-time permanent staff, while governmentwide, the number of employees increased by 11 percent.[108]

According to HUD's OCFO, receiving 2-year funding instead of annual funding has had a significantly positive impact on the hiring process because HUD can continue processing hiring actions without having to pause to account for budget continuing resolutions. As a result, HUD reported in 2020 that it is experiencing its largest increase in staffing in more than a decade. Through August 29, the Department had a net gain of 302 employees and will continue to add to this total through the end of the year.

In February of 2020, OIG began evaluating the efficiency of HUD's hiring process. The objectives of that engagement include (1) determining whether HUD is able to hire new employees in a timely manner, (2) determining what efforts are underway to reduce HUD's average time-to-hire and the impact of those efforts, and (3) identifying best hiring practices used by other Federal agencies.

HUD identified, in its Strategic Workforce Plan for 2018-2022, that HUD's aging workforce is an ongoing challenge.[109] According to HUD's Human Capital Succession Plan for 2018-2020, approximately 51 percent of the entire workforce has attained retirement eligibility status. HUD predicts that by fiscal year 2022, 63 percent of HUD employees will be retirement eligible and nearly 50 percent of HUD supervisors and managers will be retirement eligible.[110]

HUD's number of full-time equivalent employees has declined by 19 percent from 2009 to 2018.[111] To remedy this situation, one of Secretary Carson's priorities is to invest in HUD's critical staffing needs by increasing staffing levels across HUD.[112] As a result of this priority, HUD ended fiscal year 2019 with a slightly higher number of employees than at the beginning of 2019.[113] Additionally, there is a HUD-wide plan to simplify regulations and rules to improve human capital management.[114]

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[107] HUD Strategic Plan 2018-2022, issued May 2019, p.39
[108] Office of Personnel Management Report, Sizing Up the Executive Branch, February 2018: https://www.opm.gov/policy-data-oversight/data-analysis-documentation/federal-employment-reports/reports-publications/sizing-up-the-executive-branch-2016.pdf
[109] HUD Strategic Workforce Plan, June 28, 2018 http://hudatwork.hud.gov/HUD/chco/doc/stratwrkforceplan2018-2022 (internal website)
[110] HUD Human Capital Succession Plan 2018-22, September 14, 2018, (nonpublic)
[111] HUD Fiscal Year 2021 Budget in Brief, issued February 6, 2020, p.6
[112] HUD Fiscal Year 2021 Budget in Brief, issued February 6, 2020, p.6,9
[113] HUD Fiscal Year 2021 Budget in Brief, issued February 6, 2020, p.9
[114] HUD Strategic Plan 2018-2022, issued May 2019, p.11

According to OCHCO's Response to 2020 OIG Top Management Challenges, "HUD's hiring initiative in fiscal year [20]19 resulted in a positive net gain of employee for the first time since 2011." HUD's Hiring and Separation Report from fiscal year 2019 shows a net gain of 44 employees. See table 7.2 below.

Table 7.2

Hires and separations at HUD[115]			
Fiscal year	Total hires	Total separations	Hires vs. separations
2015	528	- 778	- 250
2016	622	- 743	- 121
2017	530	- 698	- 168
2018	223	- 564	- 341
2019	627	- 583	44

Vacant Positions, Succession Planning, and Reliance on Contractors

Approximately 17 percent of OCHCO's management positions are either vacant or held by acting staff.[116] However, many director and supervisor management positions in OCHCO were filled in fiscal year 2020, and HUD recently named a new Assistant Secretary for Administration, who oversees OCHCO. The number of vacancies, acting personnel, and turnovers in OCHCO poses a challenge for HUD because OCHCO is responsible for developing and implementing policies and procedures associated with human capital management for all of HUD. Other HUD program offices also face high turnover and vacancy rates. See table 7.3 for details as of July 2020. :

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[115] OIG has not verified he accuracy of the hiring data in this table. Additionally, this table excludes hiring data for OIG.
[116] The Office of the Chief Human Capital Officer's Key Staff Directory, https://www.hud.gov/program_offices/administration/about/ochcodir

Table 7.3, as of July 2020[117]

HUD program office	Percentage of vacant positions	Percentage of acting positions	Total percentage of vacant and acting positions
OCIO[118]	28%	6%	34%
Office of Fair Housing and Equal Opportunity[119]	21%	7%	28%
Office of Housing[120]	14%	9%	23%
OGC[121]	13%	7%	20%
PIH[122]	8%	7%	15%

In its fiscal year 2019 Performance Report, HUD claimed that it had completed a strategic workforce plan for 75 percent of its mission-critical occupations.[123] However, HUD's strategic milestone to "develop a market-informed pay and compensation strategy for cybersecurity and other mission critical IT positions to improve recruitment and retention" has been delayed until 2021.[124]

Although HUD has increasingly relied on contractors to fill its staffing gaps, HUD faces challenges with properly directing and monitoring these contractors, which is problematic as the contractors have significant influence on the development, implementation, and oversight of HUD programs. In 2018, OIG evaluated HUD's use of contractors. It found that in fiscal year 2017, HUD awarded 1,589 contracts, with a total cost of $3.1 billion. It also found that the exact number of HUD's full-time-equivalent contract employees was unknown because HUD does not track that information. When OIG requested this information, OCPO officials stated that OCPO contracts for services and products and that HUD pays for the contract's completion, not for a specific number of employees per contract. OCPO also said that HUD's lack of oversight and information tracking is not unique to HUD and "there is no requirement to do so nor does it make any sense to do so."[125]

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[117] Data is as of July, 2020, HUD OIG recognizes that by the end of the fiscal year some of the data presented in the table may have changed.
[118] Chief Information Officer Functional Points of Contact, as of July 10, 2020, https://www.hud.gov/program_offices/cio/dircio
[119] Who's Who in FHEO [Office of Fair Housing and Equal Opportunity], as of July 10, 2020, https://www.hud.gov/sites/dfiles/FHEO/documents/fheodir.pdf
[120] Office of Housing Directory, as of July 10, 2020, https://www.hud.gov/program_offices/housing/dirhousi
[121] OGC Headquarters Managers, as of July 10, 2020, https://www.hud.gov/program_offices/general_counsel/hq-managers
[122] PIH Headquarters Staff Directory, as of July 10, 2020, https://www.hud.gov/program_offices/public_indian_housing/about/headquarters
[123] HUD Fiscal Year 2021 Annual Performance Plan and Fiscal Year 2019 Annual Performance Report, p. 90
[124] HUD Fiscal Year 2021 Annual Performance Plan and Fiscal Year 2019 Annual Performance Report, p. 106
[125] OIG Evaluation Report, 2017-OE-0006, HUD's use of Contractors, dated December 30, 2018

Implementation of the CARES Act

Additional funding and hiring needs created by the CARES Act have placed a burden on HUD's already overtaxed human resources staff to oversee the use of funds and hire people more quickly.

OCHCO has stated that it has worked with HUD leadership to streamline and expedite hiring for CARES Act personnel. To support additional hiring, OCHCO requested and but did not receive funding for six internal program positions that will focus on supporting COVID-19-related hires. Additionally, OCHCO worked with HUD hiring managers to ensure clarity and compliance with CARES Act hiring and other Federal hiring regulations. OCHCO has also provided hiring guidance to HUD managers onboarded in March to support program offices' hiring related to the CARES Act. OCHCO is able to distinguish CARES Act hires from other hires through a unique personnel identification number system related to the CARES Act. The majority of CARES Act hiring occurred in CPD and Housing in order to support HUD's mission-essential functions. As of September, 2020, of the 96 positions that have been approved with CARES Act funding, 61 recruitment requests have been submitted, 27 employees are already onboarded, and the remaining 34 submitted requests are in process.

Increasing Efficiency in Procurement

HUD's Office of the Chief Procurement Officer (OCPO) is responsible for obtaining all contracted goods and services required to successfully maintain HUD operations.[126] CIGIE's 2018 Top Management and Performance Challenges Facing Multiple Federal Agencies stated that one of the top challenges most frequently reported by the 61 inspector's general was procurement management, including preaward planning, managing and overseeing contractor performance, and personnel training. CIGIE stated that "many federal agencies rely heavily on contractors to perform their missions and, as a result, a federal agency's failure to efficiently and effectively manage its procurement function could also impede the agency's ability to execute its mission."[127]

HUD's 2020 top 10 risk list includes its ability to execute timely procurement actions. In its 2019 risk list, HUD identified risks in untimely procurement, improper training and workload of contracting officer representatives, and inadequate oversight of vendors and third-party service providers. An internal HUD assessment completed in September 2019 also concluded that significant weaknesses persisted within several areas of HUD's acquisition process.

A HUD employee survey conducted during this internal assessment found that, although some employees saw improvement with HUD's procurement coordination and planning efforts, 44 percent concluded that HUD's OCPO did not have the right skills, knowledge, or training. Responses for this issue were notably worse than in the same survey from the previous year.

OIG has observed that many program offices continue to have difficulty awarding contracts due to HUD's inadequate acquisition staff. HUD OCIO recently concluded that it would need additional contract office capacity to maintain existing service levels and mitigate breaks in service for HUD's mission-critical applications. Due to these shortfalls, multiple key IT contracts have been awarded outside HUD OCPO, with the acquisition processes supported through other Federal agencies in order to avoid the current HUD

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[126] https://www.hud.gov/program_offices/cpo
[127] CIGIE Top Management and Performance Challenges Facing Multiple Federal Agencies, April 2018: https://www.oversight.gov/sites/default/files/oig-reports/CIGIE_Top_Challenges_Report_April_2018.pdf

procurement delays. Similarly, Ginnie Mae has also awarded contracts outside of HUD OCPO to avoid delays.

HUD has taken some recent actions in improving its acquisition processes. In March 2020, HUD enacted a new policy designed to institutionalize the practice of program and project management for acquisitions, which also incorporates related employee performance plan metrics. In May 2020, HUD contracted out for support services that were designed to improve the efficiency of its source selection process for competitive acquisitions. HUD also reported that it conducted additional acquisition staff training. Although HUD's recent actions have the potential to improve its procurement efforts, the effectiveness of those changes will depend on HUD's ability to consistently implement its planned process improvements, address acquisition staffing challenges, and address any additional outstanding weaknesses.

HUD's fiscal year 2020 Forecast of Contracting Opportunities identifies the HUD functions that heavily rely on contractors, ranging from policy development to document destruction, IT modernization, project management, and program management, such as Section 232 mortgage insurance for long-term care facilities and Section 242 mortgage insurance for hospitals. The Office of Housing, OCIO, the Office of Administration, and Ginnie Mae are the largest contract users.[128]

In fiscal year 2019, the Office of Housing and the Office of Policy Development and Research used the U.S. Department of Health and Human Services for their contracting needs, while Ginnie Mae and OCIO used the U.S. General Services Administration (GSA) for their contracting needs. According to OCPO, HUD's use of outside acquisitions services in fiscal year 2019 cost HUD $17.2 million. Ginnie Mae's staffing model is based on a modest level of permanent staff and a majority of contractors. In fiscal year 2019, contractor expenses added up to $213.9 million, which was 74.9 percent of Ginnie Mae's total expenses.[129] Ginnie Mae originally transitioned its contracting services to GSA in 2014 after concluding that HUD could not meet its contractual needs in a timely manner.[130] However, according to OCPO, Ginnie Mae and OCIO have expressed dissatisfaction with the support received from GSA and want to return to using HUD OCPO.

OCPO's goal is for 75 percent of submissions to be complete by the target release date.

HUD OCPO has identified the untimely submission of acquisition packages as a challenge in awarding contracts. In its Annual Performance Report, HUD reports on the timeliness of its acquisition packages submissions.[131] See table 8.1 for information on the timely submission of acquisition packages.

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[128] HUD Fiscal Year 2020 Forecast of Contracting Opportunities Products and Services, dated August 7, 2020
[129] Ginnie Mae 2019 Annual Report, March 2020, p. 21 and 26
[130] GAO-19-191, Ginnie Mae: Risk Management and Staffing-Related Challenges Need to Be Addressed, (April 2019)
[131] HUD Fiscal Year 2021 Annual Performance Plan and Fiscal Year 2019 Annual Performance Report
, p. 101

Table 8.1

Fiscal year	Percentage of on-time submissions
2018	48%
2019[132]	33%
2020 (as of July 30, 2020)	38%

According to HUD's 2018-2022 Strategic Plan, a major HUD initiative is to streamline acquisition management by analyzing its end-to-end acquisition processes, developing a communication strategy that would engage and inform key acquisition process personnel of any underlying challenges, and establishing transformation plans. To achieve this objective, HUD plans to develop and implement scorecards that would track the timeliness of acquisition services and incorporate a customer survey process to obtain feedback on acquisition accomplishments and issues.[133]

HUD's fiscal year 2021 Budget in Brief notes that the integrity task force has improved HUD's acquisition process.[134] Of the nine current acquisition management objectives, five are on track, and three have been completed.[135] However, the task force dashboard from July 2019 lists several key short-term objectives to help remove issues identified as improvement barriers in the acquisition process, including contract award, funding, the timeliness of the procurement process, or the bandwidth of OCPO staff.

According to information on HUD's website, HUD's procurement office is appropriately staffed,[136] and as of January 2020, OCPO has filled 100 of it 117 available positions. However, OCPO told OIG that the Department's ability to hire additional staff is affected by budget constraints, heavy workload, and attrition rates, which continue to be outstanding challenges for fiscal year 2020 and fiscal year 2021.

Under the CARES Act, HUD was given flexibility in its procurement and contract administration activities. OMB issued a memorandum in March 2020 that allowed HUD to rescope some of its existing contracts for pandemic response and leverage the special emergency procurement authorities in connection with the President's emergency declaration.[137] However, to date HUD has not had to exercise those flexibilities.

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[132] CPO told OIG that the fiscal year 2019 on-time submissions percentage was probably impacted by the Federal Government shutdown. OIG did not verify the accuracy of this claim.
[133] HUD Strategic Plan 2018-2022, issued May 2019, p.39-40
[134] HUD Fiscal Year 2021 Budget in Brief, issued February 6, 2020, p.10
[135] HUD's Agency-Wide Integrity Task Force Dashboard, July 31, 2019, slides 12-14 (nonpublic)
[136] OCPO Contacts, https://www.hud.gov/program_offices/cpo/about/OCPO_Contacts
[137]https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-18.pdf

Ensuring Ethical Conduct

- Performing Government Duties Ethically
- Ethical Risk in HUD's Reliance on External Actors
- Whistleblower Retaliation Complaints

The American public relies on HUD officials and the entities that participate in HUD programs to perform their duties ethically and with integrity. Ethical lapses or failures undermine program effectiveness and ultimately diminish the public trust in HUD and its programs. The vast number of HUD programs, the significant amount of Federal funds flowing through these programs, and HUD's resource constraints make ensuring ethical conduct an ongoing management and performance challenge for the Department.

Performing Government Duties Ethically

HUD officials must be held accountable in order to perform their duties impartially and free from conflicts of interest. In particular, the Department's policymaking role in the financial-services industry presents several areas of risk that HUD must continuously work to mitigate. To promote ethical conduct, the Department must provide employees who set policies and make decisions affecting the financial positions of external entities with sufficient training and guidance on the requirements for disclosing financial interests and effectively mitigating potential conflicts of interest. Identifying potential conflicts is a critical first step in mitigating conduct that does not comply with the ethical standards for government employees. In a September 2018 review of HUD's ethics program, the Office of Government Ethics made four recommendations for HUD to improve the timeliness of its confidential reporting and financial disclosures,[138] which HUD has since taken action to correct. But challenges remain for the Department.

For example, it is common for HUD political and senior-level positions to be filled by experienced private-sector leaders in HUD-related industries, and HUD officials frequently change employment from government service to private-sector firms that participate in HUD programs. This "revolving door" effect presents a potential conflict of interest for HUD officials developing policies or decisions that relate to the private-sector entities, with whom they may also be seeking or negotiating employment.

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[138]https://www.oge.gov/web/oge.nsf/Ethics%20Docs/9061471AADAE5E28852585B9006C07A2/$FILE/2018%20HUD%20Final%20Report.pdf?open

A recent OIG investigation demonstrated the nature of this particular risk. OIG investigated allegations that a former HUD director had, while still employed by HUD, failed to recuse himself from and inappropriately intervened in HUD matters while negotiating postgovernment employment with an employer in the mortgage-banking industry. The former HUD director agreed to pay $25,000 in a civil settlement with the U.S. Attorney's Office for the Eastern District of Virginia to resolve allegations that he had an improper conflict of interest with a private company while serving as a HUD employee.[139] The OIG also referred this matter to the Department for any additional action that it may wish to take. In November 2020, HUD reached a settlement with the former director requiring him to pay the Department $60,000 and prohibiting him from applying for or accepting any position of employment with the Department from now on. It will be important for HUD to provide appropriate training, guidance, and oversight to prevent similar employment conflicts from arising in the future.

Additionally, as stewards of Federal funds and of nonpublic information, HUD must develop internal controls to ensure fairness in awards of government contracts and grants awarded and to safeguard information that is proprietary, sensitive, and potentially market-moving. OIG receives allegations of public corruption by HUD officials, which include financial conflicts of interest, bribery, gratuities, kickbacks, and embezzlement. Recent OIG investigations of such allegations include the following examples:

- The OIG investigated allegations of government employees providing nonpublic information about pending HUD contract actions to a private party in exchange for money, tickets to sporting events, travel expenses, and other things of value. A former HUD supervisory contract specialist agreed to plead guilty to violating the Program Integrity Act and pay a forfeiture money judgment of $23,055, representing the value of the gifts and benefits she received.[140] Another former HUD employee also agreed to plead guilty to bribery charges and was sentenced to 24 months in prison and agreed to pay a forfeiture money judgment of $50,302, representing the value of the gifts and benefits he received.[141]

- The OIG investigated allegations that a former HUD employee was engaged in a scheme to use a fake identity and forge signatures to conceal her interest in rental properties receiving HUD subsidies in violation of HUD requirements.[142] The former employee was convicted of five counts of wire fraud and three counts of identity theft and sentenced to 66 months in prison, and $207,000 in restitution.

OIG is also mindful of the unique ethical considerations that arise in election years. The Hatch Act prohibits the majority of Federal employees from engaging in certain political activities, both during duty hours and, for certain employees, when not at work.[143] For instance, Federal employees may not use their government position to influence or affect an election and are generally not permitted to solicit or receive political contributions.[144]

In fiscal year 2020, OIG referred several alleged HUD employee Hatch Act violations to the U.S. Office of Special Counsel (OSC), which is the independent Federal agency responsible for enforcing the Act. With the upcoming November 2020 presidential

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[139] https://www.justice.gov/usao-edva/pr/former-hud-official-agrees-settle-conflict-interest-allegations
[140] https://www.hudoig.gov/newsroom/press-release/former-hud-employee-sentenced-providing-non-public-information-government
[141] https://www.hudoig.gov/newsroom/press-release/former-hud-employee-pleads-guilty-accepting-bribes-government-contractor
[142] https://www.hudoig.gov/newsroom/press-release/jury-finds-former-hud-employee-guilty-fraud-and-identity-theft
[143] 5 U.S.C. §§ 7321-7326
[144] 5 U.S.C. 7323(a)(1)-(2).

election, the Department must be ready to report any potential violations of the Hatch Act and take appropriate action to prevent or remediate such violations.

Another concern during an election year is the prospect of political appointees "burrowing" into career-employee status. This practice is legal but only if carried out in accordance with procedures that are designed to prevent the appearance of impropriety and ensure that political appointees are qualified for career jobs. In June 2020, a Federal court of appeals ruled on a case involving a HUD official who hired an individual with whom she had worked as a fellow political appointee at another Federal agency.[145] The court found that HUD had the right to fire this individual because the record contained substantial evidence that supported the appearance of improper political influence. To maintain public trust, HUD must ensure that it complies with the hiring procedures designed to prevent the appearance of impropriety when political appointees transition into career-employment status.

Ethical Risk in HUD's Reliance on External Actors

HUD relies on private-sector participants, including grantees, contractors, and housing agency directors, to help carry out its mission, and it entrusts significant amounts of Federal funding and sensitive information to these participants to execute HUD programs. HUD program participants face continuous challenges in establishing and maintaining sufficient internal controls that prevent fraud, waste, and abuse. Ensuring that these participants act in accordance with governing ethics requirements remains a top challenge for the department.

Beginning in fiscal year 2017 through the first half of fiscal year 2020, OIG's Office of Investigation has conducted work that resulted in 65 arrests, 77 indictments, 54 convictions, and the recovery of more than $2 million in cases involving HUD program participants[146] engaged in unethical activity.[147]

Examples of this work include the following recently announced case results:

- The OIG investigated allegations that an executive director of the Collinwood and Nottingham Villages Development Corporation (CNVDC) in Cleveland, Ohio, misused over $195,000 in CNVDC funds through a variety of schemes, such as making unauthorized cash withdrawals, having checks issued to her, and using CNVDC debit and credit cards to pay her personal expenses, including money spent at casinos and $19,080 for the purchase of an automobile.[148] The director plead guilty, received a sentence of 33 months in prison, and agreed to pay $164,120 in restitution.

- The OIG investigated allegations that an accountant for a non-profit corporation dedicated to providing affordable housing to residents of Englewood, New Jersey, used her position to embezzle hundreds of thousands of dollars from that corporation, including by issuing unauthorized checks made payable to herself or entities she controlled, forging the signature of the corporation's president on those checks, and representing to the corporation that the payments were for

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[145] *Avalos v. HUD*, 963 F.3d 1360 (Fed. Cir. 2020)

[146] Program participants include: housing authority executives, directors, board members, accountants, employees, inspectors, and managers, in addition to political officials (including mayors).

[147] "Unethical activity" means bribery, graft, kickbacks, extortion, conflicts of interest, embezzlement, false statements, procurement fraud, public corruption, and theft of government property.

[148] https://www.hudoig.gov/newsroom/press-release/former-executive-director-collinwood-and-nottingham-villages-development-0

legitimate business expenses.[149] The investigation resulted in the arrest of this accountant and charges against her including four counts of wire fraud.

- The OIG investigated allegations that an executive director for the Coshocton Metropolitan Housing Authority (CMHA) embezzled more than $431,000 from CMHA between 2012 and 2017 for the payment of his personal expenses and the personal expenses of a co-conspirator, including utility bills, cell phone expenses, personally owned real estate, home improvements, and a marina slip.[150] The director also allegedly converted $41,636 of his salary benefits from the CMHA during this period by routinely traveling to Georgia to manage his investment properties while being paid to run the day-to-day operations of the CMHA, and conspired to falsify claims made to HUD to obtain Housing Assistance Payments on behalf of tenants at a HUD subsidized multi-family complex he operated in Georgia. The investigation resulted in a sentence of 30 months of incarceration and 36 months supervised release for the director.

OIG's audit work during the last several years has routinely identified ethical lapses on the part of HUD program participants as an area of general concern, including conflicts of interest, such as the hiring of or awarding of contracts to family members or related parties, a lack of fair and open competition in contracting, and the abuse of power for personal gain. As part of its audit work, OIG has made recommendations to HUD intended to promote ethical conduct by its program participants, including recommendations that HUD (1) require housing authorities to develop and implement procedures to identify, report, and resolve conflict-of-interest and other ethics concerns[151] and (2) evaluate apparent conflict-of-interest situations and pursue administrative sanctions when warranted.[152]

Whistleblower Retaliation Complaints

Whistleblowers play a critical role in keeping government programs honest, efficient, and accountable. OIG will continue to ensure that all HUD employees are aware of their right to disclose any instances misconduct, waste, or abuse discovered in HUD programs without reprisal and to assist these employees in seeking redress when they believe they have been subject to retaliation for whistleblowing. As a general practice, OIG will refer any HUD employee alleging whistleblower retaliation to OSC, which has the authority to investigate and prosecute such matters.

In the second half of fiscal year 2020 OIG opened 18 complaints regarding whistleblower retaliation

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[149] https://www.hudoig.gov/newsroom/press-release/hoboken-woman-arrested-embezzling-hundreds-thousands-dollars-non-profit
[150] https://www.justice.gov/usao-sdoh/pr/former-coschocton-public-housing-director-sentenced-prison-embezzling-hud-funds
[151] OIG report 2018-PH-1005, The Adams County Housing Authority, Gettysburg, PA, Did Not Administer Its Housing Choice Voucher Program According to HUD Requirements, issued September 19, 2018.
[152] OIG report 2018-NY-1006, The Buffalo Municipal Housing Authority, Buffalo, NY, Did Not Administer Its Operating Funds in Accordance With Requirements, issued September 26, 2018.

OIG also investigates all government contractor and grantee whistleblower retaliation complaints.[153] If an employee of a HUD contractor, subcontractor, grantee, or subgrantee believes he or she has been retaliated against for whistleblowing, that individual may file a complaint with the OIG. OIG's Office of Investigation will investigate the complaint and, if the complaint meets the statutory requirements, report its findings to HUD so that the Department may take appropriate action.

Once OIG reports its finding to the Secretary to take appropriate action, the Secretary has 30 days to review and act on the matter. If the Secretary fails to act, the complainant can take his or her case to the appropriate district court. In at least one instance over the last year, the Secretary did not take any action on a complaint referred to the Department by the OIG. Failure to act on such referrals creates a challenge for the Department in ensuring ethical conduct in its program areas.

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[153] 41 U.S.C 4712

Appendix

Management's Response to OIG Report on Management and Performance Challenges

HUD is committed to fulfilling its mission to create strong, sustainable, inclusive communities, and quality affordable homes for Americans. We are unwavering in our dedication to improving our business operations by addressing significant challenges, mitigating the risks associated with our programs and past practices, and transforming our processes to address waste, fraud, and abuse.

In response to the COVID-19 pandemic, we took initiative to prioritize the safety of our employees by transitioning to a remote environment and ensuring our staff were equipped with the tools and trainings to optimally perform their duties. In addition, we implemented procedures to protect citizens who were at risk of and/or experiencing homelessness as a result of the virus. Moreover, we established the HUD CARES Compliance and Response Team (HCCRT) to monitor compliance and audit processes associated with the CARES Act; and we are continuing to develop additional methods to further respond to the impacts of the COVID-19.

The Management and Performance Challenges report highlights our progress in specific areas and provides the opportunity to touch on others significant accomplishments. During this past year, we made substantial progress with operational efficiency by prioritizing efforts in the areas of financial management, risk monitoring, and information technology. To continue remediating a significant amount of material weaknesses and address outstanding OIG recommendations, we launched the Accountability, Integrity, and Risk (AIR) program to establish the foundation on the reasonableness of our control environment and achieve a reasonable assurance for FY 20. We also enhanced operational efficiency by incorporating Robotics Process Automation (RPA) and intelligent automation (IA) process. Furthermore, we are developing tools to automate data analysis as well as bifurcate data related to HUD funding and spending.

The work of the OIG is intended to help HUD ensure that our workforce operates with fairness and integrity, that our programs are delivered in the most efficient and effective manner, and strengthen the Department's efforts to ensure responsible stewardship of taxpayer resources in the execution of HUD's mission. The Management and Performance Challenges report provide by OIG identify ten improvement opportunities as summarized below.

- As the pandemic continues to evolve, the challenge to maintain HUD's heighten level of delivery and limited recipient oversight may have future consequences.

- Sustaining improvements and continuing to transform financial management across HUD will be difficult and heavily dependent on funding.

- Substantial challenges remain in addressing HUD's complex business portfolio with reliable IT solutions given the IT funding, resources, and procurement process.

- Ineffective and limited monitoring and mitigation at the program recipient and participant levels increase risks and potential liability and costs across many HUD programs.

- Complex health and safety issues related to lead-based paint hazards, radon levels, hazardous waste sites, and physical condition of housing across America increases the importance of effective safety programs within HUD.

- COVID-19 could cause a significant increase in foreclosures plus the lengthy process of foreclosure and conveyance could have negative impacts on the Mutual Mortgage Insurance (MMI) Fund.

- Although outside of HUD authority, without a permanent disaster recovery assistance organization, HUD will continue to be constrained in executing and overseeing disaster funds.

- Like many offices at HUD, OCHCO has insufficient resources to effectively support the Department's human capital needs.

- HUD's procurement processes are not efficient in supporting the Department procurement needs nor do they have effective controls.

- HUD should continue to ensure that all employees are aware of their critical role in supporting our environment of ethical conduct and behavior and that they have the right to disclose any instances of misconduct, waste, or abuse in HUD programs without reprisal.

HUD is fully dedicated to supporting and engaging in continuous process improvement as well as investing in technology and resources to achieve our goal of financial excellence. We intend to use these OIG conclusions to enhance process improvement efforts and assist in resolving our most crucial management challenges. We are vested in working collaboratively with the OIG to foster a problem-solving environment that instills audit rigor, improves mission delivery, better services America's taxpayers, and cultivates the ideal workplace for our most important asset, our employees.

Top Management Challenges
Facing the U.S. Department of Housing and Urban
Development in 2021

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