



OFFICE of
INSPECTOR GENERAL
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UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

HUD Lacked Adequate Oversight of Multifamily Housing Properties With Failing REAC Scores or Life-Threatening Deficiencies

Audit Report Number: 2024-CH-0001

February 13, 2024

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Deputy Assistant Secretary for Multifamily Housing, HT

//signed//
From: Kilah S. White
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Subject: HUD Lacked Adequate Oversight of Multifamily Housing Properties With Failing REAC Scores or Life-Threatening Deficiencies

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our audit of HUD's oversight of multifamily housing properties with failing Real Estate Assessment Center (REAC) scores or life-threatening exigent health and safety deficiencies.

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

The Inspector General Act, as amended, requires that OIG post its reports on the OIG website. Accordingly, this report will be posted at <https://www.hudoig.gov>.

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

Highlights

HUD Lacked Adequate Oversight of Multifamily Housing Properties With Failing REAC Scores or Life-Threatening Deficiencies | 2024-CH-0001

What We Audited and Why

We audited the U.S. Department of Housing and Urban Development's (HUD) oversight of multifamily housing properties with failing Real Estate Assessment Center (REAC) scores or life-threatening exigent health and safety (EHS) deficiencies. Our objective was to determine whether HUD had effective oversight of multifamily housing properties to ensure that the properties were maintained in decent, safe, and sanitary condition.

What We Found

The effectiveness of HUD's oversight of physical conditions in multifamily housing properties could be improved. Of the sampled properties that we reviewed, HUD did not (1) issue 45 percent of notices of violation or default to multifamily property owners in a timely manner for failure to maintain their properties in decent, safe, and sanitary condition; and (2) receive or maintain (a) 18 percent of the required EHS certifications to support that property owners corrected life-threatening deficiencies, (b) nearly 19 percent of owners' surveys identifying all physical deficiencies, and (c) 13 percent of owners' certifications that all deficiencies identified in REAC inspections and the owners' surveys had been corrected and properties complied with HUD's physical condition standards.

HUD also did not ensure that its staff complied with its policy for granting extensions to cure periods specified on the notices of violation or default for 8 of the 11 approved extension requests. Further, HUD (1) could not support that it submitted 11 of 18 required quarterly or semiannual reports to Congress on the physical condition of assisted multifamily properties assessed through REAC and (2) did not submit 7 reports to Congress by the statutory due date.

These issues occurred because HUD did not have sufficient procedures and controls in place at the regional and headquarter level to ensure compliance with requirements. Further, HUD lacked sufficient oversight of its staff to ensure that adequate documentation was received and maintained to monitor multifamily housing properties' timely compliance with physical condition standards and to report oversight results to Congress in a timely manner.

As a result of HUD's not issuing notices in a timely manner, it delayed the start of the cure period for the owners to correct identified deficiencies, which increased the risk that residents were subjected to substandard living conditions for a longer period. Further, HUD's staff did not always have the surveys and certifications necessary to monitor whether multifamily housing property owners complied with HUD's requirement to maintain housing in a decent, safe, and sanitary condition. Lastly, Congress did not always receive timely information concerning the physical condition of assisted multifamily housing properties, and HUD was uncertain whether required reports and schedules were issued to Congress.

What We Recommend

We recommend that the Director of Multifamily Asset Management and Portfolio Oversight develop and implement adequate procedures and controls to ensure that (1) staff issues notices of violation and default within 15 calendar days of the inspection report release date and (2) the Office of Multifamily Asset Management and Portfolio Oversight is made aware when notices are issued late and takes action as appropriate to ensure that future notices are issued in a timely manner. Additionally, we recommend that the Director (1) include more specific language regarding owner surveys in future notices of violation and default; (2) develop and implement adequate procedures and controls to ensure that owner surveys, certifications, and other relevant records are maintained and retrievable from an easily accessible location and that staff members with the appropriate level of authority approve extensions to cure periods in notices of violation and default when necessary; and (3) assess and streamline the processes for preparing, reviewing, and approving the reports as appropriate to ensure that the reports are submitted to Congress on or before the required due date.

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Background and Objective

The U.S. Department of Housing and Urban Development's (HUD) Office of Multifamily Housing Programs is responsible for the overall management, development, direction, and administration of HUD's multifamily housing programs. The Office administers the Federal Housing Administration's mortgage insurance programs, which facilitate the construction, substantial renovation, purchase, and refinancing of multifamily properties, as well as subsidized housing programs, which provide rental assistance to low-income families, the elderly, and those with disabilities.

HUD housing must be decent, safe, sanitary, and in good repair.¹ In 1998, HUD established the Uniform Physical Condition Standards (UPCS)² to (1) achieve consistency in physical condition standards for HUD housing and (2) standardize the inspections to be undertaken to determine compliance with these standards. HUD's Real Estate Assessment Center (REAC) coordinates the procurement of UPCS inspections for Office of Multifamily Housing Programs-assisted and -insured properties. The physical inspections result in an overall score ranging from 0 to 100. HUD considers a physical inspection score of less than 60 to be a failing score.

Life-threatening exigent health and safety (EHS) and fire safety deficiencies identified during an inspection require immediate resolution. Upon completion of a physical inspection of a multifamily housing property, REAC will provide the owner, on the date of the physical inspection, a written notice of the items classified as life-threatening EHS deficiencies, including fire safety deficiencies, such as missing or inoperable smoke detectors. The owner must mitigate all life-threatening EHS and fire safety deficiencies immediately. Further, the owner must certify and provide reasonable evidence to HUD that the life-threatening deficiencies have been resolved within 3 business days of the date of the inspection.³

The following steps describe the actions HUD must take, as required by HUD's Housing Notice H 2018-08, when a (1) property fails its REAC inspection (receives an inspection score of less than 60) or (2) property owner fails to certify that all life-threatening EHS deficiencies have been corrected properly and in a timely manner (EHS default).

Step 1. Notice of violation (NOV) of regulatory agreement and notice of default (NOD) of housing assistance payments contract

For each **failed REAC inspection** and **EHS default**, within 15 days of the inspection report release date, HUD must issue an NOV or NOD to the property owner. In part, each NOV or NOD must advise the owner of the violations or defaults and provide a reasonable cure period to correct the deficiencies and to take other actions identified below.

Step 2. NOV or NOD requirements

¹ HUD's regulations at 24 CFR (Code of Federal Regulations) 5.703, as effective during our audit period and cited in appendix B.

² In 2019, HUD launched a wholesale reexamination of REAC's inspection process through the National Standards for the Physical Inspection of Real Estate (NSPIRE) demonstration. In 2023, HUD changed its inspection standards from UPCS to NSPIRE. However, this change did not impact the actions HUD must take after a failed REAC inspection, which was the focus of this report.

³ HUD's regulations at 24 CFR 200.857(c)(2), as effective during our audit period and cited in appendix B.

For each **failed REAC inspection**, the NOV or NOD should direct the owner to take the following actions within a reasonable cure period (for example, 60 days):

- conduct a survey of the entire project, including all units, common areas, grounds, building systems, and sites;
- correct all deficiencies at the property, including those identified in the inspection report and owner’s survey; and
- submit to HUD a copy of the owner’s survey and a certification that all deficiencies have been corrected and that the property meets HUD’s physical condition standards and inspection requirements.

For each **EHS default**, the NOV or NOD should provide the owner with a cure period of 3 business days to submit the required EHS certification to HUD.

Step 3. Reinspections to ensure that projects meet HUD’s physical condition standards and inspection requirements⁴

Scores of 30 and Below

For projects that receive a REAC inspection score of 30 and below, the reinspection request must be made immediately upon issuance of the NOV or NOD, and the ideal date for the reinspection should be as soon as possible after the expiration of the cure period provided in the NOV or NOD (including any cure period extensions).

Scores of 31 and Above

For projects that receive a REAC inspection score of 31 and above, the request for reinspection should be delayed until after the cure period provided in the NOV or NOD expires (including any cure period extensions). If the owner fulfills the requirements of the NOV or NOD in a timely manner, the reinspection should be ordered to occur within 1 year after the date of the last inspection. However, if the owner fails to fulfill any of the requirements of the NOV or NOD in a timely manner, the reinspection should be requested to occur as soon as possible.

Step 4. Lack of owner compliance

If the owner fails to comply with the requirements of the NOV or NOD or if upon reinspection HUD determines that the property still does not meet UPCS, HUD should consider the following actions:

- Require a compliance or stabilization workout agreement (for example, a HUD-approved repair plan to bring the property into full compliance)
- Require a change in management agent
- Transfer the property or Section 8 contract
- Impose civil money penalties
- Terminate the housing assistance payments contract
- Initiate a default of the regulatory agreement and foreclosure
- Initiate receivership, limited denial of participation, or suspension or debarment

⁴ Projects that receive inspection scores of 30 and below are automatically referred to HUD’s Departmental Enforcement Center (DEC). Typically, DEC will issue the NOV or NOD for such projects and order the reinspection. Projects that receive inspection scores of 31 and above are generally handled by HUD’s Office of Multifamily Asset Management and Portfolio Oversight.

HUD’s 2017 through 2022 appropriations acts required HUD to report to Congress either quarterly or semiannually on all multifamily housing properties covered under a housing assistance payments contract that received a failing inspection score within the last 36 months. The following table shows the frequency and due dates for these reports.

Year of act	Frequency	First report due		Due date of subsequent reports		
		30 days after enactment	Not specified	180 days after first report	1 st business day of fiscal quarter	Not specified
2022	Semiannual	X		X		
2021	Quarterly	X			X	
2020	Quarterly	X			X	
2019	Quarterly	X			X	
2018	Quarterly	X			X	
2017	Quarterly ⁵		X			X

In March 2023, HUD’s Multifamily Southeast Regional Center and HUD’s Departmental Enforcement Center (DEC) began a time-limited pilot initiative to assist the Office of Multifamily Housing Programs in identifying whether property physical conditions, as certified by participants after HUD’s issuance of a notice of violation or default, are consistent with HUD’s standards for housing that is decent, safe, sanitary, and in good repair. Under the pilot initiative, DEC will conduct site visits of selected multifamily housing properties to identify whether certain deficiencies continue after the Office of Multifamily Housing Programs’ receipt of an owner’s certification. The pilot initiative was to occur in potentially two phases. Phase 1 was anticipated to include 6 to 12 DEC-selected properties in and around the Atlanta, GA, and San Juan, PR, areas. If the pilot initiative continues, the parameters of phase 2, including a possible expansion of the initiative, would be developed upon completion of phase 1. The initiative was suspended in November 2023 due to the implementation of NSPIRE. However, as of February 2024, DEC and HUD’s Office of Multifamily Housing Programs were working on a revised process to continue the initiative.

Our objective was to determine whether HUD had effective oversight of multifamily housing properties to ensure that the properties were maintained in decent, safe, and sanitary condition.

To achieve our objective, we selected a statistical sample of 64 multifamily housing properties that failed their most recent inspection during the period June 1, 2017, through February 28, 2022, and were not participating in the NSPIRE demonstration as of February 15, 2022.⁶ The following table summarizes the REAC inspection scores for our sample of 64 multifamily properties.

⁵ HUD’s November 2017 report to Congress stated that the Consolidated Appropriations Act, 2017, made several changes to the language as contained in previous appropriation acts, including requiring HUD to report to Congress quarterly instead of semiannually, and that HUD would submit its first quarterly report at the end of the first quarter of fiscal year 2018. Therefore, there was only one semiannual report that fell within the scope of our audit for fiscal year 2017 instead of two quarterly reports.

⁶ The NSPIRE demonstration was designed to assess all aspects of REAC’s physical inspection process through the evaluation of physical inspection data and the development of a new inspection scoring model. Under the

Inspection score	Number of properties
50 through 59	31
40 through 49	21
31 through 39	7
30 or less	5
Total	64

demonstration, HUD planned to inspect properties from a pool of nationwide volunteers that were willing to adopt the new scoring model.

Results of Audit

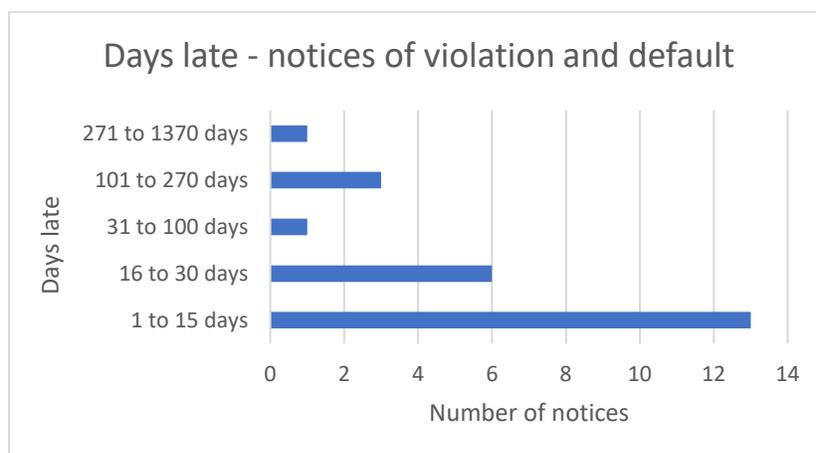
HUD Did Not Consistently Issue Notices of Violation or Default to Multifamily Property Owners in a Timely Manner

HUD did not consistently issue notices of violation or default to multifamily property owners in a timely manner for failure to maintain their properties in decent, safe, and sanitary condition. This condition occurred because HUD did not have sufficient procedures and controls in place to ensure that notices of violation and default were issued in accordance with its requirements. Further, although HUD's Office of Multifamily Asset Management and Portfolio Oversight set policy that required notices of violation and default to be issued within 15 days of the inspection report release date, it did not monitor whether its regional centers and satellite offices complied with this requirement. As a result of HUD's not issuing notices in a timely manner, it delayed the start of the cure period for the owners to correct identified deficiencies, which increased the risk that residents were subjected to substandard living conditions for a longer period.

Notices Were Not Always Issued in a Timely Manner

Due to failing REAC inspection scores, HUD issued notices of violation or default to the owners of 53 of the 64 statistically selected properties requiring them to conduct a survey of their entire property and certify that all deficiencies had been corrected. However, HUD issued 24 of the 53 notices (45 percent) more than 15 calendar days after the inspection report release date.⁷ The number of days these notices were issued after the 15-calendar-day requirement⁸ ranged from 1 to 1,369 days, with 11 of the 24 (nearly 46 percent) issued more than 15 days late,⁹ as shown in figure 1 below.

Figure 1. The number of days late for the 24 notices that were issued more than 15 calendar days after the inspection report release date



⁷ See appendix C for additional details regarding the late notices.

⁸ HUD's appropriations acts and Housing Notice 2018-08, as cited in appendix B.

⁹ HUD issued the notice 1,369 days after the inspection report release date of March 1, 2019, because of our audit. Due to our inquiry about the notice, HUD attempted unsuccessfully to locate a copy of the issued notice in its records, so it contacted the property owner. The property owner stated that the notice was not received. Therefore, HUD issued the notice to the property owner in December 2022.

In projecting the results of our review of the 64 multifamily housing properties to the population of 1,055¹⁰ multifamily housing properties, we estimate that HUD issued at least 288¹¹ (27 percent) notices of violation or default late, or more than 15 calendar days after the inspection report release date.

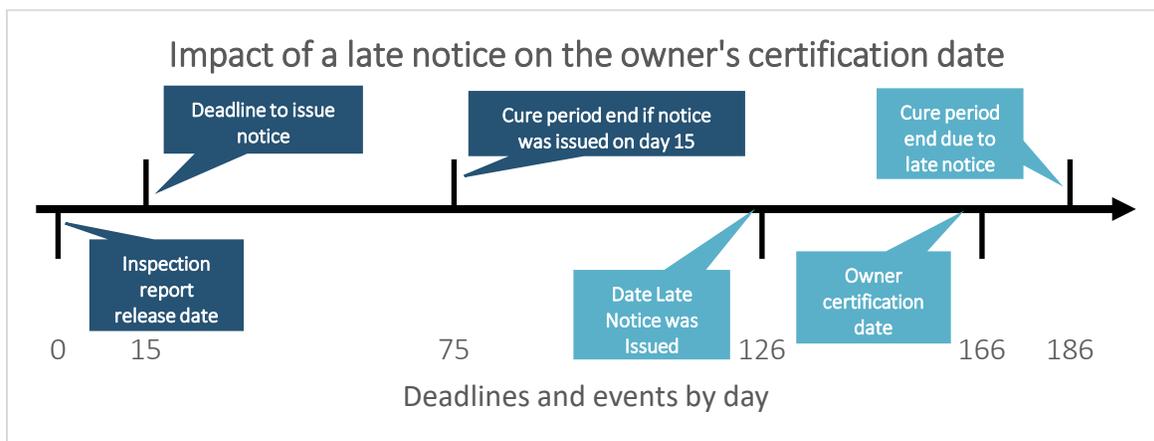
The notices were issued late because HUD did not have sufficient procedures and controls in place to ensure that notices of violation and default were issued in a timely manner. Although HUD’s Office of Multifamily Asset Management and Portfolio Oversight set policy that required notices of violation and default to be issued within 15 days of the inspection report release date, it did not monitor whether its regional centers and satellite offices complied with this requirement. Additionally, each HUD multifamily regional center and satellite office had its own process for issuing notices, and HUD considered it to be the responsibility of the asset management division directors and regional directors in each multifamily office or region to ensure compliance with the requirements of Housing Notice 2018-08.

Owner Certifications Were Delayed by HUD’s Late Issuance of Notices

The notices of violation and default generally provide the owner a cure period of 60 days to (1) conduct a survey of the entire property, (2) correct all of the deficiencies identified in the owner’s survey and REAC inspection report, and (3) certify to HUD that all deficiencies have been corrected. By issuing notices of violation and default more than 15 calendar days after the inspection report release dates, HUD delayed the date on which owners must certify that the deficiencies have been corrected.

In figure 2 below, the owner’s certification that all deficiencies noted in the owner survey and REAC inspection report had been corrected was likely delayed at least 91¹² days due to HUD’s issuing the notice of violation 111¹³ days late.

Figure 2. The impact of HUD’s issuing a notice of violation more than 15 calendar days after the inspection report release date for one of the properties in our sample



¹⁰ We identified a population of 1,055 active multifamily housing properties that failed their most recent inspection during the period June 1, 2017, through February 28, 2022, and were not participating in HUD’s NSPIRE demonstration program as of February 15, 2022.

¹¹ Assuming a one-sided confidence interval of 95 percent

¹² 166 days (owner certification date) - 75 days (cure period end if notice was issued on day 15)

¹³ 126 days (date late notice was issued) - 15 days (deadline to issue notice)

Conclusion

By issuing notices of violation and default more than 15 calendar days after the inspection report release date, HUD delayed the date on which owners were required to conduct surveys of their properties, correct the deficiencies, and certify to HUD that the deficiencies had been corrected. As a result, the risk that residents of multifamily housing properties were subjected to substandard living conditions for a longer period was increased.

Recommendations

We recommend that the Director of Multifamily Asset Management and Portfolio Oversight

- 1A. Develop and implement adequate procedures and controls to ensure that (1) staff issues notices of violation and default within 15 calendar days of the inspection report release date and (2) the Office of Multifamily Asset Management and Portfolio Oversight is made aware when notices are not issued within 15 calendar days after the inspection report release date and takes action as appropriate to ensure that future notices are issued in a timely manner.

HUD Did Not Always Receive or Maintain Sufficient Documentation To Ensure That Multifamily Property Owners Maintained Their Properties in Decent, Safe, and Sanitary Condition

HUD did not consistently receive or maintain multifamily property owners' EHS certifications, surveys, and certifications that all deficiencies identified in REAC inspections and owners' surveys had been corrected and properties complied with HUD's physical condition standards. It also did not ensure that (1) owners' surveys and certifications were complete and timely or included sufficient detail and (2) its staff complied with its policy for granting extensions to cure periods specified on the notices of violation or default. Further, HUD did not maintain sufficient documentation to support whether its staff requested reinspections of properties in accordance with its policy. These conditions occurred because HUD lacked adequate (1) oversight of its staff to ensure that it consistently maintained sufficient documentation to monitor multifamily housing properties for compliance with HUD's physical condition standards and (2) controls to ensure that requests for cure period extensions were approved in writing by director-level staff. Further, HUD did not have a standard format or requirements for the level of detail that should be included on owners' surveys. As a result, HUD's staff did not always have the surveys and certifications necessary to monitor whether multifamily housing property owners complied with HUD's requirement to maintain housing in a decent, safe, and sanitary condition.

HUD Did Not Always Ensure That Property Owners' EHS Certifications, Surveys, and Certifications of The Physical Condition of Properties Were Received, Maintained, or Sufficient

HUD did not always ensure that its staff received or maintained owners' EHS certifications, surveys, or certifications of the physical conditions of their properties. HUD requires owners to submit EHS certifications to HUD within 3 business days of the inspection completion date and property owner surveys and certifications of physical conditions within a specified cure period identified on the notices of violation or default.

HUD Did Not Receive or Maintain Owners' EHS Certifications

Of the 64 multifamily properties reviewed, 61 properties had at least 1 life-threatening EHS deficiency, such as exposed electrical wires or blocked egress, or a fire safety deficiency, such as one or more missing or inoperable smoke detectors. HUD maintained owner EHS certifications for 46 (75 percent) of the 61 properties. HUD either did not receive from owners or maintain sufficient documentation to support that it had received certifications for the remaining 15¹⁴ properties. HUD abated or terminated the applicable housing assistance payments or project rental assistance contracts for 4 of the 15 properties for which it did not receive an EHS certification.

¹⁴ Appendix C contains a list of the 15 properties with missing owner EHS certifications.

For the remaining 11 properties (18 percent),¹⁵ there was a note in HUD’s Integrated Real Estate Management System (iREMS)¹⁶ indicating that HUD had received an EHS certification. However, as of February 2024, HUD has not provided the required certifications¹⁷ to us for review.

Further, contrary to HUD’s regulations,¹⁸ 10 (nearly 22 percent) of the 46 EHS certifications HUD maintained were dated more than 3 business days after the inspection completion date. The number of days the 10 certifications were late ranged from 1 to 24 days.

HUD Did Not Receive or Maintain Owners’ Surveys and Certifications of the Correction of Physical Deficiencies

HUD issued notices of violation or default that generally required the owners of 53 of the 64 multifamily housing properties in our sample to take the following actions within 60 days of receipt of the notice:

- conduct a survey of the entire project, identifying all physical deficiencies;
- correct all of the deficiencies identified in the owner’s survey and REAC inspection report;
- certify that all deficiencies in the owner’s survey and the REAC inspection report have been corrected and the project complies with HUD’s physical condition standards; and
- submit the owner survey and certification to HUD.

HUD could not support that it received a property owner survey or certification for 21 of the 53 properties. For 9 of the 21 properties, HUD took appropriate action in accordance with its policy,¹⁹ such as ordering an immediate reinspection or pursuing enforcement actions against the owners for failure to maintain their properties in decent, safe, and sanitary condition; or there was no action for HUD to take because the associated mortgages were terminated due to prepayment, and HUD had no other enforceable business agreements with the properties

For the remaining 12²⁰ properties that were missing an owner survey (nearly 19 percent)²¹ or certification of the correction of physical deficiencies (13 percent)²², HUD did not provide sufficient documentation to support that an owner survey or certification was not required²³ or that timely enforcement action was considered or taken based on the owners’ noncompliance with the notices. The following table shows the 12 properties that were missing an owner survey, certification, or both.

¹⁵ 11 / 61 = 18 percent

¹⁶ iREMS is the official source of data on HUD’s Office of Multifamily Housing Programs’ portfolio of insured and assisted properties.

¹⁷ HUD’s regulations at 24 CFR (Code of Federal Regulations) 200.857(c)(2), as cited in appendix B.

¹⁸ Ibid.

¹⁹ Housing Notice 2018-08, as cited in appendix B.

²⁰ 21 - 9

²¹ 10 / 53 = 18.8 percent

²² 7 / 53 = 13 percent

²³ An owner survey or certification may not be required if HUD rescinds the issued NOV or NOD based on an owner’s appeal that results in a passing REAC inspection score.

Count	Property identification number ²⁴	Missing survey	Missing certification
1	1269	X	X
2	8266		X
3	0035		X
4	2178	X	
5	2390	X	X
6	3373	X	X
7	5669	X	
8	5983	X	X
9	7792	X	X
10	5386	X	
11	7558	X	
12	1698	X	
Totals		10	7

These conditions occurred because although HUD directed its staff to upload documents necessary to establish a record for enforcement purposes, such as notices of violation or default, owner-provided certifications, surveys, and related correspondence into its Multifamily TransAccess Records Management Service (TransAccess),²⁵ it did not have formal written policies requiring the use of the system. Maintaining and uploading documents into TransAccess is a basic expectation of the job. Therefore, HUD relied on its branch chiefs and asset management division directors to oversee staff and ensure that they performed according to work requirements. However, the former Director of HUD’s Multifamily Asset and Counterparty Oversight Division acknowledged that sometimes things “slip through the cracks,” particularly due to staff turnover and the resulting transition of a portfolio from one staff person to another.

Property Owners’ Surveys and Certifications Were Not Always Sufficient, Complete, or Timely

HUD maintained owner surveys for 35 of the 53 properties. We reviewed the 35 surveys and identified the following issues with 16 (nearly 46 percent).²⁶

- 15 surveys did not include sufficient detail to support that all units (including vacant units), common areas, grounds, building systems, and site(s) were inspected.
- 4 surveys showed that one or more units were not inspected.
- 2 surveys generally did not identify specific deficiencies.
- 2 surveys appeared to include only deficiencies noted in the REAC inspection reports.
- 3 surveys did not clearly show that they were conducted after the failed inspection.

²⁴ We used the last four digits of the property identification number.

²⁵ TransAccess is an electronic records management system.

²⁶ Several of the owners’ surveys had more than one issue. See appendix C for the 16 properties.

Further, HUD maintained property owner certifications for 37 of the 53 properties. We reviewed the 37 certifications and identified the following issues with 6:²⁷

- Five certifications exceeded their cure periods by 130 to 344 days, at least in part due to HUD's (1) not following up with the owners to obtain four certifications in a timely manner and (2) sending a notice of violation to an incorrect email address for an owner. HUD's staff did not realize that the email address was incorrect until after the due date for the certification.
- One certification did not reference an owner survey or state that the property complied with the physical condition requirements of all HUD contracts pertaining to the property and the physical condition standards of 24 CFR 5.703 and all State codes.²⁸

HUD Housing Notice 2018-08 states that, through a notice of violation or default, the owner should be directed to conduct a survey of the entire project, including all units, common areas, grounds, building systems, and sites, within the cure period. However, although the notices of violation or default that HUD issued to owners generally required them to conduct a survey of the entire project and identify all deficiencies, the notices were not specific regarding the physical areas or components of the project that should be inspected to represent a survey of the entire project. Further, HUD did not have a standard format or requirements for the level of detail that should be included on owners' surveys, thus allowing owners to have discretion. Therefore, the information and the level of detail on the surveys varied. As a result, for almost half of the surveys reviewed, we were unable to determine whether the owners fully complied with HUD's requirements.

HUD Did Not Consistently Approve Property Owners' Requests for Extensions to Cure Periods in Accordance With Its Requirements

HUD approved requests from owners to extend the cure periods identified in the notices of violation or default for 11 of the 53 properties. The reasons owners provided for requesting an extension and the additional amount of time HUD granted for the cure periods appeared reasonable. HUD maintained documentation showing that 8 of the 11 requests were approved by a HUD staff person in writing. However, contrary to section IV of Housing Notice 2018-08, the requests were not always approved in writing by a HUD multifamily regional or satellite office director. Specifically, the documentation showed that a HUD employee below the director level (such as a branch chief, account executive, or resolution specialist) approved five of the eight requests in writing and communicated HUD's approval to the owners. For the remaining three requests, HUD could not provide sufficient documentation to support that it provided written approval to the owners. Therefore, HUD did not ensure that its staff complied with its policy for granting extensions to cure periods specified on the notices of violation or default for 8 of the 11 approved extension requests.

HUD lacked adequate controls to ensure that it approved owners' requests for extensions to the cure periods identified on the notices of violation and default in accordance with its requirements. According to the former Director of HUD's Multifamily Asset and Counterparty Oversight Division, HUD believed that someone at the director level approved the extension requests in the vast majority if not all of the cases. However, based on the instances identified in the audit in which HUD was unable to produce documentation to support director approval, asset management division directors were reminded in a

²⁷ See appendix C for the six properties.

²⁸ Housing Notice 2018-08, as cited in appendix B.

February 2023 meeting that they must approve cure period extensions in writing and ensure that the approval is saved in TransAccess. The approval of cure period extensions is a tool that HUD uses to allow property owners additional time to bring their properties back into compliance with HUD's physical condition standards in lieu of pursuing enforcement actions against owners.

HUD Did Not Maintain Sufficient Documentation of Its Requests for Property Reinspections

HUD did not maintain sufficient documentation to show that its staff had requested a reinspection (1) immediately on the issuance of the notice of violation or default to the property owner for a property that received a score of 30 or below or (2) as soon as possible for a property that received a score of 31 or above and the property owner failed to fulfill any of the requirements of the notice of violation or default in a timely manner.²⁹ Section IV of Housing Notice 2018-08 states that requests for properties to be reinspected are to be made through the Office of Multifamily Asset Management and Portfolio Oversight's SharePoint site. However, the SharePoint site did not maintain a record of when requests for reinspections were made after the reinspection occurred. Therefore, we were unable to determine whether HUD's staff requested timely reinspections for the properties in our sample. However, in July 2022, the Office of Multifamily Asset Management and Portfolio Oversight made changes to its SharePoint site. As a result of the changes, the date on which HUD's staff requests a reinspection is now retained in SharePoint.³⁰

Conclusion

HUD lacked adequate (1) oversight of its staff to ensure that it consistently maintained sufficient documentation to monitor multifamily housing properties for compliance with HUD's physical condition standards and (2) controls to ensure that requests for cure period extensions were approved in writing by director-level staff. Further, HUD did not have a standard format or requirements for the level of detail that should be included on owners' surveys. As a result, HUD's staff did not always have the surveys and certifications necessary to monitor whether multifamily housing property owners complied with HUD's requirement to maintain housing in a decent, safe, and sanitary condition. By implementing adequate procedures and controls to ensure that its staff maintains complete and accurate records, HUD will be in a better position to (1) evaluate whether owners are held accountable for the conditions of their properties and (2) take enforcement actions against owners when necessary.

Recommendations

We recommend that the Director of Multifamily Asset Management and Portfolio Oversight

- 2A. Include language in future notices of violation and default clearly stating that owners are required to inspect all units (including vacant units), common areas, grounds, building systems, and sites as part of the owner survey and require owners to include sufficient detail in the surveys to show (1) when the survey was conducted and (2) that the survey was a complete survey of the project.
- 2B. Develop and implement adequate policies, procedures, and controls to ensure that owner certifications and surveys and other relevant documents related to properties that fail inspections or

²⁹ Housing Notice 2018-08, as cited appendix B.

³⁰ Based on the changes HUD made to its SharePoint site in July 2022, we did not include a recommendation in this report regarding HUD not maintaining sufficient documentation of its requests for property reinspections.

are noted as having EHS deficiencies are maintained and retrievable from an easily accessible location.

- 2C. Develop and implement adequate controls to ensure that HUD staff with the appropriate level of authority approves extensions to the notices of violation and default cure periods in writing and that documentation is maintained to support such approvals.

HUD Could Improve Its Reporting to Congress on the Physical Conditions of Multifamily Housing Properties

Congress requires HUD to submit quarterly or semiannual reports on all assisted multifamily housing properties that receive a failing REAC inspection score within the last 36 months. However, for the 18 reports within our audit period, HUD (1) could not support that it submitted 11 reports to Congress and (2) did not submit 7 reports to Congress by the statutory due date. Further, the 18 reports contained accompanying schedules that included accurate inspection details for 45 of the 50 properties in our sample that had failed an inspection within the last 36 months.³¹ For the remaining five properties, (1) one schedule did not include the results of the most recent failed inspection for two properties, and (2) three properties were not appropriately identified as having failed consecutive inspections on all applicable schedules. HUD lacked an adequate oversight process to ensure that the reports were sent to Congress in accordance with requirements. Additionally, the queries HUD used to generate the schedules of properties that were used to develop the reports did not consider a sufficient period to capture all relevant inspections. As a result, Congress did not always receive accurate and timely information concerning the physical condition of assisted multifamily housing properties, and HUD was uncertain whether 11 reports and schedules were issued to Congress.

HUD Could Not Support That It Issued Reports to Congress in Accordance With Requirements

HUD's 2017 through 2022 appropriations acts required HUD to report to Congress quarterly or semiannually on all assisted multifamily housing properties that received a failing REAC inspection score within the last 36 months. Of the 18 reports reviewed, HUD (1) could not support that it submitted 11 reports to Congress and (2) did not submit 7 reports by the statutory due date. For the seven reports that were issued to Congress, the number of days it took HUD to submit the reports ranged from 67 to 287 days after the statutory due date. The following table shows the number of days beyond the due date HUD took to submit the seven reports to Congress.

Year	Reporting period	Sent to House	Sent to Senate	Date due	Date reports were issued	Days late
2022	1 st submission	Yes	Yes	04/14/2022	10/03/2022	172
2021	Quarter 4	Yes	Yes	10/01/2021	07/15/2022	287
2021	Quarter 3	Yes	Yes	07/01/2021	09/23/2021	84
2021	Quarter 1	Yes	Yes	01/26/2021	08/23/2021	209
2020	Quarter 4	Yes	Yes	10/01/2020	12/07/2020	67
2020	Quarter 3	Yes	Yes	07/01/2020	01/06/2021	189
2020	Quarter 2	Yes	Yes	04/01/2020	08/26/2020	147

HUD lacked an adequate oversight process to ensure that the required reports were sent to Congress. HUD cited significant turnover of staff in the Appropriations Liaison Division, particularly during changes

³¹ Although our sample consisted of 64 multifamily properties, we determined that only 50 should have been included on the schedules of properties that accompanied the reports to Congress.

in presidential administrations, as the reason why it was unable to locate sufficient documentation to support that the 11 reports were submitted to Congress.

Further, the process HUD used to prepare and clear the reports for issuance involved coordination among multiple HUD offices, which resulted in delayed submissions to Congress. Specifically, the Multifamily Asset and Counterparty Oversight Division within HUD’s Office of Multifamily Asset Management and Portfolio Oversight generates the data for and prepares each report and schedule that will be issued to Congress. The report and schedule then go through a clearance process before issuance. The following table shows the responsibilities of each office in preparation for the submission of reports to Congress.

Step	Description
1	The Multifamily Asset and Counterparty Oversight Division prepares the report and schedule. The branch chief and Division Director approve the report and schedule.
2	The report is reviewed and approved by the Director of HUD's Office of Multifamily Asset Management and Portfolio Oversight within HUD's Office of Multifamily Housing Programs.
3	The report is reviewed and approved by the Director of the Program Administration Office within HUD's Office of Multifamily Housing Programs.
4	The report is reviewed and approved by the Associate Deputy Assistant Secretary and Deputy Assistant Secretary for Multifamily Housing.
5	The report is reviewed and approved by the Associate General Deputy Assistant Secretary and General Deputy Assistant Secretary for Housing.
6	The report is reviewed and approved by the Federal Housing Commissioner.
7	The Multifamily Asset and Counterparty Oversight Division sends the report and schedule to the Appropriations Liaison Division of the Office of the Assistant Chief Financial Officer for Budget within HUD’s Office of the Chief Financial Officer.
8	The Appropriations Liaison Division sends the report and schedule to the U.S. House and Senate Committees on Appropriations (Congress).

For the seven reports that were submitted to Congress, it took the Multifamily Asset and Counterparty Oversight Division an average of 63³² days after the statutory due date to generate the data and prepare the reports and schedules and for the director to grant his approval (step 1 in the above table). Further, the Director of the Multifamily Asset and Counterparty Oversight Division submitted the reports to the Appropriations Liaison Division (step 7 in the above table) an average of 103³³ days after the date on which the reports were due to Congress. Additionally, staff in the Appropriations Liaison Division within

³² HUD did not provide sufficient documentation to support the dates on which the Director of the Multifamily Asset and Counterparty Oversight Division (1) approved the report and schedule of properties and (2) sent the documents to the Appropriations Liaison Division for quarter two of fiscal year 2020. However, HUD provided documentation to support the date on which the Appropriations Liaison Division sent the documents to Congress. As a result, the averages for the number of days it took for the director to approve and send the report and schedule of properties to the Appropriations Liaison Division did not consider quarter two of fiscal year 2020 submission. However, the calculation for the average number of days it took for HUD to issue the reports and schedule of properties to Congress considered the quarter two fiscal year 2020 submission.

³³ Ibid.

HUD's Office of the Chief Financial Officer submitted the reports and schedules of properties to Congress (step 8 in the above table) an average of 165³⁴ days after the due date. According to the former Director of HUD's Multifamily Asset and Counterparty Oversight Division, the Division had limited staff for this process. Further, vetting the reports and accompanying schedules of properties for errors, multiple edits to the reports, and staff attrition, although infrequent, delayed the Division Director's approval of the reports and schedules. Further, the internal clearance process HUD's Office of Housing used to vet the reports added to the delayed submissions to Congress. As a result, Congress did not always receive information concerning the physical condition of assisted multifamily housing properties in a timely manner.

HUD's Reports Generally Included Accurate Inspection Details With a Few Exceptions

The appropriations acts required HUD to report on the multifamily housing properties covered under a housing assistance payments contract that received (1) a failing inspection score within the last 36 months and (2) consecutive failing inspection scores. HUD attached schedules to the reports identifying the properties that met these requirements.

Of the 64 multifamily housing properties in our sample that received a failing score on their most recent inspection during the period June 1, 2017, through February 28, 2022, we identified 50 covered properties that should have been included on the schedules of properties that accompanied the reports to Congress as having failed their most recent inspection. HUD included accurate inspection details on the schedules for 45 of the 50 properties. For the remaining five properties, inspection details regarding the most recent failed inspection for two properties were inappropriately excluded from the fiscal year 2020 quarter two schedule of properties, and three properties were not appropriately identified as having failed consecutive inspections on all applicable schedules.

Staff from HUD's Multifamily Asset and Counterparty Oversight Division used queries that considered only inspections conducted during a specified period to generate the schedules that were used to develop the reports. This condition resulted in properties that (1) were inspected before the specified period or (2) had only one inspection during the specified period but failed their previous inspection to not be included or identified on the schedules as properties that failed consecutive inspections. HUD was unable to explain why details for the most recent failed inspection for two properties were inappropriately excluded from the fiscal year 2020 quarter two schedule. As a result, Congress did not always receive accurate information concerning the physical condition of assisted multifamily housing properties.

Conclusion

HUD lacked an adequate oversight process to ensure that the required reports were sent to Congress. Further, the process HUD used to prepare and clear the reports for issuance, which involved coordination among multiple HUD offices, resulted in delayed submissions to Congress. Additionally, the queries HUD used to generate the schedules of properties that were used to develop the reports did not consider a sufficient period to capture all relevant inspections. As a result, Congress did not always receive accurate and timely information concerning the physical condition of assisted multifamily housing properties, and HUD was uncertain whether 11 reports and schedules were issued to Congress. Implementing our

³⁴ Ibid.

recommendations could provide opportunities for HUD to improve its internal processes for reporting to Congress.

Recommendations

We recommend that the Director of Multifamily Asset Management and Portfolio Oversight

- 3A. Modify the queries used to generate the schedules of properties that accompany the reports to Congress to consider a larger range of dates to ensure that properties that failed consecutive inspections are appropriately identified on all applicable schedules.
- 3B. Assess and streamline the processes for preparing, reviewing, and approving the reports as appropriate to ensure that the reports are submitted to Congress on or before the required due date.
- 3C. Implement adequate procedures and controls to ensure that documentation is maintained to support that the reports were submitted to Congress.

Scope and Methodology

We performed our audit remotely from July 2022 through July 2023. The audit covered the period June 2017 through February 2022.

To accomplish our objective, we reviewed

- Applicable laws; HUD’s regulations at 24 CFR parts 5 and 200; the Federal Register, dated September 1, 1998, December 8, 2000, August 9, 2012, August 21, 2019, September 28, 2021, May 11, 2023, and July 7, 2023; and HUD’s Housing Notice H 2018-08.
- Notices of violation and default HUD issued to property owners, owner certifications and surveys, HUD’s fiscal years 2017 through 2022 quarterly or semiannual reports to Congress on oversight of property owners and multifamily properties assessed through REAC and accompanying schedules of properties, and data from iREMS.

Additionally, we interviewed HUD senior officials and front-line staff, representatives of owners and management agents of multifamily housing properties, and residents of multifamily housing properties.

Using data from HUD’s Online Property Integrated Information Suite as of March 2022, we identified a universe of 1,055 active multifamily housing properties that failed their most recent inspection during the period June 1, 2017, through February 28, 2022, and were not participating in HUD’s NSPIRE demonstration as of February 15, 2022. We designed three strata to group sampling units by the number of consecutive failed inspections. Stratum 1 includes all properties that did not fail consecutive inspections, stratum 2 includes all properties that failed two consecutive inspections, and stratum 3 includes properties that failed three or four consecutive inspections. The following table shows the strata boundaries and other key data for the sample design.

Sample design table				
Stratum label	Total count in strata	Sample count	Probability of selection	Sampling weight
Stratum 1	853	52	0.0610	16.40
Stratum 2	177	10	0.0565	17.70
Stratum 3	25	2	0.0800	12.50
Total	1,055	64		

We calculated the sample size adjusted by the finite population correction (FPC) factor using the classic formula from Daniel and Terrell (1985)³⁵ for estimating proportions under conditions in which the distribution is normal:

$$\begin{aligned}
 \text{traditional } n_0 &= \frac{z^2 p(1-p)}{d^2} = \frac{1.645^2 * .5(1-.5)}{0.10^2} = 67.65 \\
 \text{FPC adjusted } n &= \frac{n_0}{1 + (n_0/N)} = \frac{67.65}{1 + \left(\frac{67.65}{1,055}\right)} = 63.5740 \approx 64
 \end{aligned}$$

³⁵ Wayne W. Daniel, James C. Terrell. Business Statistics. Houghton Mifflin, Company, 1985

We estimated the sample size in consideration of the following parameters:

- z = the z-score used to set the outer bounds (1.645)
- p = the theoretical rate of error (50%)
- d = the desired precision or acceptable error in the sample (plus or minus 10%)
- N = total universe records
- n = sample size for current audit, as calculated.

The 64 multifamily housing properties³⁶ were randomly selected with the number of samples in each stratum being proportionally selected by means of computer routines written in SAS^{®37} using the surveyselect³⁸ procedure and a seed of 7.

Additionally, we computed the percentage and number of counts of notices reviewed that were issued more than 15 calendar days after the inspection report release date (a deficiency) based on the sampling results, and we extended this result to the population using the surveyfreq³⁹ procedure provided by SAS[®].

During our review there was one significant scope limitation. Specifically, the system HUD staff used to request reinspections of multifamily housing properties did not maintain a record of when the request for a reinspection of a property was made after the inspection was completed. As a result, we were unable to determine whether HUD staff requested reinspections of multifamily housing properties when required.

We relied in part on computer-processed data in HUD's Online Property Integrated Information Suite and iREMS. Although we did not perform a detailed assessment of the reliability of the data, we found the data to be sufficiently reliable for our purposes.

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

³⁶ As of January 1, 2023, 27 of the 64 properties in our sample had been reinspected. Of the 27 properties, 23 passed and 4 failed their most recent inspection.

³⁷ SAS (previously Statistical Analysis System) is a statistical software suite developed by SAS Institute for data management, advanced analytics, multivariate analysis, business intelligence, criminal investigation, and predictive analytics.

³⁸ The surveyselect procedure provides a variety of methods for selecting probability-based random samples. The procedure can select a simple random number or can sample according to a complex multistage sample design that includes stratification, clustering, and unequal probabilities of selection.

³⁹ The surveyfreq procedure produces one-way to n-way frequency and crosstabulation tables from sample survey data. These tables include estimates of population totals, population proportions, and their standard errors. Confidence limits, coefficients of variation, and design effects are also available.

Appendixes

Appendix A – Auditee Comments

We provided HUD a copy of the draft report for review on January 12, 2024, and we held an exit conference with staff from HUD’s Office of Multifamily Housing on January 23, 2024, to discuss the results of our audit. On January 29, 2024, a Senior Advisor in HUD’s Office of the Deputy Assistant Secretary for Multifamily Housing informed us that HUD chose not to provide written comments for this report.

Appendix B – Applicable Laws, Regulations, and Other Requirements

HUD's 2017 through 2022 appropriations acts⁴⁰ stated that any entity receiving housing assistance payments must maintain decent, safe, and sanitary conditions, as determined by the Secretary of Housing and Urban Development and comply with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of any property covered under a housing assistance payments contract. The Secretary must provide the owner with a notice of default with a specified timetable, determined by the Secretary, for correcting all deficiencies when a multifamily housing project with a contract under Section 8 of the United States Housing Act of 1937 or a contract for similar project-based assistance (1) receives a UPCS score of 60 or less or (2) fails to certify in writing to the Secretary within 3 days that all EHS deficiencies identified by the inspector at the project have been corrected.

HUD's 2017 through 2022 appropriations acts⁴¹ stated that within 15 days of the issuance of the REAC inspection, the Secretary must provide the owner with a notice of default with a specified timetable, determined by the Secretary, for correcting all deficiencies. At the end of the period for correcting all deficiencies specified in the notice of default, if the owner fails to fully correct such deficiencies, the Secretary may (1) require immediate replacement of project management with a management agent approved by the Secretary; (2) impose civil money penalties, which must be used solely for the purpose of supporting safe and sanitary conditions at applicable properties, as designated by the Secretary, with priority given to the tenants of the property affected by the penalty; (3) abate the Section 8 contract, including partial abatement, as determined by the Secretary, until all deficiencies have been corrected; (4) pursue transfer of the project to an owner, approved by the Secretary under established procedures, who will be obligated to promptly make all required repairs and to accept renewal of the assistance contract if such renewal is offered; (5) transfer the existing Section 8 contract to another project or projects and owner or owners; (6) pursue exclusionary sanctions, including suspensions or debarments from Federal programs; (7) seek judicial appointment of a receiver to manage the property and cure all project deficiencies or seek a judicial order of specific performance requiring the owner to cure all project deficiencies; (8) work with the owner, lender, or other related party to stabilize the property in an attempt to preserve the property through compliance, transfer of ownership, or an infusion of capital provided by a third party that requires time to effectuate; or (9) take any other regulatory or contractual remedies available as deemed necessary and appropriate by the Secretary.

Section 219(e) of Public Law 117-103, the Department of Housing and Urban Development Appropriations Act, 2022, as included in the Consolidated Appropriations Act, 2022, stated that the Secretary must report semiannually on all properties covered under a housing assistance payments contract that are assessed through REAC and have UPCS physical inspection scores of less than 60 within

⁴⁰ Section 223 of Public Law (PL) 115-31, section 222 of PL 115-141, section 221 of PL 116-6, section 219 of PL 116-94, section 219 of PL 116-260, and section 219 of PL 117-103

⁴¹ Section 223(c) of PL 115-31, section 222(c) of PL 115-141, section 221(c) of PL 116-6, section 219(c) of PL 116-94, section 219(c) of PL 116-260, and section 219(c) of PL 117-103

the past 36 months and identify properties that score less than 60 multiple times. The first report must be submitted to the Senate and House Committees on Appropriations not later than 30 days after the enactment of this Act and the second report must be submitted within 180 days of the transmittal of the first report.

Section 219(e) of Public Law 116-260, the Department of Housing and Urban Development Appropriations Act, 2021, as included in the Consolidated Appropriations Act, 2021, stated that the Secretary must report quarterly on all properties covered under a housing assistance payments contract that are assessed through REAC and have UPCS physical inspection scores of less than 60 within the past 36 months and identify properties that score less than 60 multiple times. This report must be submitted to the Senate and House Committees on Appropriations not later than 30 days after the enactment of this Act and on the first business day of each Federal fiscal year quarter thereafter while this section remains in effect.

Section 219(e) of Public Law 116-94, the Department of Housing and Urban Development Appropriations Act, 2020, as included in the Further Consolidated Appropriations Act, 2020, stated that the Secretary must report quarterly on all properties covered under a housing assistance payments contract that are assessed through REAC and have UPCS physical inspection scores of less than 60 within the past 36 months and identify properties that score less than 60 multiple times. This report is due to the Senate and House Committees on Appropriations no later than 30 days after the enactment of this Act and on the first business day of each Federal fiscal year quarter thereafter while this section remains in effect.

Section 221(e) of Public Law 116-6, the Department of Housing and Urban Development Appropriations Act, 2019, as included in the Consolidated Appropriations Act, 2019, stated that the Secretary must report quarterly on all properties covered under a housing assistance payments contract that are assessed through REAC and have UPCS physical inspection scores of less than 60 within the past 36 months and identify properties that score less than 60 multiple times. This report is due to the Senate and House Committees on Appropriations no later than 30 days after the enactment of this Act and on the first business day of each Federal fiscal year quarter thereafter while this section remains in effect.

Section 222(e) of Public Law 115-141, the Department of Housing and Urban Development Appropriations Act, 2018, as included in the Consolidated Appropriations Act, 2018, stated that the Secretary must report quarterly on all properties covered under a housing assistance payments contract that are assessed through REAC and have UPCS physical inspection scores of less than 60 within the past 36 months and identify properties that score less than 60 multiple times. This report is due to the Senate and House Committees on Appropriations no later than 30 days after the enactment of this Act and on the first business day of each Federal fiscal year quarter thereafter while this section remains in effect.

Section 223(e) of Public Law 115-31, the Department of Housing and Urban Development Appropriations Act, 2017, as included in the Consolidated Appropriations Act, 2017, stated that the Secretary must report quarterly on all properties covered under a housing assistance payments contract that are assessed through REAC and have UPCS physical inspection scores of less than 60 within the past 36 months and identify properties that score less than 60 multiple times.

HUD's regulations at 24 CFR 5.703 stated that HUD housing must be decent, safe, sanitary, and in good repair.⁴²

HUD's regulations at 24 CFR 200.857(c)(1) stated that upon completion of a physical inspection of a multifamily housing property, REAC will provide the owner or owner's representative, on the date of the physical inspection, notice of the items classified as EHS deficiencies. REAC also will provide the owner with the entire physical inspection report, which provides the physical inspection results and other information relevant to the inspection, including any items classified as EHS deficiencies and already provided to the owner, on the date of the inspection. Section 200.857(c)(2) stated that the owner must carefully review the physical inspection report, particularly those items classified as EHS. The owner is also responsible for conducting its own survey of the total project based on REAC's physical inspection findings. The owner must mitigate all EHS items immediately, and the owner must file a written report with the applicable multifamily hub director within 3 business days of the date of the inspection, which is the date on which the owner was provided with the EHS notice. The report filed by the owner must provide a certification and reasonable evidence that the EHS items have been resolved.⁴³

Section IV of HUD's Housing Notice H 2018-08, Servicing of Projects That Do Not Meet HUD's Physical Condition Standards and Inspection Requirements or Fail To Certify That Exigent Health and Safety Deficiencies Have Been Resolved as Required, issued October 29, 2018, states that within 15 days of the physical inspection report release date, a notice of violation of regulatory agreement or a notice of default of subsidy contract must be issued to the owner of the property for all projects with an assistance contract or regulatory agreement, consistent with contractual and other regulatory requirements, when (1) the issuance of a physical inspection report reveals an inspection score below 60⁴⁴ or (2) a property owner fails to properly certify to HUD in writing in a timely manner that all EHS deficiencies identified during a physical inspection have been corrected. In part, each notice must advise the owner of the violations or defaults of the owner's business agreements and provide a reasonable period (cure period) to correct the deficiencies and take other actions identified below.

- A. If the violations or defaults relate to deficiencies identified in a REAC inspection report that resulted in a score below 60, the owner should be directed to take the following actions within the cure period: (1) conduct a survey of the entire project, including all units, common areas, grounds, building systems and site(s); (2) correct all deficiencies at the property, including those identified in REAC's inspection report and the owner's survey; and (3) submit to its account executive a copy of

⁴² During our audit period, HUD's regulations at 24 CFR 5.703 required HUD housing to be decent, safe, sanitary, and in good repair. However, effective July 1, 2023, HUD amended 24 CFR Part 5 and section 5.703(a) now states that HUD housing must be functionally adequate, operable, and free of health and safety hazards and that the standards under this section apply to all HUD housing.

⁴³ Effective October 1, 2023, HUD's regulations at 24 CFR 200.857(c)(1) and 200.857(c)(2) were removed and reserved. However, similar requirements now exist in HUD's regulations at 24 CFR 5.711(c).

⁴⁴ HUD's Housing Notice H 2018-08 included a footnote stating that the language in the appropriations acts creates ambiguity by stating that the acts apply to projects with physical inspection scores of 60 or below. However, the acts also state that the Secretary may withdraw a notice of default if an owner's appeal raises the score to 60 or above and that the Secretary must report to Congress on all projects with physical inspection scores of less than 60. Since it has always been HUD's practice to issue notices of default or violation when a project receives a score below 60, this notice assumes that Congress intended it to apply to projects that receive a physical inspection score of 59 or below.

the owner's survey and a form certifying that all deficiencies have been corrected and that the property meets HUD's physical condition standards and inspection requirements.

- B. If the violations or defaults relate to the owner's failure to properly certify to HUD in a timely manner that all identified EHS deficiencies have been resolved, the owner should be provided with a cure period of 3 business days to submit the required certification to the account executive.
- C. If the violations or defaults relate to deficiencies identified in a REAC inspection report that resulted in a score below 60 and the owner's failure to properly certify to HUD in a timely manner that all identified EHS deficiencies have been resolved (conditions described in both A and B above), the notice of violation or default must prescribe the corrective actions identified for both conditions, along with their respective cure periods.

Section IV of HUD's Housing Notice H 2018-08 states that requests for extension of the requirement to submit an EHS certification may not be approved except by the Federal Housing Administration Commissioner. Any extension of the requirement to submit an EHS certification is a waiver of current statute or regulation. Owner requests for an extension of other notice of violation or default requirements may be considered at the field office level and approved by the appropriate multifamily regional or satellite office director. However, before any such approval and before the deadline provided in the notice of violation or default, the owner must request an extension in writing from the field office. At a minimum, the owner's request must include a copy of the owner's complete survey of the property; a status report of all deficiencies identified in the owner's survey and the REAC inspection report; and a thorough repair plan to correct all remaining deficiencies, including timelines, repair or replacement costs, and sources of funding. All extension approvals must be made in writing and include any additional requirements and conditions. Examples of additional conditions supporting an extension of time include invoices, weekly certifications of repairs, scope of work for specific areas such as electrical, plumbing, roofing, etc. DEC will not approve such requests but will forward them to the appropriate Office of Asset Management and Portfolio Oversight field office for review.

Section IV of HUD's Housing Notice H 2018-08 states that after a notice of violation or default is issued, a new REAC inspection must be ordered to ensure that the owner has corrected the deficiencies at the property and that the project meets the physical condition standards and inspection requirements. For projects that receive a score of 30 and under, the reinspection request should be made immediately upon issuance of the notice of violation or default. Typically, DEC issues the notice of violation or default in these circumstances and will order the reinspection in such instances. The ideal date requested for the reinspection should be as soon as possible after the expiration of the cure period provided in the notice of violation or default. If an extension of the cure period is later approved by the Office of Asset Management and Portfolio Oversight, the reinspection request must be modified by Office of Asset Management and Portfolio Oversight staff to occur as soon as possible after the expiration of the extended cure period. For projects that receive a score of 31 and above, the request for reinspection should be delayed until after the cure period provided in the notice of violation or default expires, including any cure period extension granted by the Office of Asset Management and Portfolio Oversight. If the owner fulfills the requirements of the notice of violation or default in a timely manner, the reinspection should be ordered to occur within 1-year after the date of the last inspection. If the owner fails to fulfill any of the requirements of the notice of violation or default in a timely manner, the reinspection should be requested to occur as soon as possible. Such requests will be made by Office of Asset Management and Portfolio Oversight staff, even if the notice of violation or default was issued by DEC. HUD, at its discretion, may decide that a physical inspection immediately after the cure period in the notice of violation or default expires is not necessary. The request will be made by whomever issues

the notice of violation or default through an entry in the Office of Asset Management and Portfolio Oversight's SharePoint site.

Section IV of HUD's Housing Notice H 2018-08 states that if the owner fails to comply with the requirements of the notice of violation or default or if upon reinspection of the project, HUD determines that the property still does not meet UPCS, the following actions should be considered consistent with current HUD policy and applicable statutes, regulations, and contracts: (1) require a compliance or stabilization workout arrangement; (2) require a change in management agent; (3) transfer the property or the Section 8 contract; (4) impose civil money penalties; (5) terminate the rental assistance contract; (6) initiate a default of the regulatory agreement and foreclosure; (7) initiate receivership; (8) initiate a limited denial of participation; and (9) initiate suspension or debarment. The list of enforcement options above is not exhaustive, and HUD, as it deems warranted, may either initiate any available enforcement action authorized under existing statutes, regulations, contracts, or other documents or cooperate with the U.S. Department of Justice in asserting civil or criminal claims. Further, if HUD determines, after a reinspection, that an owner has falsely certified that EHS repairs have been made or that all deficiencies found during the initial inspection have been corrected, HUD may consider taking action against the owner under the Program Fraud Civil Remedies Act.

HUD's Housing Notice H 2018-08 contains an attachment titled Project Owner's Certification That the Physical Condition of the Project is in Compliance With HUD Contracts and the Physical Condition Standards of 24 CFR 5.703. The attachment (owner certification example) states that the project owner hereby certifies that:

- A. All physical deficiencies of the project identified in the HUD inspection(s) of the project performed on _____ and the attached project owner's survey of the project performed on _____ have been corrected, and the project is in compliance with the physical condition requirements of all HUD contracts pertaining to the project and the physical condition standards of 24 CFR 5.703. The term "project" includes all units, common areas, building(s), grounds, and systems.
- B. To the best of the project owner's knowledge, the project complies with all state and local codes.

Appendix C – Schedule of Deficiencies

Sample no.	Property identification number (last 4 digits)	Notice of violation or default		Owner survey		Owner certification		EHS certification missing
		Issued late	Days late	Issue noted	Missing	Issue noted	Missing	
1	0186	X	21					X
2	0414							X
3	1208			X				
4	1269	X	1,369		X		X	
5	1964	X	28					X
6	2500							
7	3262							
8	3755	X	6					
9	4748							
10	4972			X				
11	5814							
12	5828							
13	6313							X
14	6668							
15	6912	X	3					
16	7406			X				
17	8124			X				
18	8143	X	6					
19	8266	X	133				X	
20	9507							X
21	9988							
22	0035						X	
23	0046					X		
24	0268			X				
25	1316							
26	1350	X	5					
27	2178				X			
28	2390	X	5		X		X	
29	2438	X	5	X				
30	3373				X		X	
31	4788							
32	4840			X				
33	5372	X	12	X		X		

34	5669				X			
35	5983	X	29		X		X	X
36	6122			X		X		
37	6345							X
38	6946							X
39	7792				X		X	
40	8441	X	3					
41	8503	X	17			X		
42	0213							
43	0842			X				
44	2242	X	11					
45	2530							X
46	2959			X				
47	8345							X
48	3670							
49	2569	X	270					X
50	6406	X	19					
51	6417							
52	2321	X	14	X				
53	1365					X		X
54	2425	X	19					
55	5386				X			X
56	8085							
57	7558	X	111		X			
58	2176			X				
59	8672	X	1					
60	9423	X	6	X				
61	0531	X	36			X		
62	1698	X	13		X			X
63	2956			X				X
64	5261			X				
Totals		24	2,142	16	10	6	7	15