



**Office of Public Housing
Greensboro, NC**

**Public Housing Capital Fund and American
Recovery and Reinvestment Act of 2009
Environmental Reviews**



Issue Date: July 14, 2014

Audit Report Number: 2014-FW-0004

TO: Michael A. Williams
Director of the Greensboro Office of Public Housing, 4FPH

//signed//

FROM: Gerald R. Kirkland
Regional Inspector General for Audit, Fort Worth Region, 6AGA

SUBJECT: Improvements Are Needed Over Environmental Reviews of Public Housing and Recovery Act Funds in the Greensboro Office

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the Greensboro Office of Public Housing's oversight and performance of environmental reviews pertaining to the Public Housing Capital Fund program.

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

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at (817) 978-9309.



July 14, 2014

Improvements Are Needed Over Environmental Reviews of Public Housing and Recovery Act Funds in the Greensboro Office

Highlights

Audit Report 2014-FW-0004

What We Audited and Why

We audited the U.S. Department of Housing and Urban Development's (HUD) Greensboro, NC, Office of Public Housing as part of a nationwide audit of HUD's oversight of environmental reviews. We selected the Greensboro Office based on our risk assessment. Our audit objectives were to determine whether the Greensboro Office of Public Housing ensured that it performed the required reviews and did not release funds until all requirements were met and required documents were submitted.

What We Recommend

We recommend that the Greensboro Office implement policies and procedures to ensure that public housing agencies comply with public notification requirements at 24 CFR (Code of Federal Regulations) Part 58 or Part 50. To correct systemic weaknesses identified in this report, we will make recommendations to HUD headquarters in an upcoming nationwide audit report.

What We Found

The Greensboro Office did not follow environmental requirements at 24 CFR Part 50 when it determined compliance with National Environmental Policy Act of 1969-related laws and authorities for the 126 public housing agencies in its jurisdiction. Specifically, it did not properly evaluate environmental conditions or maintain required documentation, and may have allowed a housing agency to circumvent requirements. This condition occurred because the Greensboro Office did not have adequate standard operating procedures and its staff was not adequately trained to ensure environmental compliance. As a result, the Greensboro Office may have increased the risk to the health and safety of public housing agency residents and the general public and may have failed to prevent or eliminate damage to the environment. Further, the Greensboro Office approved 126 housing agencies to spend more than \$180 million, including more than \$83 million in American Recovery and Reinvestment Act funds, on projects that did not have a proper environmental review or the environmental reviews were not adequately supported.

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BACKGROUND AND OBJECTIVES

In January 1970, Congress passed the National Environmental Policy Act of 1969 (NEPA). The objective of this legislation was to establish a national policy that would encourage productive and enjoyable harmony between man and his environment and to promote efforts to prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man. To carry out the policy set forth in the Act, Congress directed that it is the continuing responsibility of the Federal Government to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences. Further, Congress authorized and directed all agencies of the Federal Government to identify and develop methods and procedures to ensure that the agencies complied with environmental policies, regulations, and public laws of the United States.

To further the purpose and policy of NEPA, the President issued Executive Order 11514, Protection and Enhancement of Environmental Quality, on March 5, 1970. Based on the executive order, the heads of Federal agencies are required to continually monitor, evaluate, and control their agencies' activities to protect and enhance the quality of the environment. In addition, Federal agencies are required to review their agencies' statutory authority, administrative regulations, policies, and procedures, including those relating to loans, grants, contracts, leases, licenses, or permits, to identify any deficiencies or inconsistencies that prohibit or limit full compliance with the purposes and provisions of the Act.

The U.S. Department of Housing and Urban Development (HUD) responded to NEPA and Executive Order 11514 by developing 24 CFR (Code of Federal Regulations) Part 50, Protection and Enhancement of Environmental Quality. Regulations at 24 CFR Part 50 direct HUD to carry out the policies of NEPA and other laws and authorities. This responsibility includes performing an independent evaluation of the environmental issues, determining the scope and content of the environmental compliance finding, and making the environmental determination.

Our audit objectives were to determine whether the Greensboro Office of Public Housing ensured that it performed the required reviews and did not release funds until all requirements were met and required documents were submitted.

RESULTS OF AUDIT

Finding 1: The Greensboro Office of Public Housing Did Not Follow 24 CFR Part 50 Requirements When It Performed Environmental Reviews

The Greensboro Office did not follow environmental requirements at 24 CFR Part 50 when it determined compliance with NEPA-related laws and authorities for the 126 public housing agencies in its jurisdiction. Specifically, it did not properly evaluate environmental conditions or maintain required documentation, and may have allowed a housing agency to circumvent requirements. This condition occurred because the Greensboro Office did not have adequate standard operating procedures, and its staff was not adequately trained to ensure environmental compliance. As a result, the Greensboro Office may have increased the risk to the health and safety of public housing agency residents and the general public and may have failed to prevent or eliminate damage to the environment. Further, the Greensboro Office approved 126 housing agencies to spend more than \$180 million, including more than \$83 million in American Recovery and Reinvestment Act funds, on projects that did not have a proper environmental review or the environmental reviews were not adequately supported.

The Greensboro Office Did Not Follow 24 CFR Part 50 Requirements

For the 126 public housing agencies in its jurisdiction, the Greensboro Office did not properly implement environmental review requirements to ensure compliance with NEPA. Regulations at 24 CFR Part 50 direct HUD to carry out the policies of NEPA and other laws and authorities. This responsibility includes performing an independent evaluation of the environmental issues, determining the scope and content of the environmental compliance finding, and making the environmental determination. Failure by HUD to adequately conduct 24 CFR Part 50 environmental reviews may have increased the risk to the health and safety of public housing agency residents and the general public since HUD could not ensure that they were not exposed to an unnecessary risk of contamination, pollution, or other adverse environmental effects. The Greensboro Office did not

- Follow the environmental requirements when it performed environmental reviews,
- Properly evaluate environmental conditions with the required compliance factors,
- Maintain complete environmental records and supporting documentation,
- Comply with internal control requirements,

- Ensure that funds transferred to housing agencies' operating accounts met environmental requirements, or
- Monitor staff for compliance.

The Greensboro Office Did Not Follow Environmental Requirements When It Performed Environmental Reviews

The Greensboro Office did not perform the environmental reviews or address the compliance factors listed in part A of the form HUD-4128¹ on an individual basis for each housing agency. Rather than performing an independent evaluation for each housing agency, the general engineers stated that they looked at each of the housing agencies' annual plans and completed one form HUD-4128 for all 126 housing agencies' environmental reviews. The staff stated that the form was based on all housing agencies' activities being exempt or categorically excluded; therefore, no further review was performed.

However, failure to evaluate each housing agency's projects or activities based on the environment surrounding that particular location can lead to inaccurate conclusions. For example, the City of Elizabeth City is on the east coast of North Carolina and has a large mass of land zoned as a special flood zone area, which can have a direct impact on public housing projects. These projects, if located within the special zone, were required to meet the Federal requirements² regarding flood insurance. Conversely, the City of Charlotte is located more in the western region of the State, and the majority of its land mass is considered outside any flood zone requirements. Thus, flood insurance was not required for the majority of the land mass. However, because the Greensboro Office did not make individual assessments showing that the housing developments were either inside or outside the flood zones, it was unable to ensure that potentially at-risk units and tenants were protected from loss. Regulations at 24 CFR 50.11 state that the HUD approving official must make an independent evaluation of the environmental issues and maintain copies of the environmental reviews and findings in the project files. The environmental information must be an accurate scientific analysis and concentrate on the issues that are truly significant to the project or activities in question related to that particular area.

The Greensboro Office Did Not Properly Evaluate Environmental Conditions With the Required Compliance Factors

The Greensboro Office did not properly evaluate compliance with the factors listed at 24 CFR 50.4. Rather, it marked the one form HUD-4128 completed for all of the housing agencies' compliance factors as "not applicable," stating that an environmental assessment was not required because the Capital Fund grants satisfied the criteria. While an environmental assessment may not have been required if the projects were determined to be categorically excluded based on 24 CFR 50.20, the compliance factors listed in 24 CFR 50.4 must be evaluated.

¹ Environmental Assessment and Compliance Findings for the Related Laws

² 24 CFR 50.4(b) and 55.20

Following are examples of compliance factors that the Greensboro Office did not evaluate:

- *Historic preservation* – The Greensboro Office did not evaluate historic preservation impacts before activities were undertaken at any of the housing agencies. The regulations require a HUD official to identify historic properties in consultation with the State historic preservation officer, even if HUD believes that no historic properties are present or that historic properties may be present but the undertaking will have no adverse effect upon the properties.³
- *Floodplain management and flood insurance* – The Greensboro Office did not evaluate compliance with floodplain management or flood insurance requirements.⁴ The State of North Carolina has several flood zones, including special flood hazard areas that have a 26 percent chance of flooding during a standard 30-year home mortgage. Federal floodplain management regulations and mandatory flood insurance purchase requirements apply to special flood hazard areas. However, the Greensboro Office did not ensure compliance by correctly identifying on Federal Emergency Management Agency maps where the developments were located and whether they were located in a special flood hazard area.
- *Noise control* – The Greensboro Office did not evaluate compliance with noise control requirements for major rehabilitation or conversion projects to determine whether there was a need for noise reduction features.⁵ For example, the Charlotte Housing Authority used Recovery Act funds for the demolition and infrastructure of the Boulevard Homes development. Any project that reuses a development must undergo a noise evaluation. The Boulevard Homes development lies adjacent to a major roadway and is located near the Charlotte International Airport and should have been considered for potential noise impacts. However, the Greensboro Office did not determine whether there was a need for noise reduction features.
- *Hazardous operations and toxic site hazards* – The Greensboro Office did not evaluate or support that it evaluated housing agencies for hazardous operations or toxic chemicals and radioactive substances.⁶ Contamination can occur in the surface soil, subsurface soil, and ground water on or near a project site and can be attributed to multiple potential sources, including naturally occurring substances such as radon or releases of hazardous chemicals and substances.

³ 24 CFR 50.4(a) and 36 CFR 800.4(d)(1)

⁴ 24 CFR 50.4(b) and 55.20

⁵ 24 CFR 50.4(k) and 24 CFR Part 51, Subpart B

⁶ 24 CFR 50.3(i)(1)

- *Air quality* – The Greensboro Office did not evaluate or record whether any of the housing agencies had been properly inspected for the presence of asbestos and if found, whether the appropriate notification, abatement, and disposal measures had been implemented as required.⁷ Housing agency rehabilitation projects included replacement of major systems (heating, ventilation, and air conditioning), roofing, flooring, and windows, all of which can contain asbestos materials. Therefore, the Greensboro Office should have evaluated the air quality and implemented the proper procedures. Instead, it marked the form HUD-4128 as not applicable to the air quality plan and provided no evidence of how compliance was met.
- *Other NEPA-related laws and authorities cited in 24 CFR 50.4* – The Greensboro Office also did not evaluate compliance with environmental justice, sole-source aquifers, wetland protection, endangered species, wild and scenic rivers, coastal barrier resources, farmland protection, and airport clear zones. These other NEPA-related laws and authorities were marked on the form as “not applicable” without evidence to validate the determinations.

The Greensboro Office’s Environmental Records Were Incomplete and Lacked Supporting Documentation

The Greensboro Office did not properly document its decision making for compliance with NEPA. The environmental review records for the housing agencies’ 2009 Recovery Act and 2011 and 2012 Capital Fund grants did not include complete project descriptions. For example, they did not identify the project names or locations. Instead they listed “Reference PHA’s [public housing agency] Annual Statements” or “Reference Attached PHA Listing” without providing the street, city, county, or State information as requested on the form HUD-4128. Also, the activities proposed for each development were not clearly described, and the number of buildings, number of units, and age of structures were not listed. The records also did not provide site plans, locational maps, or site photographs that would support what activities comprised the projects, where the projects were located, and when the activities would be performed.

The one environmental review record for each year reviewed contained form HUD-4128 as required; however, the Greensboro Office staff marked all of the housing agencies’ compliance factors as “not applicable” without supporting documentation to validate the compliance determinations made. Examples of valid source documentation include

- A properly marked Federal Emergency Management Agency map identifying the locations of housing agency properties,

⁷ 24 CFR 50.4(h)

- A documented finding sent to the State historic preservation officer or a programmatic agreement with the State historic preservation officer,
- An airport clear zone map that can be obtained by the local airport management, and
- A national wetlands inventory map found on the U.S. Fish and Wildlife Web site.

The Greensboro Office Did Not Comply With Internal Control Requirements

The Greensboro Office did not comply with internal control requirements set forth in HUD's Field Office Environmental Review Guidance, which required, at a minimum, (1) a list of responsible entities that HUD determined would or would not perform the environmental reviews on behalf of HUD, (2) a list of request for release of fund certifications that had been received and the corresponding clearance provided, (3) a list of environmental reviews conducted by the Greensboro Office, and (4) separate environmental files for each housing agency within its jurisdiction. The Greensboro Office's tracking log was incomplete as it was maintained for new construction or demolition and disposition projects only. It did not include Capital Fund grants completed under 24 CFR Part 50 because the Greensboro Office completed only one environmental review per year for all housing agencies' Capital Fund grants. The tracking log contained a list of the project names; proposed action-acquisition, demolition, or disposition; comments; State historic preservation officer action dates; environmental review completion dates; and Special Applications Center approval dates. However, it did not contain the project or grant numbers, the fund years, the names of the officials who performed the reviews, any mitigation actions required, the dates on which they were signed, and the dates on which the letters were sent to the housing agencies approving use of the funds. The Greensboro Office also did not maintain a list of responsible entities that HUD determined would or would not perform the environmental reviews on its behalf.

The Greensboro Office Did Not Ensure That Operating Costs Met Environmental Requirements

The Greensboro Office did not ensure that funds transferred to housing agency operating accounts met environmental requirements. A Greensboro Office staff member stated that the small housing agencies transferred 100 percent of their capital funds into their operating accounts, while the large housing agencies transferred the allowed 20 percent. The staff member further stated that some of the housing agencies would provide a description of what operating costs were used for but it was not required. However, HUD's Field Office Environmental Review Guidance⁸ states that housing agencies should provide a description of operating costs to HUD or the responsible entity to allow completion of the environmental review.

⁸ Section 5: Program Requirements – Capital Fund Program (Special Note)

Further, 24 CFR 990.116 provides that the environmental review procedures of NEPA and the implementing regulations at 24 CFR Part 50 are applicable to the operating fund program. In addition, the housing agencies' annual contributions contracts⁹ prohibited any costs incurred as part of the development or modernization costs from being included in operating expenditures. Responsibility for determining whether operating funds meet environmental requirements is determined by the type and nature of the projects or activities for which the costs were incurred and not on the characterization of funds, such as capital or operating. Operating costs, such as maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs, are categorically excluded not subject to 24 CFR 50.4 laws and authorities. However, HUD's Office of Public Housing must review the expenditures from the operating account to ensure that a proper level of environmental review was performed for activities that were subject to review.

Greensboro Office Management Did Not Monitor Its Staff To Ensure Compliance
The Greensboro Office's management did not monitor its staff to ensure that staff properly performed the 24 CFR Part 50 environmental reviews for compliance with environmental requirements. Further, the Greensboro field environmental officer stated that he monitored only HUD's community planning and development programs because he did not have authority over other HUD programs. Executive Order 11514 required Federal agencies to continually monitor, evaluate, and control their agencies' activities to protect and enhance the quality of the environment.

The Greensboro Office May Have Allowed the Charlotte Housing Authority To Circumvent Environmental Requirements

The Greensboro Office, based on a request, dated January 14, 2010, from the Charlotte Housing Authority, allowed the Authority to perform its own environmental reviews. Neither 24 CFR Part 50 nor 24 CFR Part 58 allows housing agencies to perform their own environmental reviews. Under 24 CFR Part 50, HUD must perform the reviews, while under 24 CFR Part 58, the responsible entity must perform the reviews. The Authority stated in its letter that it was concerned with the extended amount of time added to the environmental review process if a responsible entity performed reviews under 24 CFR Part 58. The Authority estimated that the process would take a minimum of 39-53 days, whereas a review under 24 CFR Part 50 required only 6-15 days to process. The Authority stated that it would accomplish the environmental reviews by hiring a consultant to perform them and complete the form HUD-4128 and would submit

⁹ Form HUD-53012A

the completed form to HUD for review and approval. The Authority also stated that it would not have to publish a finding of no significant impact and a notice of intent to request release of funds¹⁰ in the local newspaper as 24 CFR Part 50 does not require publication. However, Federal regulations¹¹ require HUD to inform the affected public about NEPA-related hearings, public meetings, and the availability of environmental documents. All required notices must be published in an appropriate local printed news medium and sent to individuals and groups known to be interested in the proposed action. When project actions result in a finding of no significant impact, documentation must be available in the project file.

Included in the consultant's environmental review would be a statutory checklist, which would address such items as contacting the State Historical Preservation Office for compliance. However, HUD or the responsible entity was required to send out the historic preservation letters to the State Historic Preservation Office for National Historic Preservation Act, Section 106, consultation and compliance, not the consultant or the Authority. By not requiring the Authority to provide public notice and allowing it to notify the State Historic Preservation Office, the Greensboro Office circumvented the environmental requirements.

The Greensboro Office Did Not Have Adequate Standard Operating Procedures To Meet 24 CFR Part 50 Requirements

The Greensboro Office's standard operating procedures did not meet the requirements set forth in 24 CFR Part 50. The standard operating procedures are written field office procedures for conducting environmental reviews of capital funds. The Greensboro Office's approved procedures were dated April 10, 2009; however, the staff followed unapproved procedures, dated May 27, 2009. Neither of the procedures met the requirements of 24 CFR Part 50. For example, the procedures stated that the environmental reviews pertaining to developments with 250 or more units were required to be reviewed by the field environmental officer. However, 24 CFR Part 50 required the reviews by the field environmental officer if developments had more than 200 units. The requirements¹² state that the environmental review is a process for complying with NEPA and other laws and authorities and that HUD must comply with all environmental requirements, guidelines, and statutory obligations.

¹⁰ Regulations at 24 CFR 58.43 require the responsible entity, not the housing authority, to publish a finding of no significant impact and a notice of intent to request release of funds.

¹¹ 24 CFR 50.23

¹² 24 CFR 50.2(a) and 50.4

The Greensboro Office Staff Was Not Adequately Trained To Perform Environmental Reviews

The Greensboro Office’s public housing staff did not perform the environmental reviews according to the requirements at 24 CFR Part 50. The public housing division director was required to sign the form HUD-4128 as the supervisor reviewer before submitting it to the public housing director for signature as the HUD approving official. However, neither the division director nor the director signed any of the forms. Further, the division director stated that he had not received training related to 24 CFR Part 50 since joining HUD in June 2012.

In addition, one general engineer who performed environmental reviews stated that he received environmental training when he first joined HUD 26 years earlier and had received only refresher training since, while the other general engineer who performed reviews stated that he had an environmental degree but had not received HUD training related to environmental reviews. Regulations at 24 CFR 50.10 state that it is the responsibility of all Assistant Secretaries, the General Counsel, and the HUD approving official to ensure that the requirements are implemented; however, without adequate training for field office management and staff, HUD could not ensure that it complied with NEPA.

The 126 Housing Agencies Expended More Than \$180 Million Without Proper Environmental Reviews

As shown in table 1, the Greensboro Office approved 126 housing agencies to spend more than \$180 million, including more than \$83 million in Recovery Act funds, on projects that did not have a proper environmental review or the environmental reviews were not adequately supported. Since HUD failed to follow environmental review requirements, we are not recommending that the housing agencies repay the funds.

Table 1: Expended funds

Housing agency	2009 Recovery Act funds	2011 capital funds	2012 capital funds	Total
126 North Carolina housing agencies	\$83,393,816	\$52,558,305	\$44,773,768	\$180,725,889

Conclusion

The Greensboro Office did not properly perform and document environmental reviews for all 126 public housing agencies in its jurisdiction. Also, it did not enforce the public notification requirements at the Charlotte Housing Authority. Thus, it did not properly implement environmental review requirements. Because the environmental reviews did not comply with requirements, the Greensboro Office may have increased the risk to the health and safety of public housing agency residents and the general public and may have failed to prevent or eliminate damage to the environment. Further, the housing agencies spent more than \$180 million, including more than \$83 million in Recovery Act funds, on projects that did not have a proper environmental review or the environmental reviews were not adequately supported.

Greensboro Office management was responsible for verifying that environmental reviews complied with requirements by conducting periodic monitoring and ensuring that environmental compliance training was provided to its staff. Since these conditions appeared to have been systemic, we will make recommendations to HUD headquarters in a future report.

Recommendations

- 1A. We recommend that the Director of the Greensboro Office of Public Housing implement policies and procedures to ensure that the housing agencies follow public notification requirements set forth in either 24 CFR Part 58 or 24 CFR Part 50.

SCOPE AND METHODOLOGY

We conducted our audit work between November 2012 and August 2013 at the HUD field office, the Greensboro Housing Authority, and the City of Greensboro in Greensboro, NC, and at the Charlotte Housing Authority and the City of Charlotte in Charlotte, NC. We also conducted audit work at our offices in Albuquerque, NM, and Houston, TX. Our review covered the 2009 Recovery Act grant from March 18, 2009, to March 17, 2010, and fiscal years 2011 and 2012 Capital Fund grants from October 1, 2010, to September 30, 2012.

To accomplish our objectives, we

- Reviewed applicable public laws and executive orders that direct the requirements of environmental compliance;
- Reviewed Federal regulations related to the environmental review process and HUD's handbooks and guidance on environmental compliance;
- Reviewed various HUD job descriptions related to environmental oversight;
- Conducted interviews with staff from HUD's Greensboro field office, selected housing agencies, and their respective cities;
- Analyzed HUD's field office's, housing agencies', and the Cities' environmental review processes for compliance with environmental requirements;
- Analyzed environmental review records to determine whether environmental requirements were met;
- Compared the housing agencies' original, revised, and final annual statements, as applicable, to determine the projects completed under the grants and any changes to the projects;
- Reviewed HUD's Line of Credit Control System (LOCCS) grant budget, vouchers, and obligation and expenditures detail data. We verified the reliability of LOCCS data with other sources of information, such as contracts, annual plans, and environmental certifications.
- Compared the Greensboro Office's environmental tracking logs to the minimum internal control requirements set forth in HUD's Field Office Environmental Review Guidance to ensure compliance; and
- Compared the housing agencies' contracts to LOCCS details and the environmental records to ensure that funds were not obligated or expended before completion of the review.

We selected the Greensboro Office based on our risk assessment, using information we obtained related to funding levels, historic value, industry uses, and the environmental process used. We selected the Greensboro and Charlotte Housing Authority's and their respective cities, the Cities of Greensboro and Charlotte, to gain an understanding of their environmental review knowledge. In addition, we reviewed certain aspects of the environmental review process for all 126 housing agencies within the Greensboro Office's jurisdiction.

We did not use or rely on computer-processed data to support our conclusions.

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 objectives.

INTERNAL CONTROLS

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

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

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

Relevant Internal Controls

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

- Controls to ensure that the Greensboro Office properly implemented mandated environmental review requirements, including
 - Controls to ensure that HUD did not release funds and the housing agencies did not obligate or expend funds before completion of the environmental reviews by the Greensboro Office,
 - Controls to ensure that the Greensboro Office complied with HUD's Field Office Environmental Review Guidance for maintaining tracking logs and files,
 - Controls to ensure that the Greensboro Office monitored for environmental compliance, and
 - Controls to ensure that the Greensboro Office received adequate training on environmental compliance for Capital Fund grants.

We assessed the relevant controls identified above.

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

Significant Deficiency

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

- The Greensboro Office did not follow environmental requirements when it performed environmental reviews for the public housing agencies within its jurisdiction (finding).

Appendix A

AUDITEE COMMENTS AND OIG'S EVALUATION

Auditee Comments

The director of the Greensboro Office of Public Housing stated that his office had no comments.

Appendix B

CRITERIA

Criterion 1

The purpose of NEPA is to declare a national policy that will encourage productive and enjoyable harmony between man and his environment. To carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences.

Criterion 2

Executive Order 11514, section 2(a), states that the heads of Federal agencies must “monitor, evaluate, and control on a continuing basis their agencies’ activities so as to protect and enhance the quality of the environment. Agencies shall develop programs and measures to protect and enhance environmental quality and shall assess progress in meeting the specific objectives of such activities.”

Criterion 3

Regulations at 24 CFR 50.2(a) state, “The definitions for most of the key terms or phrases contained in this part appear in 40 CFR part 1508 and in the authorities cited in §50.4,” to include the following definitions:

- Environmental review means a process for complying with NEPA (through an environmental assessment or environmental impact statement) or with the laws and authorities cited in section 50.4.
- HUD approving official means the HUD official authorized to make the approval decision for any proposed policy or project subject to this part.
- Project means an activity or a group of integrally related activities undertaken directly by HUD or proposed for HUD assistance or insurance.

Criterion 4

Regulations at 50.3(i)(1) state, “It is HUD policy that all property proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gasses, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.”

Criterion 5

Regulations at 24 CFR 50.4 state, “HUD and/or applicants must comply, where applicable, with all environmental requirements, guidelines and statutory obligations under the following authorities and HUD standards:”

- Historic properties;
- Flood insurance, floodplain management, and wetland protection;
- Coastal areas protection and management;
- Water quality and sole-source aquifers;
- Endangered species;
- Wild and scenic rivers;
- Air quality;
- Solid waste management;
- Farmlands protection;
- Noise abatement and control;
- Explosive and flammable operations;
- Airport hazards (clear zones and accident potential zones); and
- Environmental justice.

Criterion 6

Regulations at 24 CFR 50.10(a) state, “It is the responsibility of all Assistant Secretaries, the General Counsel, and the HUD approving official to assure that the requirements of this part are implemented.”

Criterion 7

Regulations at 24 CFR 50.11(a) state that the HUD approving official must make an independent evaluation of the environmental issues; take responsibility for the scope and content of the compliance finding, environmental assessment, or environmental impact statement; and make the environmental finding.

Criterion 8

Regulations at 24 CFR 50.11(b) state that copies of environmental reviews and findings must be maintained in the project file.

Criterion 9

Regulations at 24 CFR 50.20(a) state that the following actions, activities, and programs are categorically excluded from the NEPA requirements of this part. They are not excluded from individual compliance requirements of other environmental statutes, executive orders, and HUD standards cited in section 50.4, where appropriate. Form HUD-4128 must be used to document compliance.

- Rehabilitation of structures when the following conditions are met:
 - In the case of residential buildings, the unit density is not changed more than 20 percent,

- The project does not involve changes in land use (from nonresidential to residential or from residential to nonresidential), and
- The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

Criterion 10

Regulations at 24 CFR Part 51, Subpart B, state that the purpose of this subpart is to provide policy on the use of structural and other noise attenuation measures where needed.

Criterion 11

Regulations at 24 CFR 55.20, Subpart C, state the procedures for making determinations on floodplain management, which contain eight steps, including public notices and an examination of practicable alternatives.

Criterion 12

Regulations at 24 CFR 990.116 state that the environmental review procedures of the National Environmental Policy Act of 1969 (42 U.S.C. (United States Code) 4332(2)(C)) and the implementing regulations at 24 CFR Parts 50 and 58 are applicable to the Public Housing Operating Fund program.

Criterion 13

Regulations at 36 CFR 800.4(d)(1) state, “*No Historic Properties Affected* – If the agency official finds that either there are no historic properties present or there are historic properties present but the undertaking will have no effect upon them as defined in §800.16(i), the agency official shall provide documentation of this finding, as set forth in §800.11(d), to the SHPO/THPO.¹³ The agency official shall notify all consulting parties including Indian tribes and Native Hawaiian organizations, and make the documentation available for public inspection prior to approving the undertaking. If the SHPO/THPO, or the Council if it has entered the section 106 process, does not object within 30 days of receipt of an adequately documented finding, the agency official’s responsibilities under section 106 are fulfilled.”

Criterion 14

Office of Public and Indian Housing, Office of Field Operations, Field Office Environmental Review Guidance, states that public housing agencies wishing to expend capital funds on operating costs have been permitted to do so by reporting the amount of funds “transferred” to operating costs on budget line item 1406 and drawing the funds down to the general ledger after budget approval. Office of Public Housing staff should be aware that some public housing agencies are expending funds reported on budget line item 1406 on standard capital – not operating – costs after they have been added to the general ledger. ***Amounts allocated by public housing agencies to line 1406 should be only those used for true operating costs.*** The public housing agencies should provide a description of operating costs to HUD or the responsible entity to allow completion of the environmental review.

¹³ State historic preservation officer/tribal historic preservation officer

Criterion 15

Office of Public and Indian Housing, Office of Field Operations, Field Office Environmental Review Guidance, states that at a minimum, the Office of Public Housing must maintain the following:

- A list of responsible entities that HUD has determined will or will not perform the environmental review on behalf of HUD. This list will be an important document for determining which public housing agencies will need to submit the clearance documents.
- A list of request for release of fund certifications that have been received and for which clearance has been provided.
- A list of environmental reviews that have been conducted by the Office of Public Housing for each program requiring environmental clearance.
- Separate environmental clearance files for each public housing agency.