

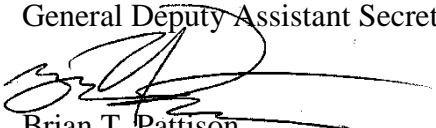
# MEMORANDUM

July 24, 2018



U.S. DEPARTMENT  
OF HOUSING  
AND URBAN  
DEVELOPMENT

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

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

Subject: Final Evaluation Report – HUD’s Oversight of the Alexander County Housing Authority, 2017-OE-0014

Please see the attached final report on our evaluation of the U.S. Department of Housing and Urban Development’s (HUD) oversight of the Alexander County Housing Authority in Cairo, IL. It contains three findings and four recommendations. The report will be posted to our website within 3 days.

In your response to our draft report, you agreed with our findings and recommendations. Your response, along with our comments to it, are included in our report. Based on your response, we consider recommendations 1, 2, 3, and 4 “unresolved-open.” We will contact your office within 90 days to begin discussing your proposed management decisions.

I appreciate the assistance you, your staff, and staff throughout HUD provided throughout the evaluation. If you have any questions, please contact Director Paul Bergstrand at (202) 402-2728.

Attachment

cc

Unabyrd Wadhams, Former Deputy Assistant Secretary for Field Operations, PQ  
Donald Lavoy, Deputy Assistant Secretary for the Real Estate Assessment Center, PX  
Kelley Lyons, Regional Public Housing Director for Chicago Hub, Office of Public and Indian Housing, 5FPH

Daniel Sherrod, Director, Chicago Hub, Office of Public and Indian Housing, 5APH  
Peter Schmiedel, Financial Management Specialist, Office of Public and Indian Housing, PCE  
Rochelle Katz, Assessment Manager, Office of Public and Indian Housing, PG  
James Cunningham, Deputy Regional Administrator, Office of Field Policy and Management, 5AMA

Bryan Greene, General Deputy Assistant Secretary, Office of Fair Housing and Equal Opportunity, E1

Terri L. Wanzer, Management Analyst, Office of Fair Housing and Equal Opportunity, EGP  
Charles M. Montgomery III, Director, Office of Fair Housing and Equal Opportunity, EGP  
Craig T. Clemmensen, Director, Departmental Enforcement Center, CACB

Office of Inspector General  
Office of Evaluation

451 7<sup>th</sup> Street SW, Washington, DC 20410  
Phone (202) 708-0430, Fax (202) 401-2505  
[www.hudoig.gov](http://www.hudoig.gov)

Frieda Edwards, Director, Office of General Counsel, CAGB  
Patrice Mitchell, Management Analyst, Office of General Counsel, CAGB



**U.S. Department of Housing and Urban Development**

**Office of Inspector General**  
**Office of Evaluation**



**HUD's Oversight of the Alexander  
County Housing Authority**

Program Evaluations Division



# Executive Summary

## HUD's Oversight of the Alexander County Housing Authority

Report Number: 2017-OE-0014

July 24, 2018

### Why We Did This Evaluation

The Office of Public and Indian Housing (PIH) is responsible for (1) monitoring public housing agencies' (PHA) compliance with program requirements and (2) ensuring that effective controls are in place to prevent potential problems. PHAs are responsible for providing safe, decent, and affordable rental housing for eligible low-income families, the elderly, and persons with disabilities.

We initiated this review in response to a request for an evaluation from Senators Richard (Dick) Durbin and Tammy Duckworth of Illinois and interest from other members of Congress. In the formal request, the Senators noted the deteriorating housing conditions and overall mismanagement at the Alexander County Housing Authority (ACHA). In response to this request, we assessed the U.S. Department of Housing and Urban Development's (HUD) oversight of ACHA to determine whether HUD met program requirements.

### Results of Evaluation

HUD had been aware of negative conditions at ACHA since at least 2010. HUD identified issues with ACHA's governance, including the misuse of funds, conflicts of interest, and a failure to comply with HUD policies and Federal civil rights laws. Further, about 200 children and their families lived in units with peeling paint; graffiti; pest infestations; and other health and safety hazards, such as inoperable appliances and obstructed accessibility routes.

Despite HUD's attempts to bring ACHA into compliance, its efforts did not resolve the negative conditions at ACHA. Residents continued to live in deplorable conditions as ACHA languished, and ACHA officials were generally uncooperative in addressing the negative conditions HUD identified. Since 2010, PIH had used several oversight tools to identify issues at the ACHA, but major enforcement action against ACHA occurred only after HUD assembled a cross-programmatic team. HUD hesitated to take ACHA into possession in part because PIH officials believed that they had to allow ACHA an opportunity to improve instead of declaring it in substantial default. Additionally, HUD guidance and expertise on receiverships were limited.

On February 19, 2016, HUD declared ACHA in substantial default of its contract with HUD, removed its board, and took possession of it. At that time, HUD assumed the role of administrative receiver of ACHA.

### Recommendations

Conditions at ACHA had deteriorated over a decade or more, and two housing developments there, Elmwood and McBride, are scheduled for demolition. Since we concluded our fieldwork, HUD decided that two additional ACHA housing developments (Sunset Terrace and Mary Alice Meadows in Thebes, IL) will also be closed as necessary repairs there are too expensive, further reducing available affordable housing stock for low-income residents. While local officials are responsible for the daily administration of ACHA, HUD could and should have done more to oversee it. Although it may be too late to save ACHA, as of June 2018, 50 other PHAs were designated as troubled. Therefore, we offer four recommendations to improve PIH's administration and oversight of troubled PHAs. PIH agreed with each of our recommendations. The status of each recommendation will remain "unresolved-open" until we receive further documentation outlining PIH's proposed management decision to address each recommendation.

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# Introduction

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## Objective

To assess the U.S. Department of Housing and Urban Development's (HUD) oversight of the Alexander County Housing Authority (ACHA).

## Background

### Overview of the Public Housing Program and Public Housing Agencies

The Office of Public and Indian Housing (PIH) operates HUD's public housing programs. Public housing's mission is to provide safe, decent, and affordable rental housing for eligible low-income families, the elderly, and persons with disabilities. Nationwide, approximately 1.2 million families reside in public housing developments that are owned and operated by about 3,300 local public housing agencies (PHA). HUD provides Federal aid to PHAs, which in turn manage public housing for eligible residents at rents they can afford. Additionally, HUD furnishes technical and professional assistance to PHAs for planning, development, and management. Each year, HUD provides approximately \$4 billion in operating subsidies to assist PHAs in running their public housing programs. HUD also awards approximately \$2 billion to PHAs annually to develop, modernize, and maintain public housing properties.

A PHA is a legal entity authorized by a State to develop or administer low-rent public housing. PHAs are the "caretakers" of public housing funds and must ensure that the funds are properly managed. The PHA's executive director, board, or commission operates and manages the PHA. PHAs are responsible for operating their housing developments to ensure that the PHA complies with its annual contributions contract. This contract is an agreement between the PHA and HUD, which outlines the applicable regulations and procedural requirements that PHAs must abide by to receive Federal funding. The contract also outlines HUD funds available for a PHA's use for that year. ACHA is a moderate-size PHA in Cairo, IL, with nearly 500 units in its inventory.

### HUD's Oversight of PHAs

The Housing Act of 1937 requires that HUD establish rules and provide funding for PHAs to manage their own housing programs. The intent of the Act is to give as much flexibility and responsibility to the State and its units of local government as possible. In turn, HUD is to ensure that PHAs meet performance requirements and provide technical assistance, with the goal of safeguarding both public investment and resident quality of life.

HUD's objective is to identify endangered funds and assist PHAs in correcting deficiencies it identifies while monitoring PHAs. Field offices monitor PHAs remotely from the field office or onsite at the PHA. A field office generally does not perform onsite monitoring of a PHA unless it knows of performance or compliance problems. Field offices may focus efforts on PHAs that are determined to be in the greatest need of attention. To identify those in greatest need of attention, PIH uses a risk-based monitoring approach that accounts for a PHA's risk in five areas. These five areas are (1) organization, management, and personnel; (2) facilities management; (3)

finance and budget; (4) marketing, leasing, and management; and (5) community relations and involvement.

In addition to the field offices' monitoring activities, PIH's Real Estate Assessment Center (REAC) inspects HUD properties to ensure that units are decent, safe, sanitary, and in good repair. REAC uses a uniform physical inspection protocol with an intent to ensure that the inspections of HUD properties are as uniform and objective as possible. REAC examines four indicators about the PHA: its physical condition, financial condition, management operations, and Public Housing Capital Fund program. Inspectors submit inspection data to REAC, which REAC checks and analyzes. A PHA's physical conditions indicator score affects the frequency of its inspection cycle, with poorly performing PHAs requiring inspection more frequently. REAC compiles each of the four indicators into an overall score using a scale of 0 to 100. This score helps HUD identify PHAs with performance issues using its Public Housing Assessment System (PHAS). Using this PHAS score, PIH designates the PHA as a high, standard, substandard, or troubled performer. A PHA that achieves an overall PHAS score of less than 60 percent would be designated as a troubled performer.

PIH policy requires that the field office initiate the PHA Recovery and Sustainability (PHARS) protocol for PHAs designated as troubled.<sup>1</sup> In 2011, PIH launched the PHARS protocol as a four-phased approach to recover PHAs. HUD created this protocol as a holistic approach to solving and remediating systemic issues at PHAs. When a PHA is found to be troubled, the regional director usually assigns a PHARS team to lead in the recovery effort of that PHA. This team is composed of staff from the Office of Field Policy and Management (FPM), PIH, and the Departmental Enforcement Center (DEC). The PHARS team performs a preliminary financial management and governance assessment of the PHA. The PHARS team (1) works with troubled PHAs to assess the underlying systemic issues causing the PHA's troubled status, (2) creates recovery agreements, and (3) implements action plans that will ensure the sustainability of successful PHA performance. It also continues to monitor the PHA and provide support during the implementation and cure period.

Although HUD generally follows the PHARS protocol to remedy negative conditions at PHAs, HUD also has the authority to declare a PHA in substantial default in emergency situations. In these cases, the PHA is not provided an opportunity to respond or cure negative conditions when HUD determines that conditions exist that pose an imminent threat to the life, health, or safety of public housing residents or residents of the surrounding neighborhood or (2) the events or conditions precipitating the default are determined to be the result of criminal or fraudulent activity.<sup>2</sup> HUD may also determine that PHAs with serious financial, physical, management, or ethical problems that cannot be remedied through the PHARS protocol are in substantial default of their contract with HUD. When a PHA is found in substantial default, HUD temporarily takes possession of the PHA to correct identified problems through a process known as administrative receivership.<sup>3</sup> HUD views administrative receivership as a last resort for assisting PHAs with the most severe problems. In extreme cases, HUD may also suspend or debar PHA officials as an administrative remedy to address longstanding performance issues at the PHA. PIH's Office of

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<sup>1</sup> During fieldwork, a HUD official told us that the procedures had changed and HUD may now initiate this process for substandard performer PHAs as well.

<sup>2</sup> 24 CFR (Code of Federal Regulations) 907.5(d)

<sup>3</sup> Administrative receiverships may include PHAs under settlement agreements, PHAs under cooperative endeavor agreements, possession and control of PHA projects, and HUD "Secretary in possession" of PHAs.

Receivership Oversight is responsible for providing day-to-day oversight and direction for receiverships. If the PHA's improvement is sustained, the PHA may be returned to local control, and PIH's local field office resumes oversight and monitoring of the PHA. Otherwise, HUD maintains control of the PHA through the receivership process.

## Scope and Methodology

We completed this evaluation under the authority of the Inspector General Act of 1978 as amended and in accordance with the Quality Standards for Inspection and Evaluation, issued by the Council of the Inspectors General on Integrity and Efficiency (January 2012).

### Scope

We performed fieldwork for this evaluation between August and December 2017. This evaluation covered operations within six HUD program offices – PIH, DEC, the Office of Fair Housing and Equal Opportunity (FHEO), FPM, the Office of General Counsel (OGC), and the Office of Davis-Bacon and Labor Standards (Labor Standards). We assessed HUD's oversight of ACHA since 2010 to determine what HUD knew about ACHA, when it knew those facts, and what steps it took to correct identified deficiencies. We did not assess ACHA, except as it related to interactions with the above-named HUD program offices. We did not include in our scope a comparison of ACHA to other PHAs and their receiverships.

### Methodology

To address our objective, we conducted 24 interviews with current and former HUD officials identified in our scope. Through these interviews and other documentation collected during our evaluation, we learned what actions HUD took in an attempt to identify and address deficiencies at ACHA. We also identified the roles and responsibilities of personnel involved in the monitoring and oversight of ACHA. We reviewed relevant statutes, regulations, and other documentation to determine criteria for the monitoring and oversight of PHAs.

### Limitations

On November 22, 2017, we sent HUD a request for several HUD officials' emails to determine what they knew and communicated about ACHA at the time the issues occurred. HUD produced the requested emails and provided them to us in June 2018.<sup>4</sup> We received nearly 50 gigabytes of email data, which we will review following the release of this report. If our findings or recommendations are substantially affected by new information, we will communicate that information in an appropriate format.

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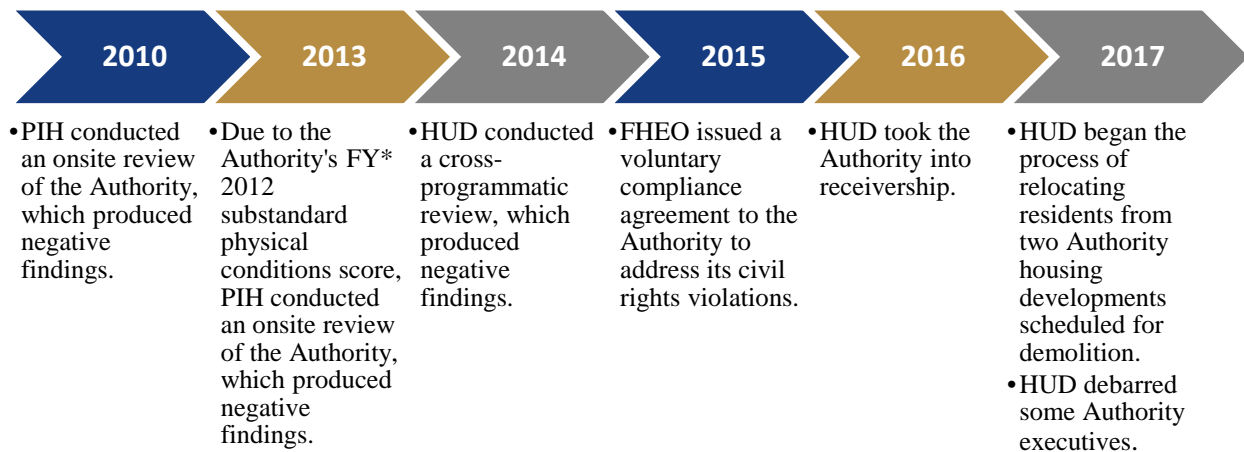
<sup>4</sup> In December 2017, we issued a report finding that OGC's collection of electronically stored information, including emails, does not meet customer demand because processing these requests takes too long to meet each program office's needs.



# A Primer: HUD's Oversight of ACHA

On February 19, 2016, HUD declared ACHA in substantial default of its contract with HUD, removed its board, and took possession of it. In April 2017, HUD announced its plan to relocate about 400 residents, including 200 children, from two ACHA housing developments, Elmwood and McBride.<sup>5</sup> Those developments will be demolished. According to news reports, residents remain angry and frustrated with HUD's decision. The city of Cairo has insufficient housing stock for these displaced families, so almost 200 families will have to move out of the city. A HUD spokesperson said that HUD was "stunned ... at what we saw, not just in terms of the deplorable living conditions that we encountered but at the poor, even absent record keeping, the staggering backlog of critical repairs, all of this going to the very health and safety of the residents living there." However, the deplorable conditions at ACHA did not occur overnight. HUD had been aware of negative conditions at ACHA since at least 2010. Over the span of 6 years, HUD performed multiple assessments and reviews of ACHA. Figure 1 below outlines the steps HUD had taken since 2010 in an attempt to address the negative conditions.

Figure 1 – Timeline of HUD's oversight of ACHA



\* FY = fiscal year

HUD had failed ACHA in every physical condition indicator since fiscal year (FY) 2012 and identified weaknesses with its financial condition as early as FY 2013. ACHA was generally uncooperative in addressing the negative conditions identified by HUD's assessments and reviews. Despite HUD's attempts to bring ACHA into compliance, the negative conditions remained. In June 2017, DEC and OGC issued an indefinite debarment from participating in government programs for two former ACHA executives and a 3-year debarment for a board member. This action resulted from many violations of HUD regulations and the contract, such as deplorable physical conditions, severe misuse of Federal funds, civil rights violations, lead-based paint violations, and other issues.

<sup>5</sup> Since we concluded our fieldwork, HUD decided that two additional ACHA housing developments (Sunset Terrace and Mary Alice Meadows in Thebes, IL) will also be closed as necessary repairs there are too expensive for ACHA to cover. Some of the residents relocated from the Elmwood and McBride developments ended up at the Thebes developments, so they will have to relocate again.

# Findings

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## **PIH Used Several Oversight Tools To Identify Issues at ACHA, but Negative Conditions Persisted**

Since 2010, HUD<sup>6</sup> had performed multiple assessments and reviews of ACHA, which highlighted issues with its governance, including the misuse of funds, conflicts of interest, and a failure to comply with HUD policies and Federal civil rights laws. Despite HUD's attempts to bring ACHA into compliance, the negative conditions remained. ACHA was generally uncooperative in addressing the negative conditions HUD identified during its assessments and reviews. On February 19, 2016, HUD removed ACHA's board and took possession of ACHA, declaring it in substantial default of its contract with HUD.

### **PIH Identified Issues at ACHA During a Review in 2010, but Closed the Findings**

In keeping with routine oversight practices, the Chicago field office assigned a team to monitor and oversee ACHA. This team was assigned to ensure that ACHA complied with HUD rules and regulations and to provide technical assistance to ACHA as needed. The team was composed of an engineer, a financial analyst, and a public housing revitalization specialist. In March 2010, this team completed a review of ACHA, which identified improper payments and other high-risk elements.<sup>7</sup> During this review, the team conducted tenant file reviews to determine whether ACHA calculated rents accurately and reviewed its compliance with HUD policies.

The team made nine findings and four observations, one of which indicated that there was a conflict of interest among the board of commissioners, the president of the resident council, and ACHA. PIH records and the team leader of the review confirmed that the field office closed the findings.

### **The Field Office Conducted Onsite and Remote Assessments of ACHA in 2012 and 2013, but ACHA Did Not Correct Identified Negative Conditions**

For FY 2012, REAC scored ACHA as a substandard physical performer due to the poor physical conditions of its buildings. A team member assigned to ACHA told us that the substandard score required the field office to conduct an onsite review. Before the onsite review, this team member performed a remote assessment of ACHA. He said that during the remote assessment, he identified several issues unrelated to ACHA's physical conditions score, such as inappropriate procurement practices and nepotism, stating that ACHA's organization chart looked like a "family tree." After completing the remote assessment, he issued a letter to ACHA, stating his findings, and asked for a response and for ACHA's plans to address the findings before the upcoming onsite review. In response, ACHA provided an action plan, which the team member believed did not sufficiently address the concerns in the findings letter. Accordingly, this

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<sup>6</sup> When "HUD" is used, officials or actions from more than one program office are being cited. When PIH is used, we are referring only to PIH officials or actions.

<sup>7</sup> HUD completed a Consolidated Tier II review. Consolidated Tier I or Tier II reviews were a type of onsite review of PHAs, which PIH no longer performs.

response required the field office to continue its onsite review of ACHA. In May 2013, the National Association for the Advancement of Colored People also sent HUD a letter alleging discriminatory conditions at ACHA, which reinforced the need for the onsite review.

The field office conducted the onsite review of ACHA from September 4 through 13, 2013. A team member who participated in the review told us that ACHA personnel were very uncooperative during the visit. For example, one team member told us that several members of the ACHA staff attempted a “sick-out” to avoid being interviewed. Team members also observed serious civil rights violations during the review, such as segregated housing and segregated staffing. One team member said the team conducted physical inspections of all of the ACHA housing developments, during which it reviewed the building interiors and exteriors and inspected a sample of units. He said, in total, these physical inspections took about a half day. This team member also said that the poor physical condition of the properties was obvious, even from the outside. However, when the team members went inside the properties, one team member said that he observed broken and outdated appliances and pest infestations in housing developments occupied by African-Americans.

On November 1, 2013, following the onsite review, the field office issued a letter to ACHA, which detailed concerns related to its finances, operations, and procurement practices. In total, the field office made 9 findings related to the physical condition of ACHA’s properties and 20 findings related to its overall management. Major findings included that

- The McBride and Elmwood housing developments had ongoing security issues.
- The plumbing at the McBride housing development was deteriorated and in need of rehabilitation.
- The former executive director improperly procured a consultant services contract for himself.
- ACHA awarded retirement packages and offered part-time employment to specific employees with no documented or defined formula or eligibility requirements.
- ACHA’s nepotism policy was inadequate.
- An ACHA board member had a nephew and grandson employed by the PHA.
- The executive director’s son-in-law and the assistant executive director’s husband were maintenance workers at ACHA.

In December 2013, ACHA provided an action plan to address the issues identified during the onsite review, in which it generally disagreed with the field office’s findings and observations. Field office staff members told us and documentation confirms that they found ACHA’s response insufficient. Field office staff members also told us that they informed regional PIH leadership about issues pertaining to ACHA. Around this time, the field office staff also approached HUD’s Region V Administrator. The Administrator is responsible for engaging with local officials and acting as a liaison for HUD field offices and programs. As such, he was positioned to engage with ACHA and Cairo, IL, officials.

## **REAC Routinely Inspected ACHA, but Physical Inspection Scores Did Not Always Accurately Reflect ACHA's Conditions**

As discussed earlier, REAC scored ACHA as a substandard physical performer for FY 2012 due to the physical conditions of the Elmwood and McBride housing developments.<sup>8</sup> The FY 2012 inspection report continuously indicated the presence of peeling paint; graffiti; deteriorated caulk and sealants; and the presence of insects, such as bed bug and live roach infestations, among other issues. It also noted health and safety hazards, such as inoperable electrical breakers and appliances and obstructed accessibility routes.

Despite these findings, in FY 2013, ACHA's REAC scores indicated that the physical conditions had improved dramatically. Field office staff members were concerned that the FY 2013 physical condition scores did not reflect the actual conditions at ACHA. One remarked that he was shocked by the inflated score. At this time, ACHA's budget showed that only two major capital improvements had been undertaken. PIH's practice was to wait to initiate the PHARS protocol until it had designated a PHA as troubled. Without a score low enough to consider ACHA troubled, PIH was unable to initiate the PHARS protocol, which aims to recover PHAs by solving and remediating systemic issues.<sup>9</sup> As a result, in April 2014, field office staff requested that REAC rescore the housing developments off cycle and immediately release the scores. The field office staff continued to request updates on the status of the rescore request, and in August 2014, REAC confirmed that ACHA would be reinspected.

REAC began the FY 2013 rescore for the housing developments in November 2014 and completed it by February 2015. According to a REAC official, a number of factors can delay REAC inspections of PHAs and 95 to 99 percent of the time those delays are related to procuring contract inspectors to perform the inspections. Further, documents showed that holidays and HUD staffs' use of "use or lose leave" contributed to delays as well.

REAC's revised scores showed that conditions had deteriorated since FY 2012 and not improved as the original FY 2013 score indicated. For two housing developments, the score was lowered by more than 50 points. The score for the Elmwood and McBride housing developments, which are now scheduled for demolition, were lowered by 54 points. Figure 2 below provides the physical conditions scores in FYs 2012 and 2013 and the rescoring for FY 2013.

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<sup>8</sup> ACHA has several housing developments that receive individual physical conditions scores during the inspection process.

<sup>9</sup> During the interim period, PIH field offices also have the ability to implement a zero threshold review of capital fund grants. However, this is not a sanction. This action requires PIH field office staff to review and approve all draws a PHA wants to make from its Capital Fund.

**Figure 2 – ACHA housing developments’ physical conditions scores from FY 2012 to 2013**

<b>Development name</b>	<b>FY 2012 physical conditions score</b>	<b>FY 2013 original physical conditions score</b>	<b>FY 2013 physical conditions rescore</b>
Elmwood and McBride	42	82	28
Scattered sites	76	73	71
Connell F. Smith Building	74	92	34

The revised FY 2013 inspection report for the Elmwood and McBride housing developments showed that there were 112 health and safety deficiencies and concluded that if all buildings and units were inspected, 1,134 health and safety deficiencies would be found.<sup>10</sup> REAC decertified and dismissed the contract inspectors who performed the initial FY 2013 inspections for not following REAC’s inspection protocol.<sup>11,12</sup>

### **Only After HUD Assembled a Cross-Programmatic Team Did It Take Major Enforcement Action Against ACHA**

After PIH field office staff approached him with concerns about ACHA, the Region V Administrator assembled a cross-programmatic review team in early 2014 to review ACHA. The Administrator, who is part of FPM, served as the lead on this team. The team consisted of Region V staff from the following HUD program offices: PIH, FHEO, DEC, and Labor Standards. Each participating program office focused on its respective programmatic jurisdiction.

#### **HUD Conducted a Cross-Programmatic Review of ACHA in 2014, Which Resulted in Negative Findings Against ACHA**

Several cross-programmatic review team members stated that this type of review was uncommon and that they had not seen so many program offices work collectively to review a single PHA. The onsite portion of the cross-programmatic review occurred from June 24 through 26, 2014. Participating team members reviewed ACHA documents, conducted interviews, and inspected low-rent housing properties. Unlike its response to PIH’s 2013 reviews, HUD staff told us that ACHA was relatively cooperative as the team carried out its cross-programmatic review.

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<sup>10</sup> The inspections examine a sample of units at a given PHA and not every unit.

<sup>11</sup> This protocol refers to the standard set of rules and procedures for inspectors to follow on all inspections. The purpose of the physical inspection process is to provide HUD with the ability to assess whether its properties are in a safe, decent, and sanitary condition and in good repair.

<sup>12</sup> In response to a congressional mandate, REAC released a report, entitled “Efforts and Progress Made to Improve Inspection Processes and Protocols,” on February 23, 2018. Within the report, REAC stated that its physical inspection process has declined over time due to a number of reasons, including competing demands of Federal inspection staff, a shifting quality environment, and external pressures. However, most notably, REAC stated that it also faced challenges in acquiring contract inspectors that met HUD’s quality inspection standards in the performance of duties. To address issues highlighted in the report, REAC stated that, as of June 2017, it had identified and implemented 86 process improvements in an effort to enhance its inspection process.

PIH, DEC, and Labor Standards made several significant findings on ACHA’s noncompliance with several HUD rules and regulations, which included mismanagement of ACHA, misuse of Federal funds, misadministration of contracts subject to Davis-Bacon and related acts, and governance issues. In July 2014, ahead of releasing its official findings, PIH field office staff issued a memorandum to ACHA which placed its Capital Fund under zero threshold review, which required PIH field office staff to review and approve all draws ACHA wanted to make from its Capital Fund. In November 2014, PIH issued a memorandum to ACHA, which documented its official cross-programmatic review findings of ACHA noncompliance with several Federal, State housing, and labor laws.

During this review, DEC also identified an issue that inappropriately benefited ACHA’s financial condition score used for PHAS. DEC found a significant deficiency in ACHA’s internal control over financial reporting and compliance when it borrowed funds in a manner not permissible under the HUD Financial Management Handbook or Office of Management and Budget Circular A-133. ACHA borrowed more than \$400,000 from the Elmwood and McBride operating fund to cover the central office cost center’s deficit, which resulted from the cost center’s failure to charge fees to any of ACHA’s three housing developments. ACHA’s method for recording the transaction made the financial condition appear better than it was and, hence, inappropriately benefited its financial condition score. A DEC official stated that had ACHA recorded the transaction properly, the PHAS financial condition score would have declined from “satisfactory” to “unsatisfactory.” As a result of this issue, the original financial condition score was reduced from 18 to 10. This score revision and the revised physical conditions scores (released in 2015) resulted in HUD’s changing ACHA’s overall performance designation for FY 2013 to troubled.

However, FHEO made the most significant findings of the cross-programmatic review. FHEO issued its findings to ACHA in a separate memorandum, dated September 30, 2014. FHEO found that ACHA violated rules under Title VI of the Civil Rights Act<sup>13</sup> for its racial segregation of public housing and employment discrimination on the basis of race. Additionally, FHEO found that the Elmwood and McBride housing developments, where heads of household were 96.8 percent African-American, were older and more poorly maintained than other ACHA housing developments. Figure 3 below provides a summary of FHEO findings of racially segregated housing in the housing developments at ACHA.

**Figure 3 – FHEO findings of racially segregated housing developments at ACHA**

Development name(s)	Number of units	Percentage of units occupied by African-American heads of household
Elmwood and McBride	247	96.8%
Connell F. Smith Building and scattered sites	188	57.4%

In its findings, FHEO also noted that ACHA had a documented history of discriminating against African-American employees. FHEO found that the highest paid ACHA maintenance

<sup>13</sup> Title VI of the Civil Rights Act states, “No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance” (42 U.S.C. (United States Code) 2000d).

technicians were what FHEO referred to as white employees and that those employees' seniority had no direct correlation to their pay rates compared to their African-American peers. For example, ACHA contracted two white retirees for part-time work at a pay rate of more than \$20 per hour, whereas a part-time African-American retiree, not under contract, received a pay rate of just under \$16 per hour for the same position. In another example, ACHA employed four full-time maintenance employees in September 2013. Two were white and two were African-American. The white employees had 8 and 4 years of job experience, respectively, and earned an equal or higher rate of pay compared to the two African-American employees who had 28 and 4 years of job experience, respectively. FHEO also found that African-Americans typically serviced the Elmwood and McBride housing developments (identified as racially segregated) instead of other ACHA housing developments.

FHEO and other HUD officials said that PIH senior officials were reluctant to move quickly against ACHA on the cross-programmatic findings.<sup>14</sup> Some officials attributed this delay to different causes, such as the disagreement over programmatic jurisdiction (FHEO's versus PIH's). When asked about their reaction to the cross-programmatic review, some PIH senior officials, including the PIH Region V Director at the time, said that they were unaware of it or its findings. However, field office staff and the Region V Administrator claimed that they met with the PIH Region V Director and discussed this topic in August 2014.

### **Following the Cross-Programmatic Review Findings, FHEO Entered Into an Agreement With ACHA, Which ACHA Violated**

FHEO officials said that FHEO's authorities enable it to act more quickly than other HUD program offices. Therefore, FHEO could act as the "tip of the spear" to get ACHA to comply with public housing rules and regulations. Once FHEO makes a finding of noncompliance at a PHA, the PHA is required to review the finding within a 30-day window and enter into a voluntary compliance agreement to remedy the identified negative conditions. Additionally, FHEO officials said that PIH generally requires a much more lengthy remedial process for PHAs and that PIH's remedial process, the PHARS protocol, could take up to 1 year or more.

ACHA entered into the agreement with HUD in August 2015. It required ACHA to comply with provisions related fair housing, security of housing, and equal employment opportunity. For example, to ensure fair hiring practices, the agreement required ACHA to obtain prior HUD review and approval before hiring a new executive director. Among other things, it also required that ACHA develop a public housing waiting list to provide residents in the Elmwood and McBride housing developments the opportunity to relocate to a more racially integrated housing development.

FHEO officials said that ACHA officials violated the agreement and the violations were deliberate and serious. For example, ACHA unilaterally hired a new executive director, and FHEO officials considered this violation to also be a breach of its contract with HUD. FHEO and PIH officials disagreed about the extent to which this provision of the agreement was permissible and enforceable. In January 2016, the Region V Director of FHEO issued a memorandum to the PIH field office director formally challenging ACHA's compliance with the

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<sup>14</sup> The term PIH "senior officials" refers to PIH staff at the regional public housing director level and above. We choose to refer to this group as "PIH senior officials" because of the many staffing changes that occurred within PIH from 2010 to the present, with some individuals occupying more than one senior position at different times.

contract. FHEO officials said that this memorandum forced PIH to take action on ACHA. The violation of the agreement became the basis for finding ACHA in substantial default of its contract with HUD. On February 19, 2016, HUD removed ACHA's board and took possession of ACHA, declaring it in substantial default of the contract.

Despite ACHA's limited cooperation in addressing PIH-identified deficiencies over time, PIH did not feel that it could take more aggressive action against ACHA. Without a score low enough to consider ACHA troubled, PIH was unable to initiate the PHARS protocol, which aims to recover PHAs by solving and remediating systemic issues. However, the cross-programmatic approach, led by FPM, empowered HUD to use alternative means of enforcement against ACHA. Specifically, FHEO's involvement enabled HUD to leverage different authorities that would have required ACHA to remedy issues more quickly. When ACHA did not remedy the deficiencies within this period, HUD was empowered to take swifter action against it. Without FHEO's involvement, negative conditions at ACHA may have persisted longer before HUD took it into receivership. Involving several parts of HUD, such as FHEO or DEC, may improve PIH's oversight of uncooperative PHAs like ACHA.

## **HUD Hesitated To Exercise Its Authority To Take ACHA Into Receivership**

HUD temporarily takes possession of a PHA to correct identified problems through a process known as administrative receivership. HUD views administrative receivership as a last resort for assisting PHAs with the most severe problems. Residents at ACHA continued living in deplorable conditions as ACHA languished, and HUD hesitated to take ACHA into receivership. Despite negative conditions at ACHA, HUD did not take it into receivership earlier for several reasons; namely,

- PIH officials initially allowed ACHA several opportunities to improve instead of using HUD's authority to declare it in substantial default and take possession of it. In our discussions with PIH officials, they did not seem to be aware of HUD's authority to take possession of ACHA without first offering it an opportunity to cure deficiencies.
- ACHA's official performance scores were not initially low enough to initiate the PHARS protocol.
- PIH officials disagreed about the extent to which ACHA's actions and existing documentation were sufficient to place it into receivership.
- HUD officials claimed that receiverships were costly to administer and could attract negative attention to the agency.
- HUD guidance and expertise on receiverships were limited at the time.

## **PIH Officials May Not Have Been Aware of HUD's Authority To Declare PHAs in Substantial Default**

HUD has the authority to declare a PHA in substantial default of its contract with HUD in emergency situations. In these cases, HUD is not required to provide the PHA with an opportunity to respond to or cure negative conditions when (1) HUD determines that conditions exist that pose an imminent threat to the life, health, or safety of public housing residents or residents of the surrounding neighborhood or (2) the events or conditions precipitating the



default are determined to be the result of criminal or fraudulent activity.<sup>15</sup> Although this authority allows PIH to declare a PHA in default of its contract before the maximum 2-year cure period ends, PIH headquarters and field officials emphasized during interviews the necessity to use the PHARS protocol and allow PHAs the full 2 years to cure negative conditions. The living conditions at ACHA posed an immediate threat to its residents and we believe PIH should have exercised this authority sooner. We are concerned that the PIH officials we spoke with may not have been aware of HUD's authority to declare substantial default and take PHAs into possession in emergency situations. If PIH officials are not aware of this authority or prepared to use it, uncooperative PHAs with similar issues may languish without adequate corrective action at the expense of housing development residents, as ACHA did.

### **ACHA's Official Performance Scores Were Not Initially Low Enough To Trigger the PHARS Protocol**

As discussed earlier, HUD designates PHAs as high, standard, substandard, or troubled performers based on their performance. Once a PHA is designated as troubled, HUD initiates the PHARS protocol. A troubled PHA is given a maximum of 2 years to cure negative conditions.<sup>16</sup> If the PHA cannot cure its issues within 2 years, this condition should trigger a referral for administrative receivership.<sup>17</sup> However, PIH has not enforced this referral procedure uniformly. Given this lack of uniformity, the Office of Receivership Oversight has begun developing protocols and a standardized process for assessing PHAs that have not met their 1- or 2-year recovery goals and for making referrals. At the conclusion of our fieldwork, this process had not been completed or implemented.

ACHA's performance scores were not initially low enough to trigger the PHARS protocol, which is a process of enhanced oversight meant to help a PHA solve and remediate systemic issues or later receivership action. Until FY 2013, ACHA scored substandard or better on all of its PHAS assessments. As discussed earlier, REAC did not revise ACHA's FY 2013 physical conditions score or its financial conditions score until much later, which resulted in HUD's changing ACHA's overall performance designation to troubled for FY 2013. PIH's practice was to wait to initiate the PHARS protocol until it designated a PHA as troubled. One HUD official told us that at the time, there was no formal remedial process for substandard PHAs (such as ACHA) as there was for troubled ones. A PIH employee told us that he suggested placing ACHA into the PHARS protocol in 2013, although it was not yet officially designated troubled, but that management opposed this approach. A PIH senior official said that if a substandard PHA remained uncooperative about addressing identified issues, it would continue to decline until it reached troubled status. Conditions at ACHA continued to decline this way over time. Figure 4 below lists ACHA's performance scores from FY 2010 to 2016.

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<sup>15</sup> 24 CFR 907.5(d)

<sup>16</sup> During this period, the PHA has 1 year to raise its PHAS score to at least 50 percent of the difference between its poor PHAS score and the current score and a maximum of 2 years to raise it to at least 60 percent overall. HUD takes incremental steps to work with the PHA to cure the conditions during that 2-year period.

<sup>17</sup> However, the recovery process is not limited to administrative receivership. There are two basic types of receiverships: administrative and judicial. Judicial receiverships are established, monitored, and supervised by Federal courts.

Figure 4 – ACHA’s overall PHAS scores from FY 2010 to 2016

FY	Total score	Designation status
2010	No score	No score released
2011	78	Standard
2012	67	Substandard physical
2013*	52	Troubled
2014	52	Troubled
2015	29	Troubled
2016	27	Troubled

\*Indicates the revised FY 2013 scores that REAC released in February 2015

**PIH Officials Disagreed About the Extent to Which ACHA’s Actions and Existing Documentation Were Sufficient To Place It Into Receivership**

HUD officials told us that there was a major emphasis on developing an action plan and continuing to work with ACHA officials to remedy the negative conditions there. Records showed that field office staff began working to develop an action plan as early as October 2013. ACHA submitted its action plan to PIH in December 2013. The action plan refuted PIH’s results and determinations and stated that ACHA personnel were not willing to cooperate to remedy the negative conditions PIH had identified. Several field office staff members also told us that ACHA personnel were uncooperative. However, we were told that PIH senior officials encouraged the field office to continue to work with ACHA officials to remedy the conditions at the local level despite their lack of cooperation.

Once HUD has decided to take a PHA into receivership, HUD gathers substantial documentation to show the necessity for the receivership. PIH senior officials were generally unsatisfied with the existing administrative record and encouraged field office staff to document the negative conditions at ACHA. PIH senior officials also told us that there was a major emphasis on gathering documentation to substantiate the need for taking the PHA into receivership, which resulted in delays. We heard that this documentation was critical for establishing a clear administrative record of the negative conditions. This record could be necessary if ACHA attempted to challenge a receivership decision in court.

Personnel disagreed about the extent to which the existing action plan and corresponding documentation were sufficient to warrant receivership. Field office staff members told us that they requested that PIH senior officials take action against ACHA and they were frustrated with senior leadership’s inaction. They argued that such action would help ensure that the decision to take ACHA into receivership was sound and defensible if ACHA appealed. PIH senior officials consulted OGC staff about the sufficiency of the administrative record. According to OGC staff, consultations began on February 4, 2016, approximately 2 weeks before HUD issued the substantial default letter to take ACHA into receivership.

## **HUD Officials Claimed That Receiverships Were Costly To Administer and Could Attract Negative Attention**

During interviews, HUD officials told us that taking a PHA into receivership was very costly, so HUD was not inclined to initiate receiverships. PIH's Deputy to the Deputy Assistant Secretary for the Office of Field Operations stated that a receivership can take many years to execute, require the labor of four to five full-time employees, and cost more than \$5 million. Other HUD officials said that there were concerns about not having the necessary funding for executing a receivership of ACHA. Field office staff told us that the Region V Director commented in 2014 that there were no funds available to take ACHA into possession.

HUD officials added that the agency must consider the political repercussions from taking a PHA into receivership. These concerns contributed to HUD's hesitation to take ACHA into receivership.

## **HUD Guidance and Expertise on Receivership, Due in Part to a Lack of Training, Were Initially Limited and Could Still Be Improved**

HUD officials told us that an administrative record to justify receivership must include an onsite review of a PHA, its results, and follow-up activity with the PHA. One of the officials told us that it takes years to build such a record. However, that official also said that the receivership process "isn't too mapped out," and another told us that he was unsure of what precisely triggers a receivership.

From 1985 to 2015, HUD initiated administrative receiverships of 20 PHAs without a receivership manual.<sup>18</sup> At the time HUD took ACHA into receivership in 2016, HUD was in the process of creating such a manual. As a result, there was no systematic process for executing receiverships when HUD initiated the receivership of ACHA or the 20 other PHAs taken into administrative receivership before that.

HUD developed a PowerPoint training presentation for receivers in March 2013. However, two PIH staff members who served as receivers, including the one assigned to ACHA, told us that they did not attend formal training on receivership. One of the receivers told us that he relied on his institutional knowledge from previously working at PHAs. Multiple officials told us that a limited number of HUD staff members had the expertise to fulfill this role.

HUD did not publish its Internal Procedures Manual for HUD Receiverships until April 2017, approximately 14 months after HUD took ACHA into receivership. HUD has also not updated its PowerPoint training for receivers to align with the Internal Procedures Manual released in 2017. Although the Internal Procedures Manual for HUD Receiverships outlines post receivership actions HUD officials should take when executing an administrative receivership, it does not provide guidance to HUD officials or circumstances in which initiating a receivership may be appropriate.

The small pool of experienced receivers, inadequate guidance, and outdated training pose

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<sup>18</sup> HUD has taken the Lafayette Housing Authority in Lafayette, LA, into administrative receivership twice since 1995.

organizational risks that could negatively affect HUD's oversight of PHAs over time. Without these elements, HUD may avoid taking PHAs into receivership when it is necessary and may oversee PHAs in receivership improperly or inadequately.

# Recommendations

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Conditions at ACHA had deteriorated over a decade or more, and two housing developments there, Elmwood and McBride, are scheduled for demolition. Since we concluded our fieldwork, HUD decided that two additional ACHA housing developments (Sunset Terrace and Mary Alice Meadows in Thebes, IL) will also be closed as necessary repairs there are too expensive,<sup>19</sup> further reducing available, affordable housing stock for low-income residents. While local officials are responsible for the daily administration of ACHA, HUD could and should have done more to oversee it. Although it may be too late to save ACHA, as of June 2018, 50 other PHAs were designated as troubled. Therefore, we recommend that the General Deputy Assistant Secretary of Public and Indian Housing:

## **1. Create Agreements and Strategies With Other Program Offices That Describe When Cross-Programmatic Reviews and Enforcement Actions Against PHAs Are Required**

Considering ACHA's limited cooperation in addressing PIH-identified deficiencies over time, we are concerned that the PHARS protocol does not enable PIH to address issues at uncooperative PHAs in a timely manner. Although PIH has strategies to engage some HUD offices, such as DEC, when it encounters serious performance issues at PHAs, the cross-programmatic approach led by FPM empowered HUD to use alternative means of enforcement against ACHA. Specifically, FHEO's involvement enabled HUD to leverage different authorities that required ACHA to remedy issues more quickly. Involving several parts of HUD, such as FHEO or Labor Standards, may improve PIH's oversight of uncooperative PHAs like ACHA so that conditions can be improved more quickly.

## **2. Train PIH Officials on the Authority and Processes for Declaring PHAs in Substantial Default and for Taking PHAs Into HUD Possession**

The living conditions at ACHA posed an immediate threat to its residents, and we believe PIH should have exercised its authority to declare it in substantial default sooner. PIH headquarters and field officials emphasized during interviews the necessity to use the PHARS protocol and allow troubled PHAs the full 2 years to cure negative conditions. This interpretation of HUD's authority and process may enable uncooperative PHAs like ACHA to languish at the expense of housing development residents. PIH should train its officials at all levels to identify when a cure period is not appropriate. This includes emergency situations in which conditions exist that pose an imminent threat to the life, health, or safety of public housing residents or residents of the surrounding neighborhood. PIH should also train PIH officials at all levels about the process for expediently exercising the authority to declare a substantial default without a cure period.

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<sup>19</sup> The housing developments will be removed from public housing inventory. However, HUD has not decided how the housing developments will be removed. They will be either demolished or sold.

### **3. Update and Strengthen the Training Program for HUD Receivers of PHAs**

PIH's expertise on receiverships was limited at the time of ACHA's receivership and could still be improved. PIH should update its training for receivers to align with the Internal Procedures Manual released in 2017.

### **4. Update Procedures for Receiverships To Include Specific Guidance on When Initiating a Receivership May Be Appropriate**

While PIH has released its Internal Procedures Manual for HUD Receiverships, guidance and policy on when initiating receivership may be appropriate are not included. The limited HUD guidance and expertise on receiverships present organizational risks that could negatively affect HUD's oversight of PHAs over time.

# Agency Comments and OIG Response

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## Summary of PIH's Comments

PIH agreed with each of our four recommendations. However, PIH stated that although it agreed in concept with recommendation 1 and that requiring cross-programmatic reviews was inappropriate, it requested that the recommendation be reworded. In its comments, PIH stated that PHAs face “varying circumstances and challenges,” which requires PIH to have flexibility in addressing issues at PHAs. PIH further stated that agreements and strategies should outline when cross-programmatic reviews are appropriate. For recommendations 2, 3, and 4, PIH stated that it would address the recommendations when it submitted its proposed management decision for each recommendation within 120 days of final report issuance.

## OIG Response to PIH's Comments

Based on PIH's response, we consider recommendations 1, 2, 3, and 4 “unresolved-open.” With regard to recommendation 1 and PIH's request to reword the recommendation, we agree that cross-programmatic reviews and enforcement actions may not be required in every instance. Therefore, we changed the language to make it clear that the agreements and strategies with other program offices should describe when cross-programmatic reviews and enforcement actions are required. We will reevaluate the status of recommendations 2, 3, and 4 upon receipt of documentation detailing PIH's proposed management decision, along with target dates for completing corrective actions to address our recommendations.

## PIH Comments to the Draft Report




U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

JUL 05 2018

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

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

SUBJECT: Response to Discussion Draft Audit Report – HUD’s Oversight of  
the Alexander County Housing Authority (ACHA) in Cairo,  
Illinois: OIG Audit Report 2017-OE-0014

Thank you for conducting a thorough review and making recommendations that can help the Office of Public and Indian Housing (PIH) improve its oversight of troubled agencies. PIH appreciates the collaborative discussions held during this audit and during the Exit Conference held on May 3, 2018. Many of the comments and feedback provided on the working draft report were considered and incorporated into the draft report. We have reviewed the draft report and our suggestions for the findings and recommendations are outlined below.

**IG Recommendation:** Create Agreements and Strategies with other Program Offices and require Cross-Programmatic Reviews and Enforcement Actions against PHAs.

**PIH Recommendation:** We request that this recommendation be reworded as *Create Agreements and Strategies with other Program Offices that Include Cross-Programmatic Reviews and Enforcement Actions Against PHAs*.

**Justification:** PIH agrees with this recommendation in concept but believes “requiring” reviews is inappropriate. As discussed during the Exit Conference, each PHA has varying circumstances and challenges which require flexibility in addressing. The agreements and strategies should outline when cross-programmatic reviews are appropriate.

**IG Recommendation:** Train PIH Officials on the Authority and Processes for Declaring PHAs in Substantial Default and for Taking PHAs into HUD’s Possession.

**PIH Recommendation:** PIH agrees with this recommendation and will address the recommendation when submitting the Proposed Management Decision within 120 days of issuance of the final report.

**IG Recommendation:** Update and Strengthen the Training Program for HUD Receivers of PHAs.

**PIH Recommendation:** PIH agrees with this recommendation and will address the

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recommendation when submitting the Proposed Management Decision within 120 days of issuance of the final report.

**IG Recommendation:** Update Procedures for Receiverships to Include Specific Guidance on when Initiating a Receivership may be Appropriate.

**PIH Recommendation:** PIH agrees with this recommendation and will address the recommendation when submitting the Proposed Management Decision within 120 days of issuance of the final report.

PIH also wishes to note the accomplishments made at the Alexander County Housing Authority since possession on February 22, 2016, to correct deficiencies, substantially reduce the administration costs that threatened to bankrupt the agency and reposition the assets.

Specifically:

- Physical assessments of four properties (containing 324 units) contributed to the determination that demolition was the best course of action due to rehabilitation costs in excess of \$51M and \$7.6M necessary for the correction of health and safety deficiencies. PIH has approved the demolition for the Elmwood and McBride properties, and the applications for Mary Alice Meadows and Sunset Terrace are in process.
- As of June 29, 2018, 165 of the 185 families at Elmwood and McBride have moved to decent and safe housing. Five of the 31 families at Mary Alice Meadows and Sunset Terrace have relocated. Relocation and mobility services pre- and post-move continue for all families.
- ACHA has developed a plan for addressing the capital needs of the remaining 155 units in the inventory and developed and implemented standard operating practices, including ones to stabilize the maintenance and management operations. It has made investments in reducing the rodent and insect infestations.
- A Voluntary Compliance Agreement required ACHA to address numerous civil rights violations. Staff have worked with the Office of Fair Housing and Equal Opportunity to make substantial progress towards resolving these violations.
- ACHA has taken steps to reduce its operating expenses by abrogating the inflated Collective Bargaining Agreement, negotiating a flat rate to reduce utility and trash payments, and significantly reduced maintenance costs, insurance premiums, and other operating costs.

Thank you for your continued partnership. We look forward to working with you to implement the recommendations.

If you have any questions, please do not hesitate to contact my office at 202-402-4100.

# Appendixes

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## Appendix A – Acknowledgements

This report was prepared under the direction of Brian T. Pattison, Assistant Inspector General for Evaluation, Paul H. Bergstrand, Director of the Program Evaluations Division, and Lindsay K. Clarke Brubaker, Supervisory Evaluator. The Office of Evaluation staff members who contributed are recognized below.

### Major Contributors

Josh Rowell, Senior Evaluator (team lead)  
Christa Kidd, Senior Evaluator  
Sonia Pena, Senior Forensic Auditor

### Other Contributors

Angelina Johnston, Senior Evaluator

## Appendix B – Acronyms

ACRONYM	DEFINITION
<b>ACHA</b>	Alexander County Housing Authority
<b>DEC</b>	Departmental Enforcement Center
<b>FHEO</b>	Office of Fair Housing and Equal Opportunity
<b>FPM</b>	Office of Field Policy and Management
<b>FY</b>	fiscal year
<b>HUD</b>	U.S. Department of Housing and Urban Development
<b>OGC</b>	Office of General Counsel
<b>PHA</b>	public housing agency
<b>PHARS</b>	PHA Recovery and Sustainability
<b>PHAS</b>	Public Housing Assessment System
<b>PIH</b>	Office of Public and Indian Housing
<b>REAC</b>	Real Estate Assessment Center



The Office of Inspector General is an independent and objective oversight agency within the U.S. Department of Housing and Urban Development. We conduct and supervise audits, evaluations, and investigations relating to the Department's programs and operations. Our mission is to promote economy, efficiency, and effectiveness in these programs, while preventing and detecting fraud, abuse, and mismanagement.

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DEVELOPMENT  
OFFICE OF EVALUATION  
**Program Evaluations Division**