



Issue Date March 6, 2009

Audit Report Number 2009-PH-1006

TO: William D. Tamburrino, Director, Baltimore Public Housing Program Hub,
3BPH

FROM:  John P. Buck, Regional Inspector General for Audit, Philadelphia Region, 3AGA

SUBJECT: The Housing Authority of the City of Annapolis, Maryland, Did Not Comply
with HUD and State of Maryland Lead-Based Paint Requirements in a Timely
Manner

HIGHLIGHTS

What We Audited and Why

We audited the Housing Authority of the City of Annapolis' (Authority) management of lead-based paint in its public housing units in response to a citizen complaint. Our audit objective was to determine whether the Authority complied with U.S. Department of Housing and Urban Development (HUD) and State of Maryland (State) requirements for inspecting and abating lead-based paint hazards in its public housing units.

What We Found

The Authority did not comply with HUD and State lead-based paint requirements in a timely manner. HUD regulations required the Authority to complete lead-based paint inspections by September 15, 2000, and risk assessments by March 15, 2002, for all of its public housing units. The Authority did not comply with these requirements until April 2004. Further, it did not comply in a timely manner with the terms of an agreement with the Maryland Department of the

Environment obligating it to comply with State lead paint requirements by February 2007. On December 31, 2008, the Authority submitted documentation to the State as evidence of its compliance with the agreement and the State's lead paint requirements.

What We Recommend

We recommend that the director of HUD's Baltimore public housing program hub ensure that the documentation the Authority provided to the State in December 2008 brought the Authority into compliance with State lead paint laws and if it did not, reemphasize to the Authority its obligation to comply with the State lead paint laws. We also recommend that HUD direct the Authority to develop and implement a written policy and procedures for its ongoing maintenance and reevaluation program for units with lead-based paint, including maintaining supporting documentation.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

We discussed the report with the Authority and HUD officials throughout the audit and at an exit conference on February 25, 2009. The Authority provided written comments to our draft report on March 3, 2009. The Authority agreed with the conclusions in the report. The complete text of the Authority's response can be found in appendix A of this report.

TABLE OF CONTENTS

Background and Objective	4
Results of Audit	
Finding : The Authority Did Not Comply with HUD and State Lead-Based Paint Requirements in a Timely Manner	5
Scope and Methodology	9
Internal Controls	10
Appendix	
A. Auditee Comments	12

BACKGROUND AND OBJECTIVE

The Housing Authority of the City of Annapolis (Authority) was founded in 1937 to provide affordable housing in Annapolis for families who lack the means to purchase or rent housing at market prices. The Authority's mission is to achieve excellence in the housing industry by providing housing opportunities, opportunities for self-sufficiency, and customer satisfaction to enhance the quality of life for very low-, low-, and moderate-income residents. The Authority is an independent agency under the direction of a board of commissioners appointed by the mayor. The chairman of the Authority's board of commissioners is Howard Pinskey, and the Authority's executive director is Eric Brown. The Authority currently owns residential properties with 1,100 family units, housing approximately 3,000 individuals, and currently employs approximately 60 people. Its main administrative office is located at 1217 Madison Street, Annapolis, Maryland.

Regulations at 24 CFR [*Code of Federal Regulations*] Part 35, Subpart L, contain the procedures for eliminating, as far as practicable, lead-based paint hazards in public housing owned by the U.S. Department of Housing and Urban Development (HUD). HUD's Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing provide detailed, comprehensive, technical information on how to identify lead-based paint hazards in housing and how to control such hazards safely and efficiently. HUD regulations at 24 CFR 35.150 state that the Authority is not relieved of any responsibility for compliance with state laws, ordinances, codes, or regulations governing lead paint evaluation and hazard reduction.

Title 26, Code of Maryland Regulation, Department of the Environment, Subtitle 16 – LEAD, explains the requirements for accreditation and training for lead paint abatement services, reduction of lead risk in housing, and performing lead abatement services.

Annotated Code of Maryland, Environment Article, Title 6, Subtitle 8, Reduction of Lead Risk in Housing, governs the reduction of lead risk in Maryland housing. The subtitle provides detailed, comprehensive, technical information on how to identify lead-based paint hazards in Maryland housing and how to control such hazards safely and efficiently.

On April 23, 2004, the Authority entered into an agreement with the Maryland Department of the Environment to address issues related to its noncompliance with State laws governing lead-based paint in its public housing developments. The agreement was created because the Authority had not complied with Maryland lead-based paint laws during a State compliance audit in 2003. The agreement required the Authority to register its public housing properties with the Maryland Department of the Environment and obtain full risk reduction, limited lead-free, or lead-free certificates for units in its properties, using accredited contractors and inspectors, by February 1, 2007.

Our audit objective was to determine whether the Authority complied with HUD and State requirements for inspecting and abating lead-based paint hazards in its public housing units.

RESULTS OF AUDIT

Finding: The Authority Did Not Comply with HUD and State Lead-Based Paint Requirements in a Timely Manner

The Authority did not meet deadlines for complying with HUD and State lead-based paint requirements. We could not determine why the Authority failed to comply with the requirements because the responsible employees no longer worked for the Authority and it had no documentation to explain the reasons for its noncompliance. Although the Authority failed to meet prescribed deadlines, it complied with HUD requirements by April 2004 and submitted documentation to the State on December 31, 2008, as evidence of its compliance with the State's requirements.

The Authority Did Not Comply with HUD Requirements in a Timely Manner

The Authority did not meet deadlines for complying with HUD lead-based paint requirements. HUD regulations at 24 CFR Part 35, Subpart L, contain the procedures for eliminating, as far as practicable, lead-based paint hazards in HUD-assisted public housing. The regulation required the Authority to complete lead-based paint inspections in its public housing properties by September 15, 2000, and risk assessments on its public housing properties by March 15, 2002. The Authority did not comply with these requirements. We could not determine why the Authority failed to comply with the requirements because the responsible employees no longer worked for the Authority and the Authority had no documentation to explain the reason for its noncompliance.

The Authority complied with HUD lead-based paint requirements in April 2004. It hired a certified lead paint inspection contractor in February 2004 to conduct lead-based paint inspections and evaluations in the Authority's nine public housing properties in accordance with chapters 5 and 7 of HUD's Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing. The guidelines do not require the Authority to inspect every unit. Rather, they allow the Authority to inspect a sample of them. This procedure is less time consuming and more cost effective than inspecting all of the units in a given housing development. The number of units tested is based on the date of construction and the number of units in the development. The contractor completed 275 inspection and assessment reports in March and April 2004. We reviewed the 275 inspection and assessment reports that the contractor completed and verified that

- The sample of 275 inspections completed by the certified lead paint inspection contractor was appropriate, given the age and size of the developments, in accordance with chapter 7 of the HUD guidelines;
- The contractor determined that there was lead-based paint at seven of the nine developments but that only one development had lead-based paint levels above the HUD standard for lead-based paint;
- Based on the initial inspection results, the contractor performed comprehensive inspections of 105 of the 108 units at the development with elevated lead-based paint levels in February 2005, including a reinspection of the 45 units inspected as part of the sample of 275, and issued full risk reduction certificates;
- The contractor was certified as a lead paint inspection contractor in the State as required by chapter 7 of the HUD guidelines;
- The final risk assessment reports were formatted in accordance with chapter 5 of the HUD guidelines; and
- The contractor issued risk reduction, limited lead-free, or lead-free certificates in accordance with State code for all occupied units that it inspected.

HUD regulations at 24 CFR 35.1355 require the Authority to perform lead-based paint maintenance and reevaluation activities for units and common areas and on exterior surfaces if a lead-based paint inspection indicates that lead-based paint is present. In that regard, the Authority informed us that it had instituted a policy that upon vacancy, before a unit is leased to another tenant, the Authority would perform a visual inspection of the unit and then schedule an assessment by the certified lead-based paint contractor. Further, the certified lead-based paint contractor provided lead-based paint training to the Authority's 17 employees responsible for managing and monitoring its lead-based paint program. However, the Authority had not established its maintenance and reevaluation policy in a written document, and it provided limited documentation to demonstrate that it had performed the visual inspections and assessments by the lead-based paint contractor as it stated. To improve controls and ensure that it meets HUD requirements, the Authority needs to develop a written policy and implement procedures for the ongoing reevaluation of its units with lead-based paint, including maintaining supporting documentation.

The Authority Did Not Comply with State Lead-Based Paint Requirements in a Timely Manner

In 2003, the Maryland Department of the Environment conducted a compliance audit of the Authority's public housing properties and determined that the Authority did not comply with State lead-based paint laws. HUD regulations at 24 CFR 35.150 state that the Authority is not relieved of any responsibility for compliance

with state laws, ordinances, codes or regulations governing lead paint evaluation and hazard reduction. HUD had not issued the Authority a waiver to this requirement. We could not determine why the Authority failed to comply with the State laws because the responsible employees no longer worked for the Authority and it had no documentation to explain the reason for its noncompliance. As a result, in April 2004, the Authority entered into an agreement with the Maryland Department of the Environment to comply with State requirements to register and obtain full risk reduction, limited lead-free, or lead-free certificates by February 1, 2007, using accredited contractors and inspectors, for units in its nine public housing developments. HUD regulations do not require the registration and certificates. The Authority failed to comply with the terms of the agreement. As of July 2008, the Authority had registered units and obtained full risk reduction, limited lead-free, or lead-free certificates, using accredited contractors and inspectors, for only seven of its nine public housing developments. This noncompliance occurred because the Authority lacked effective leadership. Specifically, it operated without an executive director from January to June 2004, changed executive directors in April and September 2005, and experienced turnover in other managerial positions as well. On July 15, 2008, the Maryland Department of the Environment obtained a court order requiring the Authority to comply with the terms of the 2004 agreement for the remaining two properties by December 31, 2008. On December 31, 2008, the Authority submitted its response to the court order, including certifications for the units at one development and a statement that it planned to demolish the units at the other development beginning in March 2009 as evidence of its compliance with the court order.

Conclusion

The Authority did not comply with HUD and State lead-based paint requirements in a timely manner. Although it failed to meet prescribed deadlines for compliance, it complied with HUD requirements by April 2004 and submitted documentation to the State as evidence of its compliance with the State's requirements in December 2008. To improve controls, the Authority needs to develop and implement a written policy and procedures to ensure that it meets HUD requirements for ongoing maintenance and reevaluation of units with lead-based paint, including maintaining supporting documentation.

Recommendations

We recommend that the director of HUD's Baltimore public housing program hub

- 1A. Ensure that the documentation the Authority provided to the State in December 2008 brought the Authority into compliance with State lead paint laws and if it did not, reemphasize to the Authority its obligation to comply with the State lead paint laws.
- 1B. Direct the Authority to develop and implement a written policy and procedures for its ongoing maintenance and reevaluation program for units with lead-based paint, including maintaining supporting documentation.

SCOPE AND METHODOLOGY

To accomplish our objective, we reviewed

- HUD regulations at 24 CFR Part 35 and its Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing.
- The Code of Maryland Regulations, Title 26, Department of the Environment, Subtitle 16 – LEAD.
- The Annotated Code of Maryland; Title 6 - Toxic, Carcinogenic, and Flammable Substances; Subtitle 8 - Reduction of Lead Risk in Housing.
- The Authority's April 23, 2004, agreement with the Maryland Department of the Environment.
- The July 15, 2008, order from the U.S. Circuit Court for Anne Arundel County.
- The Authority's administrative plan; accounting records; annual audited financial statements for the fiscal years ending June 30, 2005, 2006, and 2007; tenant files; policies and procedures; board meeting minutes; and organizational chart.
- 275 inspection and assessment reports completed by the Authority's certified lead paint inspection contractor in March and April 2004 to determine whether the lead-based paint inspections and evaluations complied with HUD requirements.

We interviewed the director of HUD's Baltimore public housing program hub, as well as hub managers and staff; an attorney from the Maryland Office of the Attorney General representing the Maryland Department of the Environment; the Authority's executive director, senior managers, and maintenance staff; and the Authority's certified lead paint inspection contractor.

We performed our on-site audit work in October 2008 at the Authority's office located at 1217 Madison Street, Annapolis, Maryland. The audit covered the period January 2004 through August 2008. We expanded the scope of the audit as necessary.

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. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

INTERNAL CONTROLS

Internal control is an integral component of an organization's management that provides reasonable assurance that the following controls are achieved:

- Program operations,
- Relevance and reliability of information,
- Compliance with applicable laws and regulations, and
- Safeguarding of assets and resources.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. They 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:

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Relevance and reliability of information – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.
- Compliance with applicable laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.
- Safeguarding of assets and resources – Policies and procedures that management has implemented to reasonably ensure that assets and resources are safeguarded against waste, loss, and misuse.

We assessed the relevant controls identified above.

A significant weakness exists if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

Significant Weaknesses

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

- The Authority did not develop and implement a written policy and procedures to ensure that it met HUD requirements for ongoing maintenance and reevaluation of units with lead-based paint.

APPENDIX

Appendix A

AUDITEE COMMENTS



HOUSING AUTHORITY OF THE CITY OF ANNAPOLIS

Board of Commissioners

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Executive Director
Eric C. Brown

March 3, 2009

Mr. John P. Buck,
Regional Inspector General for Audit
U.S. Department of Housing & Urban Development
Wanamaker Building
100 Penn Square East, Suite 1005
Philadelphia, PA 19107-3380

RE: Housing Authority of the City
Of Annapolis Audit

Dear Mr. Buck:

The Housing Authority of the City of Annapolis has reviewed the draft Office of the Inspector General's audit of the Housing Authority's "management of lead based paint in its public housing units ...". The Housing Authority agrees with the conclusion and commends the staff for its thoroughness, fairness, and professionalism in the conduct of the audit.

The Authority's specific responses to the audit recommendation are set forth below:

HUD OIG Recommendation 1A: The Director of HUD's Baltimore Public Housing Program Hub should ensure that the documentation the Authority provided to the State in December 2008 brought the Authority into compliance with the State lead paint laws and if it did not, reemphasize to the Authority its obligation to comply with the State lead paint laws.

HACA Response: As noted in the draft audit report, in December 2008, the Housing Authority submitted required documentation to the Maryland Department of the Environment. The Department as of the date of this letter has not requested additional information nor has it indicated the Authority is not in compliance.

HUD OIG Recommendation 1B: The Director of HUD's Baltimore Public Housing Hub will direct the Authority to develop and implement a written policy and procedures for its ongoing maintenance and reevaluation program for its units with lead based paint, including maintaining supporting documentation.

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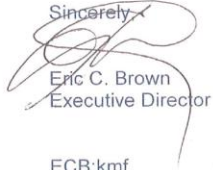
Mr. John P. Buck

2

March 3, 2009

HACA Response: The Housing Authority does maintain documentation of lead based paint inspection results. The Housing Authority will develop a written policy and procedures for its maintenance and reevaluation program where necessary to comply with Federal and State lead based paint regulations and laws.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric C. Brown", is written over the word "Sincerely," and extends downwards into the typed name.

Eric C. Brown
Executive Director

ECB:kmf