ALAN G. HEVESI
COMPTROLLER

110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
**OFFICE OF THE STATE COMPTROLLER**

July 11, 20003

Ms. Jerilyn Perine
Commissioner
New York City Department of Housing
Preservation and Development
100 Gold Street
New York, NY 10038

Re: Permanent Housing for Homeless Families Program
Report 2001-N-12

Dear Ms. Perine:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1, of the State Constitution; Article II, Section 8, of the State Finance Law; and Article III of the General Municipal Law, we have audited the effectiveness with which the New York City Department of Housing Preservation and Development monitors the Permanent Housing for Homeless Families Program's tenant-selection process. Our audit covered the period of April 1, 1998 through March 31, 2002.

## A. <u>Background</u>

The New York City Department of Housing Preservation and Development (HPD) was created under Local Law 29 in 1977 to improve the availability, affordability, and quality of housing for residents of New York City (City). As part of its mission, HPD administers several housing programs, including the Permanent Housing for Homeless Families Program (Program).

The Program was established in 1988 with the enactment of Article III (A) of the New York State Housing Finance Law. This law called for the City and New York State (State) to contribute $85 million each (a total of $170 million) toward the creation of affordable housing for homeless families and families at risk of becoming homeless through either new construction or the substantial rehabilitation of existing buildings. The objectives of the Program were to be met jointly by HPD, representing the City, and the New York State Housing Finance Agency (HFA), representing the State.

For the Program, HPD uses the New York City Department for Homeless Services (DHS) definition of homeless families: families who have been living in DHS shelters, or DHS-approved shelters, for a minimum of six consecutive months. (Subsequent to our audit, the minimum stay has been reduced to three months, effective October 2002). This is the sole criteria for Program referrals. Families at risk of becoming homeless are identified as those whose incomes are up to 60 percent of the Area Median Income, as adjusted by the United States Department of Housing and Urban Development. For each project or housing facility in the Program, homeless families must occupy 51 percent of the total number of units (apartments); the remaining 49 percent of the units must be occupied by families who are at risk of becoming homeless. This standard is referred to as the tenant/unit distribution ratio.

Construction has been completed on 18 of the 20 projects in the Program. The Program has consisted of four rounds, or phases. Under Rounds I and II, HPD selected the project sites, while HFA was responsible for the design and construction of the projects. At the end of the development period, HPD selected a not-for-profit group to serve as a "sponsor" with responsibility for managing each completed project. Development costs were paid out of government funds. Tax credits from the New York State Division of Housing and Community Renewal (DHCR) were used to establish social service programs, fund the operating reserves, make up for the operating shortfalls, and pay down some of the mortgage loan. After the mortgage is repaid, the sponsors will own the projects. Between 1990 and 1996, at a cost of $134 million**,** 16 projects consisting of 877 units were constructed under Rounds I and II.

This process was modified under Round III of the Program. HPD selected the project site, a not-for-profit group was responsible for the project design, HPD supervised the selection of the general contractor, and HFA monitored the actual construction. Development costs were paid with government funds, and HPD and DHCR shared responsibility for providing tax credits. The tax credit proceeds were used to establish social service programs and operating reserves for the projects. Three projects with 151 units were to be built under this round, at a total cost of $27 million. Construction of two of the three projects has been completed. Construction of the third project commenced in the summer of 2002. Under Round IV, a 40-45 unit, $9.1 million project will be built. Construction is expected to commence in the summer of 2003.

In accordance with a plan approved by HPD, the selected sponsor becomes responsible, as the construction phase ends, for the long-term ownership of the project, including the marketing of the units and the selection of tenants. Although the sponsor is responsible for marketing the projects and selecting the tenants, HPD is responsible for monitoring both processes. The marketing process includes advertising the project, soliciting inquiries, and receiving applications from eligible applicants. These efforts must begin at least four months before the first unit is expected to be occupied. The tenant-selection process, which requires HPD's approval, involves screening applications and interviewing prospective tenants.

Procedures for marketing each project and the tenant-selection guidelines for that project are set by HPD. They are stated in a Regulatory Agreement, the legal document signed by the State, City, and sponsor regarding the administration of the Program and the responsibilities of each party. HPD requires that the projects in the Program continue to be operated as low-income affordable housing for a period of 35 years, in accordance with the Regulatory Agreement and a mortgage, both of which are signed upon conveyance of the site.

## B. Audit Scope, Objectives, and Methodology

We audited the Program for the four fiscal years of April 1, 1998 through March 31, 2002. The objectives of this performance audit were to determine whether HPD's monitoring of the Program is adequate to ensure that:

- the required tenant/unit distribution ratio is being maintained,
- vacancies are being filled on a timely basis, and
- tenant income is being verified.

To determine whether the 51-percent/49-percent ratio is being maintained, we reviewed the current tenant/unit distribution ratios for five sampled projects. To determine the number of vacant units and the duration of the vacancies, we obtained rent roll schedules for the fiscal years of 1999 through 2002 for the five sampled projects and reviewed the sponsor's procedures for filling vacancies.

To determine whether sponsors have verified the income reported by low-income tenants, we selected a sample of applicants from two of the five sampled projects and noted the income they reported. We forwarded these figures to the New York State Department of Taxation and Finance along with the list of sampled tenants, for comparison with the amounts they had reported on their State income tax returns.

We also interviewed HPD officials and reviewed relevant laws, rules, regulations, policies, and procedures; and met with HFA officials and reviewed their Program Report of 2002. The Program Report gives a synopsis of the Program including 'before' and 'after' photos of the projects and project costs.

As is our practice, we notified HPD officials at the outset of the audit that we would request a representation letter in which agency management provides assurances, to the best of their knowledge, concerning the relevance, accuracy, and competence of the evidence provided to the auditors during the course of the audit. The representation letter is intended to confirm oral presentations made to the auditors and to reduce the likelihood of misunderstandings. Agency officials normally use the representation letter to assert that to the best of their knowledge, all relevant financial and programmatic records and related data have been provided to the auditors. They affirm either that the agency has complied with all the laws, rules, and regulations applicable to its operations that would have a significant effect on the operating practices being audited, or that any exceptions have been disclosed to the auditors.

However, officials at the New York City Mayor's Office of Operations have informed us that, as a matter of policy, mayoral agency officials do not provide representation letters in connection with our audits. As a result, we lack assurance from HPD officials that all relevant information was provided to us during the audit. We consider this refusal to provide a representation letter to be a scope limitation on our audit. Therefore, readers of this report should consider the potential effect of this scope limitation on the findings and conclusions presented in the report.

Except as discussed in the preceding paragraph, we conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audits to adequately assess those operations that are included in the audit scope. Further, these standards require that we understand HPD's internal control structure and its compliance with those laws, rules, and regulations that are relevant to the operations included in our audit scope. An audit includes examining, on a test basis, the evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions, and recommendations.

We use a risk-based approach to select activities to be audited. This approach focuses our audit efforts on operations that have been identified through a preliminary survey as having the greatest probability for needing improvement. Consequently, by design, finite audit resources are used to identify where and how improvements can be made. Thus, little audit effort is devoted to reviewing operations that may be relatively efficient or effective. As a result, our audit reports are prepared on an "exception basis." This report, therefore, highlights those areas needing improvement and generally does not address activities that may be functioning properly.

## C. Results of Audit

The homeless problem is becoming critical in New York City. In February 2003, nearly 40,000 people, including 16,000 children, were living in homeless shelters – an increase of 7,400 in one year. Since its inception, the Program has provided 984 units for such families, with another 84 currently under construction or soon to begin construction. When these projects are completed, they will have provided permanent housing for nearly 5,000 homeless and low-income people. In general, we found that HPD's monitoring ensures that the Program operates effectively with regards to compliance with the tenant-selection requirements. However, we found improved monitoring is needed with respect to vacancy control and income verification.

### 1. Tenant/Unit Distribution Ratio

Article III (A) of the New York State Housing Finance Law established the Program, but it did not specify the manner in which the units were to be distributed to the tenants. The Site Review Advisory Board, whose approval of the selected sites is required, interpreted the law as requiring that a majority – 51 percent – of the units be reserved for homeless families, while 49 percent should be allotted to low-income families. This tenant/unit distribution ratio, which was spelled out in the funding agreement signed by HFA and HPD, is also specified in the Regulatory Agreements HPD signs with each sponsor. Upon completion of a project, HPD's Division of Tenant Resources confirms a "grid" that indicates which specific apartments are designated as homeless set-asides and which are to be leased to low-income households.

The sponsor is responsible for marketing the projects and selecting the tenants, while HPD is responsible for monitoring both processes. The two categories of tenants are selected in a different manner. The applications of families who have been identified as homeless are forwarded by DHS to HPD. HPD staff review each application and verify that the family has lived in an approved homeless shelter for at least six months (for at least three months, effective October 2002). HPD maintains a file on eligible applicants that indicates the number of family members, the number of rooms needed, and the borough in which the family prefers to live. When the sponsor notifies HPD that a homeless unit is available, HPD responds by forwarding a number of tenant applications from its files. The sponsor's staff then schedule appointments with applicants, make the final tenant selection, and inform HPD which of the applicants were selected and of their reasons for not selecting the unsuccessful applicants. This method is used both when a building is first opened and later, when a vacancy arises in a building that has been occupied.

The selection of a low-income tenant when a project is initially opened is handled through newspaper advertisements placed by the sponsor. The advertisements list the unit's income guidelines, which depend on the sizes of both the unit and the family applying for it. Families take the initiative to submit applications, and are selected through a lottery that is conducted by the sponsor under HPD supervision. HPD staff verify that the selected applicants meet the criteria, and then log their names into a book for consideration by the sponsor. Thereafter, the applicants will be interviewed and screened by the sponsor for potential tenancy in the order in which they were entered on the log. Selection of the tenants by the sponsor is based upon review of documentation submitted to support the application. The sponsor verifies the applicant's compliance with eligibility criteria.

The sponsors maintain a list of applicants (i.e., a waiting list) for low-income units that become available as re-rentals. These applications are submitted directly to the sponsors on an ongoing basis and are selected for consideration without HPD's knowledge. Thus HPD plays no role in monitoring the selection process for the re-rental of units set aside for low-income tenants.

To determine whether the 51/49 ratio is being maintained under this selection process, we sampled 5 of the 18 projects for which construction was completed. These five projects were selected based on various criteria including location and the number of units. We found that the distribution ratio for each project met the requirements. However, we noted that HPD has no procedures for preventing a vacated unit from being rented, without HPD's knowledge or approval, to a tenant whose status changes the ratio. HPD officials explained that they rely on consultants hired by DHCR to visit the projects annually and review eligibility for tax credits, pointing out that the sponsors could lose tax credits if the ratio does not meet Program requirements. However, the consultant inspection summaries we reviewed did not indicate that the consultants actually report on the ratios. At the very least, HPD officials should monitor these projects annually through site visits, and should review the ratio themselves instead of relying on consultants.

### 2. Duration of Vacancies

HPD maintains no statistics on vacancies. Instead, we requested and were given copies of rent roll schedules, the only documentation HPD receives from sponsors that indicates vacancies. They are prepared annually and show vacancies only on the date they were prepared. We reviewed the rent roll schedules for four of the five sample projects (the fifth was a newly opened building and a rent roll schedule was not yet required) prepared at the end of two consecutive periods (12/31/00 and 12/31/01) to determine whether tenant names had changed, indicating that a vacancy might have occurred. Our review found a low turnover.

Although the turnover is low, we found instances in which long periods of time had passed before vacancies were filled. For example, we found a total of only 11 vacancies in the 5 buildings in the Webster-Clay project in the Bronx. However, it took an average of 125 days – ranging from 43 days to 462 days – to fill a vacancy in the Webster-Clay buildings. This included two low-income units that were vacant for 249 and 462 days respectively, and one homeless unit vacant for 165 days. It took 88 days to fill one homeless vacancy at the Genesis project in Brooklyn. It is good business practice to maximize the use of these units; each day of vacancy means another day that delays the providing of much needed housing to homeless or low-income families. Because HPD officials are not cognizant of vacancies or their duration, they cannot monitor the way they are filled.

### 3. Income Verification

According to Program guidelines, 49 percent of the units must be occupied by families who are at risk of being homeless. When low-income applicants meet with sponsors, they submit documentation that can be used to verify the income they have claimed on their application forms. This documentation can consist of W-2 forms, income tax returns, 1099 forms, copies of pay stubs, etc.

We selected a sample of income claims by 32 out of 64 tenants living in the units reserved for low-income tenants at the Melrose Commons Project and Harlem Restoration, and tested the veracity of their claims for year 2001 by forwarding them to the New York State Department of Taxation and Finance (State Tax) along with the tenants' names and social security numbers. These 32 tenants were selected because their identifying information was readily available. Because of its policy on confidentiality, State Tax officials responded to our inquiry in general terms. They explained they found that 2 of the 32 individuals had filed jointly with another individual in the group, thus reducing the sample base to 30. They also made the following observations about the sampled tenants:

- 20 percent had no income tax return on file.
- 13 percent had reported to State Tax nearly the same income as they had claimed to the sponsor.
- 50 percent had reported income to State Tax that was less than the income claimed to the sponsor.
- 17 percent had reported income to State Tax that was between 20 percent and 81 percent higher than the income claimed to the sponsor.

Based on these observations, it appears that the sponsor had received documentation that was incomplete or inaccurate in 67 percent of our sampled cases. Thus it is possible that an ineligible tenant could obtain a unit wrongfully, making it unavailable to another applicant who was truly eligible.

HPD officials disagreed with our conclusion, claiming that State Tax records would reflect only the previous year's incomes, while HPD officials are interested in current incomes. Although we agree with their observation, we still believe State Tax records can be a valuable tool in the review of tenant applications. They make it possible for the sponsor and HPD to know whether documentation submitted was reliable. Since applicants might have to wait for a vacancy, the submitted documentation could be compared with information in the tax return. HPD officials should work with representatives of the sponsors and State Tax to develop a system for verifying applicant income claims through comparisons with State Tax records.

## Recommendations

1. *Inspect Program projects each year, including a review of the tenant/unit distribution ratio. Verify that a ratio of 51 percent-homeless/49 percent-low-income is being maintained.*

2. *Require sponsors to notify HPD of any vacancies and work with sponsors to identify eligible tenants who can promptly occupy the vacant units*.

   (Regarding Recommendations 1 and 2, HPD officials contend that they control the ratios and homeless vacancies through their administration of Section 8 rental assistance, which provides housing aid to the homeless. According to HPD, when a homeless unit receiving rental assistance is vacated, the sponsor immediately notifies HPD of the vacancy and requests referrals. HPD officials further indicate that they have developed and will soon implement two computer tracking systems that will improve their ability to monitor and track vacancies in this program.)

   <u>Auditors' Comments</u>: Until the tracking systems are in place, HPD should closely monitor the ratios and the duration of vacancies.

3. *Work with State Tax officials to develop a procedure a sponsor can follow to help confirm the accuracy of tenant applicants' income claims.*

   (HPD officials state that eligibility must be proven for the current period without regards to past income, since the incomes of low-income tenants may vary. They believe that the effort to establish income verification might prove difficult, and would add nothing to data already available.)

   <u>Auditors' Comments</u>: Based upon the information we obtained from State Tax, the possibility exists that ineligible families could be selected for occupancy. We believe that prior-year tax information could be useful to HPD in identifying unreported current-year income and should be pursued by HPD.

We provided draft copies of this report to HPD officials for their review and comment. Their comments have been considered in preparing this report and are included as Appendix A.

Within 90 days after final release of this report, we request that the Commissioner of HPD report to the State Comptroller, advising what steps were taken to implement the recommendations contained in this report, and where recommendations were not implemented, the reasons therefor.

Major contributors to this report were Howard Feigenbaum, Sheila Jones, Arthur Lebowitz, Claudia Byam, Aurora Caamano, and Marticia Madory.

We wish to thank the management and staff of the New York City Department of Housing Preservation and Development for the courtesies and cooperation extended to our auditors during the audit.

Very truly yours,

Frank J. Houston
Audit Director

City of New York
DEPARTMENT OF
HOUSING PRESERVATION AND DEVELOPMENT
100 GOLD STREET, NEW YORK, N.Y. 10038

JERILYN PERINE
Commissioner

June 4, 2003

Mr. Frank Houston, Audit Director
Office of the State Comptroller
Division of Management Audit
123 William Street, 21st Floor
New York, New York 10038

Re: Audit of HPD's Permanent Housing for Homeless Families
Audit Number: 2001-N-12

Dear Mr. Houston:

The following represents the Department of Housing Preservation and Development's response to the recommendations contained in your audit of the Permanent Housing for Homeless Families.

If you have any additional questions please call Deputy Commissioner Bernard Schwarz at 863-6610.

Thank you.

Sincerely,

Jerilyn Perine

HPD
nyc.gov/hpd
(212) 863-6100 FAX (212) 863-6302 TTY (212) 863-7934

**Appendix A**

**Finding**
The tenant/unit distribution ratio is not being monitored properly.

**Recommendation 1.** HPD should inspect Program Projects each year, including a review of the tenant/unit distribution ratio. Verify that a ratio of 51 percent homeless/ 49 percent – low-income is being maintained.

**Response 1.** The audit finding fails to acknowledge the fact that HPD controls the homeless/low income ratio through its administration of Section 8 rental assistance, which is provided to all Permanent Housing for Homeless Families projects. The homeless units are provided with Section 8 vouchers. Upon completion of a project, HPD's Division of Tenant Resources (DTR) confirms a "grid" that indicates which specific apartments are designated as homeless set-asides and which are to be leased to low-income households. This grid guides the re-rental activities of DTR. When a homeless unit receiving rental assistance is vacated, the sponsor notifies HPD of the vacancy, requests a family to be referred, and interviews the families referred by the Division of Tenant Resources (from DHS or HPD Shelters). This mechanism ensures that vacant units continue to be allocated according to their designation as homeless/non-homeless units. Therefore, the ratio of 51 percent homeless/49 percent low-income is maintained.

HPD
nyc.gov/hpd
(212) 863-6100 FAX (212) 267-2565 TTY (212) 863-7934

| <u>**Finding**</u> | **Recommendation 2.** | **Response 2.** |
|---|---|---|
| HPD is not cognizant of vacancies or their duration; therefore we cannot monitor the way they are filled. | HPD should require sponsors to notify HPD of any vacancies and work with sponsors to identify eligible tenants who can promptly occupy the vacant units. | HPD is advised immediately of homeless vacancies, and takes steps which we outline below to fill the vacancy. As to the non-homeless vacancies, the sponsors fill those vacancies directly. Because the sponsors are private, nonprofit organizations and are guided by the discipline of the market, there is no need to monitor each and every apartment vacancy: it is the homeless vacancies which are important for HPD to monitor. For each homeless vacancy:<br><br>Sponsors must meet with approximately ten eligible households, conduct credit checks and home visits, as appropriate, and request payment of security deposit and first month's rent from the Human Resources Administration (HRA). Sponsors also must submit completed Section 8 applications for eligible households. HPD and DHS must then coordinate cutting of these checks and lease-signing with tenants and sponsors.<br><br>HPD has developed and will soon implement two computer tracking systems that will improve its ability to monitor the process by which vacant units are filled. First, HPD has purchased and customized a computer software system to manage its Section 8 program operations. All housing units set aside for homeless households have been "flagged." Accordingly, when a household moves out of one of these units, a notice will be sent immediately to the unit that is responsible for filling these vacancies. HPD's Division of Technology and Strategic Development is in the process of completing a database and tracking system designed specifically to monitor and track vacancies in this program. |

nyc.gov/hpd
(212) 863-6100
FAX (212) 267-2565
TTY (212) 863-7934

| **Finding** | **Recommendation 3.** | **Response 3.** |
|---|---|---|
| Income Verification not being done by the sponsors | HPD should work with State Tax officials to develop a procedure a sponsor can follow to help confirm the accuracy of tenant applications' income claims. | Homeless families are categorically eligible for this type of housing because they are homeless. As for the non-homeless families, the auditor failed to document that any families actually ineligible for the program were admitted to any buildings. |

Income eligibility is established by comparison of actual income with eligibility levels for various family sizes. The auditors obtained family income data that had no reference to name or family size. Therefore, the tax information failed to determine any family's eligibility or lack thereof.

In the 85/85 program, eligibility is determined by current year projected income, based on such documents as paystubs, and subject to third-party verification (letters from employers). Prior year income is not relevant to eligibility.

HPD's Division of Tenant Resources (DTR) handles the monitoring of incomes the tenants in the homeless set aside units through the Section 8 Rental Assistance Program. DTR follows the same process of verifying income that is used throughout the US, since Sec 8 is a Federally mandated program designed by HUD and implemented by the local authorities. HUD requires tenants to sign a release of information form that gives the local authorities the power to examine any tax or government social service agency record in order to prove the accuracy of the copy the tenant submits.

The syndicators of the low-income housing tax credits monitor the documentation of the low-income tenants.[1] In accordance with the rules of the Internal Revenue Service, sponsors document the eligibility of potential tenants prospectively, for the coming year. Since the incomes of low-income tenants may vary, eligibility must be proven for the current period without regard to past income.

In sum, the effort to establish income verification might prove difficult to establish, and would add nothing to data already available.

1 All 85/85 projects are syndicated.

[1] All 85/85 projects are syndicated.

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(212) 863-6100 FAX (212) 267-2565 TTY (212) 863-7934