

AUDIT REPORT

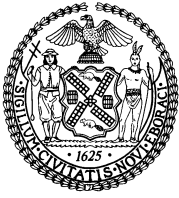


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF MANAGEMENT AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Department of Housing Preservation and Development Cornerstone Program

ME09-077A

August 5, 2009



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the responsibilities of the Comptroller contained in Chapter 5, §93, of the New York City Charter, my office has conducted an audit to determine whether the Department of Housing Preservation and Development (HPD) ensured that the goals of the Cornerstone Program were met.

HPD uses a variety of preservation, development, and enforcement strategies and works with private, public, and community partners to strengthen neighborhoods and to enable more New Yorkers to become homeowners or renters of well-maintained, affordable housing. In 2000, HPD established the Cornerstone Program, a multi-family, new construction initiative, designed to expand private housing and create affordable rental and homeownership units. We audit programs such as this to ensure that City agencies efficiently and effectively meet their program objectives.

The results of our audit, which are presented in this report, have been discussed with HPD officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.
WCT/ec

Report: ME09-077A
Filed: August 5, 2009

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The City of New York
Office of the Comptroller
Bureau of Management Audit

**Audit Report on the Department of Housing Preservation
and Development Cornerstone Program**

ME09-077A

AUDIT REPORT IN BRIEF

This audit determined whether the Department of Housing Preservation and Development (HPD) ensured that the goals of the Cornerstone Program were met. The scope of the audit was Fiscal Year 2008 (July 1, 2007 through June 30, 2008).

HPD's mission is to improve the availability, affordability, and quality of housing in New York City. To fulfill this mission, HPD uses a variety of preservation, development, and enforcement strategies and works with private, public, and community partners to strengthen neighborhoods and to enable more New Yorkers to become homeowners or renters of well-maintained, affordable housing.

In 2000, HPD established the Cornerstone Program, a multi-family, new construction initiative, designed to expand private housing and create affordable rental and homeownership units. The primary goals of the program are to sell City-owned land, often for a nominal fee, to stimulate private residential development and investment, and to create affordable rental and homeownership units in specific neighborhoods.

As of March 2009, a total of 51 sites (encompassing 4,536 units) had been approved for the Cornerstone Program; construction had been completed at 20 (39%) of the 51 sites. The 20 sites had 2,191 units.

Audit Findings and Conclusions

Although our audit determined that HPD generally ensured that the primary goals of the Cornerstone Program were met, there were a number of deficiencies in its implementation of the program. Through the Cornerstone Program, HPD seeks to expand private residential development by making City-owned land available for private developers to create rental and homeownership opportunities. To a small degree, HPD also expanded affordable housing by requiring that developers sell or rent some units at less than market rate to lower-income applicants. Through the first three Cornerstone Requests for Proposals (RFPs) as of March 2009, 22 percent of the 2,191 completed units were designated for low-income families and another 78

percent were designated for households earning at least 115 percent of area median income (AMI), with approximately one-third of the completed units sold or rented at market rate.

However, HPD did not maintain accurate information on the number of developments participating in the Cornerstone Program or any information on the number of affordable units being developed as a result of the first three Cornerstone RFPs. As a result, HPD was unable to adequately track its progress in meeting the program's primary goals. In addition, HPD did not maintain adequate evidence of its detailed evaluations of developer responses to the fourth Cornerstone RFP. We were, therefore, unable to ascertain whether the proposals upon which HPD based its decisions to award development opportunities were fairly evaluated in a transparent and consistent manner. Furthermore, the housing lottery process, which HPD uses to select applicants for interviews for available Cornerstone Program units, has control weaknesses that increase the potential for some applicants to receive preferential treatment. Finally, HPD did not adequately ensure that tenants or homeowners were qualified for the affordable units.

Audit Recommendations

To address these issues, the audit recommends, among other things, that HPD:

- Ensure that it accurately tracks its Cornerstone Program developments.
- Ensure that all relevant documentation for the RFP process is maintained, including the scores given by individual reviewers and the scores given by the panel of reviewers in each category.
- Allow applications for the housing lottery to be filed online or by phone, as well as by mail.
- Assume the responsibility for the selection of applicants for the affordable units by developing a new set of procedures for listing and randomly selecting applicants, and incorporating appropriate segregation of duties and supervisory oversight into this process.
- Require that developers provide copies of applicants' employment-income documentation along with evidence that they validated this documentation.
- Include, in future agreements with developers, income limits for subsequent owners or renters of affordable units and ensure that these limits are enforced.

Agency Response

In its response, HPD agreed or partially agreed with six of the audit's recommendations and stated that it would consider the remaining two.

INTRODUCTION

Background

The mission of the Department of Housing Preservation and Development is to improve the availability, affordability, and quality of housing in New York City. To fulfill this mission, HPD uses a variety of preservation, development, and enforcement strategies and works with private, public, and community partners to strengthen neighborhoods and to enable more New Yorkers to become homeowners or renters of well-maintained, affordable housing.

In 2000, HPD established the Cornerstone Program, a multi-family, new construction initiative, designed to expand private housing and create affordable rental and homeownership units. As an evolving program in response to housing market conditions, the primary goals of earlier rounds of the program were to sell City-owned land to stimulate private residential development and investment and to create affordable rental and homeownership units in specific neighborhoods. As the housing market heated up, later rounds covered a broader range of neighborhoods and focused more on greater affordability through the development of affordable rental and homeownership units.

The Cornerstone Program facilitates the construction of mixed-income housing on vacant City-owned land. Developers are selected on a project-by-project basis through a competitive Request for Proposals (RFP) process. The Cornerstone Program draws on a variety of funding sources, including federal HOME funds and Low Income Housing Tax Credits (LIHTC), the State Affordable Housing Corporation, the State Homes for Working Families Program, the City Housing Development Corporation (HDC), and HPD. Selection criteria and preferences evolved over the course of time as housing market conditions changed. In the later rounds, preference was given for mixed-income projects that provide the greatest mix of affordability, using the least amount of subsidy.

There are three phases in the construction of a Cornerstone development: pre-designation, pre-development, and construction. During the pre-designation phase, HPD identifies a site for development and selects a developer through the RFP process. During the pre-development phase, HPD and the developer take the site through environmental, design and City land-use reviews; identify potential federal, State and City subsidy sources; and begin the budget approval process. HPD and, if necessary, the Mayor's Office of Management and Budget review and approve the final budget, and the Department of Buildings (DOB) issues the required building permits. After financing is secured and HPD conveys the land, the developer commences construction of the project and, as it nears completion, proceeds with the tenant selection process. At completion, a Certificate of Occupancy (C of O) is issued by DOB and residents may move in.

HPD's Division of Marketing and Neighborhood Resources (Marketing) is responsible for monitoring the marketing of affordable units by the developer. At a marketing meeting with the developer, HPD officials discuss the advertising for new tenants; the preferences for Community District residents, City employees, and disabled applicants; and the housing lottery process. The developer is responsible for interviewing those applicants selected through the

lottery. During the interview, the developer records the applicant's income, family size, and preferences onto an Applicant Information Form (AIF). The developer sends the AIF to HPD for approval before the developer rents or sells a unit to the applicant.

As of March 2009, a total of 51 sites (encompassing 4,536 units) had been approved for the Cornerstone Program; construction had been completed at 20 (39%) of the 51 sites. The 20 sites had 2,191 units.

Objective

The audit's objective was to determine whether HPD ensures that the goals of the Cornerstone Program are met.

Scope and Methodology

We conducted this performance 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of the audit was Fiscal Year 2008 (July 1, 2007 through June 30, 2008).

To obtain an understanding of the Cornerstone Program, we interviewed HPD officials, including the Assistant Commissioner of the Office of Development/Housing Production, Director of Operations for New Housing Production, Director of Operations for Planning, Director of Multi-Family Initiatives, Director of Marketing & Neighborhood Resources, and a Senior Project Manager who is responsible for working with the developers on a day-to-day basis.

To assess whether the objectives of the Cornerstone Program were met, we reviewed HPD policies and procedures relating to the program. We also reviewed the timelines of all Cornerstone Program developments, which included the sale-closing dates, construction-start dates, and construction-completion dates. We determined whether DOB had issued Certificates of Occupancy for those developments that HPD reported as having been completed. In addition, we reviewed the RFP process for the Round IV projects.

To obtain an understanding of the selection process for the tenants and homeowners of the affordable units, we reviewed the marketing policies and procedures relating to housing lotteries that are held to establish the order by which applicants are to be interviewed for and offered units in a Cornerstone Program development. In addition, we observed the housing

lottery process for two developments in the Cornerstone Program on February 18 and March 10, 2009.

To determine whether the selected tenants or homeowners were qualified for the affordable units, we selected the four developments that were completed in Fiscal Year 2008. We selected a sample of the tenants or homeowners and reviewed the initial certification documents used, including pay stubs and letters from employers, to determine whether they qualified for the affordable units.

As part of our review of controls, we assessed the reliability of the data obtained from HPD relating to the Cornerstone Program. We met with officials from the Information and Technology Unit, and reviewed record layout documentation for the Production Credit System (PCS). We checked the accuracy of the PCS list of Cornerstone Program developments provided to us by HPD by reviewing sale-closing documentation in the Department of Finance Automated City Register Information System (ACRIS).

The results of the above tests, while not statistically projected to their respective populations, provided a reasonable basis for us to determine whether HPD ensures that the objectives of the Cornerstone Program are met.

Discussion of Audit Results

The matters covered in this report were discussed with HPD officials during and at the conclusion of this audit. A preliminary draft report was sent to HPD officials on May 11, 2009, and was discussed at an exit conference held on May 26, 2009. On June 8, 2009, we submitted a draft report to HPD officials with a request for comments. We received a written response from HPD officials dated June 23, 2009. HPD agreed or partially agreed with six of the audit's recommendations and stated that it would consider the remaining two.

In its response, HPD included an expanded Table II to provide additional detail on Round IV projects that have reached the construction start stage through Fiscal Year 2009. HPD provides information indicating that Round IV projects will place increased emphasis on expanding affordable housing opportunities. We did not verify the accuracy of this new information.

The full text of the HPD response is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

Although our audit determined that HPD generally ensured that the primary goals of the Cornerstone Program were met, there were a number of deficiencies in its implementation of the program. Through the Cornerstone Program, HPD expanded private residential development by making City-owned land available for private developers to create rental and homeownership opportunities. HPD also expanded affordable housing by requiring that developers sell or rent some units at less than market rate to lower- and middle-income applicants. Through the first three Cornerstone RFPs as of March 2009, 22 percent of the 2,191 completed units were designated for low-income families and another 47 percent were designated for middle-income families. (The remaining 31 percent were market-rate or unspecified units.)

However, HPD did not maintain accurate information on the number of developments participating in the Cornerstone Program or any information on the number of affordable units being developed as a result of the first three Cornerstone RFPs. As a result, HPD was unable to adequately track its progress in meeting the program's primary goals. In addition, HPD did not maintain adequate evidence of its detailed evaluations of developer responses to the fourth Cornerstone RFP. We were, therefore, unable to ascertain whether the proposals upon which HPD based its decisions to award development opportunities were fairly evaluated in a transparent and consistent manner. Furthermore, the housing lottery process, which HPD uses to select applicants for interviews for available Cornerstone Program units, has control weaknesses that increase the potential for some applicants to receive preferential treatment. Finally, HPD did not adequately ensure that tenants or homeowners were qualified for the affordable units.

Rental and Homeownership Opportunities Expanded

One of the primary goals of the Cornerstone Program is to sell City-owned land, often for a nominal fee, to stimulate private residential development and expand rental and homeownership opportunities. As of March 2009, a total of 51 sites (4,536 units) had been approved for the Cornerstone Program; construction had been completed at 20 (39%) of the 51 sites. DOB issued Certificates of Occupancy for 2,191 units at these 20 sites.

HPD has issued four RFPs for the Cornerstone Program. The RFP for Round I was issued on July 26, 1999, under the New Housing Opportunities Program (New HOP);¹ it initially included nine sites, all in Harlem. One of these sites was later removed and not offered under the program, another site was removed and included in the RFP for Round III, and two sites were added at a later time. The RFP for Round II was issued on June 26, 2000. It initially included 11 sites, also all in Harlem. Three of these sites were later removed: two sites were included in the RFP for Round III and one was included in the RFP for Round IV. The RFP for Round III was issued on February 10, 2003; it initially included 15 sites: 13 in Harlem, one in the Bronx, and one in Brooklyn. One of the sites from this round was later disposed of through another program. The RFP for Round IV was issued on August 29, 2005. It initially included 21 sites:

¹ Sites offered under New HOP in 1999 were placed under the Cornerstone Program in 2000.

eight in Harlem, nine in Brooklyn, and four in the Bronx; the RFP was later amended to have one fewer site.

Table I, below, shows by round the number of expected sites per each RFP, the number of sites in the program as of March 2009, the number of sites for which construction of the development has been completed, the total number of units to be constructed according to HPD and sale-closing documents, and the total number and percentage of units completed.

Table I
Summary of Cornerstone Sites as of March 2009

Year RFP Issued	Round	Number of Sites per Original RFP	Number of Sites in Program as of March 2009	Number of Sites Completed	Total Number of Units to Be Constructed	Total Number of Units Constructed	Percentage of Units Completed
1999	I	9	9	9	1,020	994	97%
2000	II	11	8	5	1,031	508	49%
2003	III	15	14	6	1,247	689	55%
2005	IV	21	20	0	1,238	0	0%
	Totals	56	51	20	4,536	2,191	48%

Another primary goal of the Cornerstone Program was to increase the availability of affordable housing in the City. In terms of affordability, the goal set by HPD was to create housing affordable to households earning up to certain percentages of the New York City area median income (AMI).² (For Fiscal Year 2008, the AMI for a family of four was \$76,800.) Rounds I and II of the Cornerstone Program focused primarily on the goal of stimulating private residential development. Most of the units completed from those rounds were market-rate or middle-income level units in that the affordable units were set for families earning up to 175 or 250 percent of AMI. (For Fiscal Year 2008, 175 and 250 percent of AMI was equal to \$134,400 and \$192,000, respectively.)

According to HPD officials, as an evolving program in response to housing market conditions, the primary goals of earlier rounds of the program were to sell City-owned land to stimulate private residential development and investment and to create affordable rental and homeownership units in specific neighborhoods. As the housing market heated up, later rounds covered a broader range of neighborhoods and focused more on greater affordability through the development of affordable rental and homeownership units. In Round III of the program, HPD stated that preferences would be given to proposals submitted by developers that achieve greater affordability. The higher the percentage of affordable units available for households earning 80 percent of AMI or less, the higher the developer's proposal would be ranked. (For Fiscal Year

² For Fiscal Year 2008, HUD defined the New York Metro Area as the five boroughs of the City and Putnam County.

2008, 80 percent of AMI was equal to \$61,450.) All proposals for the fourth round of the program were required to include a minimum of 20 percent of the units to be reserved for households earning a maximum of 80 percent of AMI.

Table II, below, shows the maximum income levels for the affordable units in the 20 completed developments.

Table II
Development Types and Maximum Income Levels
for Affordable Units in the 20 Completed Developments

Round	Type of Development			Number of Completed Units	Maximum Income Levels					
	Rental	Homeownership (Co-Op, Condo, Home)	Mixed Rental and Homeownership		Low Income (up to 80% of AMI)		Middle Income (115%–250% of AMI)		Market-Rate Units or Not Specified	
I	4	5	0	994	125	13%	605	61%	264	27%
II	1	4	0	508	46	9%	243	48%	219	43%
III	1	3	2	689	304	44%	187	27%	198	29%
Totals	6	12	2	2,191	475	22%	1,035	47%	681	31%

As shown in Table II, only a small minority (22%) of the completed units through the first three rounds were affordable for low-income families; 78 percent of the units that were completed were designated for households earning at least 115 percent of AMI, with approximately one-third of the completed units sold or rented at market rate.

The Cornerstone Program helps to ensure that units remain reasonably priced by requiring that rental units developed through the program be covered by the Rent Stabilization program. In addition, responsibility for some of the land debt³ assumed by the original owner is required to be passed on to subsequent owners, which lowers the price that the original owner is able to charge for the unit.

HPD Did Not Adequately Track the Progress of the Cornerstone Program

HPD generates reports pertaining to the Cornerstone Program through the Production Credit System. However, PCS tracks the projects based on the type of development being built: new construction, low-income rental, middle-income rental, and homeownership, rather than by program. For example, PCS tracks all new multi-family construction developments under the

³ The difference between the appraised value of the land and the amount the developer pays for the land (in some instances only one dollar, in other instances hundreds of thousands or even millions of dollars) becomes land debt that is assigned to some of the units in the development. Sellers must pay the City up to 50 percent of any appreciation in the property minus costs. Any remaining land debt is assumed by the new owner. If an owner remains in the unit a certain number of years (depending on the development), this land debt is deemed paid in full.

Cornerstone Program label even if a development was not associated with the Cornerstone Program. As a result, HPD did not have a clear picture of how many developments or units had been started or completed for the Cornerstone Program.

When we asked HPD for a complete listing of Cornerstone Program projects, we received a list of 71 developments. However, by reviewing sale-closing documentation in the Department of Finance ACRIS system, we determined that many of these developments were not associated with the Cornerstone Program. HPD officials subsequently provided us with a list of 51 developments that we verified through ACRIS were associated with the Cornerstone Program. In addition, HPD did not track the number of affordable units developed in the Cornerstone Program during the first three rounds. PCS is now beginning to track the number of affordable units expected to be built during Round IV. By not tracking started, completed, and affordable units, HPD has been unable to adequately assess the effectiveness of the Cornerstone Program in meeting its primary goals.

Recommendations

HPD should:

1. Ensure that PCS accurately identifies Cornerstone Program developments.

HPD Response: “The agency maintains an active review of the progress of Cornerstone projects through ongoing program management. In addition to data available through PCS, the information on Cornerstone projects that have begun construction as well as those in pre-construction development is available for the program through alternate sources.”

“HPD is reviewing further refinements to the PCS system that will better enable it to identify Cornerstone developments within the universe of new construction projects.”

2. Ensure that PCS tracks the number of affordable units developed during each round of the Cornerstone Program.

HPD Response: “Although affordability information on each Cornerstone project has been maintained within PCS; HPD will work to institute changes to the PCS system to track affordability information by RFP round.”

Inadequate Documentation of HPD’s Evaluation of Developers’ Responses to RFPs

HPD’s evaluation of developers’ responses to RFPs issued for the Cornerstone Program was inadequately documented. As a result, we are unable to ascertain that the proposals were fairly evaluated in a transparent and consistent manner.

HPD’s Division of Planning identifies the City-owned sites that are available for development and handles the RFP process. Because these RFPs involve selections of developers

to purchase City-owned land rather than procurements, HPD does not follow the Procurement Policy Board (PPB) rules in the selection process.

HPD's written procedures on the review of developers' responses to Cornerstone RFPs are very limited. HPD's Cornerstone IV RFP Review procedures only explain the threshold requirements developers and proposals must meet to be considered and the competitive selection scoring process. For the Cornerstone Program, the threshold requirements pertained to the following six categories: (1) proposal completeness, (2) comparable development experience, (3) development capacity and current workload, (4) ability to finance, (5) affordability, and (6) financial feasibility.

According to these procedures, proposals that meet all threshold requirements are evaluated, scored, and ranked based on the following four categories: (1) development experience of the respondent, (2) the number of affordable units to be offered, (3) the amount of subsidy sought, and (4) the quality of the design.

HPD's RFP Review procedures, however, do not provide guidance concerning the number and qualifications of those to be assigned the responsibility of reviewing proposals, how those selected to review the proposals should document their deliberations, and what documents should be maintained to demonstrate that the evaluation process was conducted in accordance with stated guidelines. HPD also lacks procedures governing the appeals rights of proposers and internal oversight approvals.

To determine whether evidence existed to demonstrate that stated guidelines were followed, we requested the supporting documentation for the RFP evaluation process for Round IV. In response, we were provided with the summary scoring sheets for the respondents for each of the 20 sites in that round. (The summary scoring sheets are spreadsheets that group, by site, the names of each proposer and principal, the number and type of units to be built, the proposed financing, the breakdown of affordable units, and the overall scores awarded by evaluators, along with any pertinent comments.) However, we were not provided with any supporting documentation, such as sign-in sheets to indicate the persons involved in evaluating the proposals, the individual scoring sheets prepared by each evaluator, or the panels' scores in each ratable category. Consequently, HPD cannot demonstrate that the proposals were fairly evaluated in a transparent and consistent manner (e.g., same number of evaluators per proposal), or even that the overall scores were accurate.

Recommendations

HPD should:

3. Develop more comprehensive written procedures for evaluating developers' responses to Cornerstone RFPs.

HPD Response: "Current RFP procedures provide extensive guidance, including detailed threshold and competitive criteria, scoring requirements, and meetings with the designated evaluators to review the scoring criteria for the particular RFP. HPD will

review the current guidance provided to evaluators and consider whether additional materials should be developed to support the evaluation process.”

4. Ensure that all relevant documentation for the RFP process is maintained, including the scores given by individual reviewers and the scores given by the panel of reviewers in each category.

HPD Response: “HPD will review ways to ensure that RFP evaluation materials are stored for an appropriate length of time.”

Control Weaknesses in the Tenant Selection Process

The housing lottery process that HPD uses to select applicants for interviews for available Cornerstone Program units has control weaknesses that could result in some applicants being unfairly denied an opportunity to be selected for a development, and increase the potential for some applicants to receive preferential treatment.

As stated previously, HPD’s Division of Marketing is responsible for monitoring the marketing of affordable and market-rate units by the developer. (Market-rate units are defined as units for which the developer of the property is free to set the rents or ownership prices for the units without restrictions.) A housing lottery for the affordable units occurs about one week after the application deadline. The developer is responsible for interviewing applicants. During the interview, the developer records the applicant’s income, family size, and preferences onto an Applicant Information Form. The developer sends the AIF to HPD for approval before the developer rents or sells a unit to the applicant.

To obtain an understanding of the selection process for the tenants and homeowners of the affordable units, we reviewed the marketing policies and procedures relating to the housing lottery. According to the procedures, until the date of the housing lottery only HPD has access to the Post Office box that is reserved for the receipt of the applications. On the day of the lottery, the applications are picked up by the developer in the presence of HPD staff. If more than one day is required to complete the lottery, the remaining applications must be secured in a locker. HPD provides the lock with a combination known only to HPD. The developer must also provide copies to HPD of the log of applications received indicating each applicant’s selection status and the reason for any rejections. The application contains a declaration statement in which the applicant affirms that they have not withheld, falsified or misrepresented any information and that they understand the information provided is subject to review by the New York City Department of Investigation. They are also required to affirm that neither they nor any member of their immediate family is employed by the developer, one of its subsidiaries, or the building owner or its principals.

We observed the housing lottery process for two developments in the Cornerstone Program on February 18 and March 10, 2009. We met representatives from HPD and the developer’s office at the Post Office to observe them collecting the applications from the Post Office box to which applicants were required to mail their applications. We followed the

representatives to the developer's office where the housing lottery would occur. The developer hired workers to assist with the housing lottery. Once everyone was assembled in the room to count and log the applications, the HPD representative explained the process of selecting the applications.

The process began by placing all the envelopes on the floor and manually mixing them up. After they were mixed up, they were placed into large black plastic bags. A couple of the volunteers then selected the envelopes from the bag, one at a time. The envelopes were then opened and a log number was placed on each envelope and the enclosed application. The applicant's information then was entered onto a prenumbered log sheet.

At the March 10, 2009 lottery, there were 1,325 applications postmarked on or before the deadline, 17 applications that were postmarked after the deadline, and more than 200 applications for another development that the Post Office mistakenly filed with the March 10 lottery. The misfiled applications were for a development that already had its housing lottery. This meant that, due to the Post Office placing these applications in the wrong Post Office box, more than 200 applicants were denied a chance to participate in the housing lottery of their choice. To avoid Post Office mistakes from denying applicants a chance to be selected for the development of their choice, HPD should consider automating the housing lottery process by making it possible to complete the application online or through the 311 system.

There is also a potential risk that fraud could occur during the actual selection process. Since the lottery is not an automated, or sufficiently random process, one of the persons conducting the lottery could select or add an application and log it high on the list, so that the favored applicant would have a better chance of receiving one of the coveted units. This means that the integrity of the housing lottery process is heavily dependent on the integrity of the personnel running the housing lottery.

An automated process could decrease such risk, because there would be fewer people that had physical access to the applications. To reduce the risk of fraud and help ensure that the housing lottery process is fair, HPD should consider assuming responsibility for the selection of the applicants. HPD could list applicants by receipt of the application online, through the 311 system, or via mail. HPD could then generate a set of random numbers to select applicants, while ensuring a proper segregation of duties and a close supervision of the process.

Recommendations

HPD should:

5. Allow applications for housing to be filed online or by phone, as well as by mail.

HPD Response: "HPD Marketing will continue to explore the use of new technologies whenever possible, such as downloading applications from web sites, and is currently reviewing the feasibility of expanding electronics to complement universal postal access. Each method of application sourcing and establishing an application list order must be

evaluated carefully to ensure adequate security, the fair processing of applications as well as benefits in expanding potential applicant options.”

6. Assume the responsibility for the selection of applicants for the affordable units by developing a new set of procedures for listing and randomly selecting applicants, and incorporating appropriate segregation of duties and supervisory oversight into this process.

HPD Response: “HPD in coordination with the Department of Investigation has reviewed the selection process and incorporated relevant recommendations to further strengthen the overall integrity of this function.”

HPD and Developers Do Not Verify Supporting Documentation On Income Qualifications of Tenants and Homeowners

Neither HPD nor the developers independently verify income qualifications of tenants and homeowners. As a result, there is an increased risk that unqualified applicants may be selected for units at the expense of qualified ones.

As part of the marketing of the affordable units of the Cornerstone Program, HPD has given the developers the responsibility of selecting qualified tenants or homeowners. HPD officials stated that the selection of the tenants or homeowners for the affordable units is the responsibility of the developers. HPD requires the developers to maintain applicant files with the necessary supporting documentation. The developer sends to HPD the AIFs that are completed during the tenant interviews. HPD checks the AIFs to determine whether the applicants interviewed were listed on the original log sheet and were placed in the correct preference category and order. However, HPD does not have procedures in place to verify that the employment-income information on the AIF is accurate and that only qualified applicants are selected for the affordable units.

HPD requires that developers obtain documentation from applicants to verify their income, preferably paystubs and a letter from the employer. However, HPD does not require that developers contact employers to verify the income documentation that the applicants bring to the interview. HPD also does not independently review the documentation provided by applicants. (It should be noted that HDC has such a procedure for those Cornerstone projects that it supports.) Because there is a risk that applicants who do not meet the qualifications may present false documentation in order to be selected, efforts to verify the validity of employment-income information would be appropriate.

To determine whether the selected tenants and homeowners were qualified for the affordable units, we selected all four developments that were completed in Fiscal Year 2008. We randomly selected a sample of the tenants and homeowners and reviewed the initial certification documents used to determine whether they qualified for the affordable units.

We determined that only one (2%) of the 52 HPD-applicants in our sample was unqualified based on the documentation submitted. The applicant had annual income that was over the maximum allowed to qualify by \$8,895. Although we did not find significant instances of unqualified applicants being awarded affordable units, or of persons submitting false documentation to appear to be qualified for these units, the risk still exists. Accordingly, HPD should ensure that it implements stronger controls to protect against this occurring.

Recommendation

7. HPD should require that developers provide copies of applicants' employment-income documentation along with evidence that they validated this documentation.

HPD Response: "HPD will review procedures in this area and consider whether any changes are appropriate. However, HPD has not found income verification to be an area of concern, and the Cornerstone Program has an excellent track record concerning applicant income eligibility as the audit demonstrated. Specifically the audit found that 51 of 52 applicants in its audit sample were qualified based on the documentation sampled. In the one instance where the audit found the applicant to be over-income, HPD disagreed with the methodology the audit utilized in its review and believes that applicant to be qualified as well."

Auditor Comment: We continue to believe that because there is a risk that applicants who do not meet the qualifications may present false documentation in order to be selected, efforts to verify the validity of employment-income information would be appropriate.

Income Limits for Subsequent Owners And Tenants of Affordable Units

We received funding information for 39 of the 51 projects in the Cornerstone Program. (The remaining 12 projects in the Cornerstone Program had not received funding as of June 30, 2008, and, therefore, were outside of our audit scope.) Twenty-seven of the 39 developments received U.S. Department of Housing and Urban Development funding, federal tax credits, and/or HDC funding. Such developments were required to set income limits for both initial and subsequent owners of affordable units. According to HPD officials, HPD monitors the continued affordability of federally supported developments, and HDC monitors the continued affordability of the developments it supports. However, HPD officials stated that for the remaining 12 (31%)⁴ of the 39 Cornerstone projects, all of which were homeownership developments, HPD did not require the developers to set income restrictions for subsequent owners of affordable units. In fact, HPD did not require 5 of the 12 homeownership developments to set income restrictions for any of the initial owners.

⁴ Five of these 12 developments received funding from HPD, one received funding from the State, and six were funded entirely by the private sector.

One of the goals of the Cornerstone Program is to increase the availability of affordable units. Therefore, HPD should include, in future agreements with developers, income limits for subsequent owners or renters of affordable units and ensure that these income limits are enforced.

Recommendation

8. HPD should include, in future agreements with developers, income limits for subsequent owners or renters of affordable units and ensure that these limits are enforced.

HPD Response: “Going forward, the Inclusionary Housing Program will provide for permanent homeownership upon approval of the current ULURP application, for which the review process is expected to be completed later in Calendar 2009.

“HPD will provide for an oversight process covering those Cornerstone projects that include subsequent resident income limits to the extent they are not already overseen by existing HDC, HOME or tax credit monitoring.”



**Department of
Housing Preservation
& Development**

nyc.gov/hpd

Office of the Commissioner

100 Gold Street

New York, N.Y. 10038

RAFAEL E. CESTERO

Commissioner

June 23, 2009

John Graham
Deputy Comptroller for Audits, Accountancy & Contracts
Office of the New York City Comptroller
1 Centre Street- Room 530 South
New York, New York 10007-2341

**Re: Audit on the Department of Housing Preservation and Development's
Cornerstone Program
Audit Number: ME 09-077A**

Dear Mr. Graham:

The following represents the Department of Housing Preservation and Development's response to the recommendations made in your audit on the Cornerstone Program of the Department of Housing Preservation and Development.

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

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Rafael E. Cestero".

Rafael E. Cestero



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In addition to the comments provided as responses to the Recommendations listed below, HPD notes the following comments with respect to material contained in the audit report.

Rental and Homeownership Opportunities Expanded

Table II summarizes affordability levels achieved in a subset of Cornerstone projects within the first three rounds that have completed construction. As noted in the audit, as the Cornerstone Program moved to later rounds, one area of focus was to promote greater affordability within the projects.

To illustrate the impact on overall affordability within the Cornerstone project portfolio, the table attached includes additional detail on Round IV.

For Round IV projects that have reached construction start through Fiscal Year 2009, 60 percent of the units will be affordable to low income households, and 88 percent will be affordable to low, moderate and middle income households. Thus, HPD's implementation for Round IV projects is clearly meeting the stated goal of increasing affordable housing opportunities. HPD expects that the balance of the Round IV project portfolio will achieve a similar level of affordability.

The attached table also provides aggregate summary information covering completed projects for Rounds I through III and Round IV projects in construction through June 2009. This blended data is provided to demonstrate affordability results achieved as the Cornerstone Program evolved. When these categories are combined, over one third of the units in the projects will be affordable to low income households, and three quarters will be affordable to a range of low to middle income households, with one quarter designated without affordability restrictions.

As a related note, units in Cornerstone projects that do not have affordability restrictions are rented or sold based on the market economics operating within the respective neighborhoods. As a result, affordable housing opportunities will be achieved even in units that do not have specific affordability requirements, further expanding the affordable housing supply through Cornerstone.



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Finding

HPD did not Adequately Track the Progress of the Cornerstone Program

Recommendation 1.

HPD should ensure that PCS accurately identifies Cornerstone Program developments.

Response 1.

The agency maintains an active review of the progress of Cornerstone projects through ongoing program management. In addition to data available through PCS, the information on Cornerstone projects that have begun construction as well as those in pre-construction development is available for the program through alternate sources.

HPD is reviewing further refinements to the PCS system that will better enable it to identify Cornerstone developments within the universe of new construction projects.

Recommendation 2.

HPD should ensure that PCS tracks the number of affordable units developed during each round of the Cornerstone Program.

Response 2.

Although affordability information on each Cornerstone project has been maintained within PCS; HPD will work to institute changes to the PCS system to track affordability information by RFP round.

Finding

Inadequate Documentation of HPD's Evaluation of Developers' Responses to RFPs.

Recommendation 3.

HPD should develop more comprehensive written procedures for evaluating developers' responses to Cornerstone RFPs.

Response 3.

Current RFP procedures provide extensive guidance, including detailed threshold and competitive criteria, scoring requirements, and meetings with the designated evaluators to review the scoring criteria for the particular RFP. HPD will review the current guidance provided to evaluators and consider whether additional materials should be developed to support the evaluation process.



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	<p>Recommendation 4. HPD should ensure that all relevant documentation for the RFP process is maintained, including the scores given by individual reviewers and the scores given by the panel of reviewers in each category.</p>	<p>Response 4. HPD will review ways to ensure that RFP evaluation materials are stored for an appropriate length of time.</p>
<p>Finding Control Weaknesses in the Tenant Selection Process</p>	<p>Recommendation 5. HPD should allow applications for housing to be filed online or by phone as well as by mail.</p> <p>Recommendation 6. HPD should assume the responsibility for the selection of applicants for the affordable units by developing a new set of procedures for listing and randomly selecting applicants, and incorporating appropriate segregation of duties and supervisory oversight of this process.</p>	<p>Response 5. HPD Marketing will continue to explore the use of new technologies whenever possible, such as downloading applications from web sites, and is currently reviewing the feasibility of expanding electronics to complement universal postal access. Each method of application sourcing and establishing an application list order must be evaluated carefully to ensure adequate security, the fair processing of applications as well as benefits in expanding potential applicant options.</p> <p>Response 6. HPD in coordination with the Department of Investigation has reviewed the selection process and incorporated relevant recommendations to further strengthen the overall integrity of this function.</p>



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Finding HPD and Developers do not Verify Supporting Documentation on Income Qualifications of Tenants and Homeowners	Recommendation 7. HPD should require the developers provide copies of applicants' employment –income documentation along with evidence that they validated this documentation.	Response 7. HPD will review procedures in this area and consider whether any changes are appropriate. However, HPD has not found income verification to be an area of concern, and the Cornerstone Program has an excellent track record concerning applicant income eligibility as the audit demonstrated. Specifically the audit found that 51 of 52 applicants in its audit sample were qualified based on the documentation sampled. In the one instance where the audit found the applicant to be over-income, HPD disagreed with the methodology the audit utilized in its review and believes that applicant to be qualified as well.
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Income Limits for Subsequent Owners and Tenants of Affordable Units	Recommendation 8. HPD should include, in future agreements with developers, income limits for subsequent owners or renters of affordable units and ensure that these limits are enforced.	Response 8. Going forward, the Inclusionary Housing Program will provide for permanent homeownership upon approval of the current ULURP application, for which the review process is expected to be completed later in Calendar 2009. HPD will provide for an oversight process covering those Cornerstone projects that include subsequent resident income limits to the extent they are not already overseen by existing HDC, HOME or tax credit monitoring.
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Table II (Update)
Development Types and Maximum Income Levels
for Affordable Units in the 20 Completed Developments for Rounds I - III & 12 Started Developments For Round IV

ROUND	RENTAL	HOMEOWNERSHIP (CO-OP, CONDO HOME)	MIXED RENTAL AND HOMEOWNERSHIP	NUMBER OF UNITS STARTED	NUMBER OF COMPLETED UNITS	Round III Completions and Round IV Starts Through 6/09 (3)	MAXIMUM INCOME LEVELS				MARKET-RATE UNITS or NOT SPECIFIED			
							LOW INCOME (UP TO 80% OF AMI)	MIDDLE INCOME (81% - 100% of AMI)	MIDDLE INCOME (115% - 250% of AMI)					
I	4	5	0		994		125	13%	0	0%	605	61%	264	27%
II	1	4	0		508		46	9%	0	0%	243	48%	219	43%
III	1	3	2		589		304	44%	0	0%	187	27%	198	29%
TOTAL	6	12	2		2,191		475	22%	0	0%	1,035	47%	661	31%
IV ¹	4	7	1	1,005	0		604	60%	30	3%	252	25%	119	12%
TOTAL	4	7	1	1,005	0		604	60%	30	3%	252	25%	119	12%
GRAND TOTAL	10	19	3	1,005	2,191	3,196	1,079	34%	30	1%	1,287	40%	800	25%

(1) units started by 6/09 but not yet completed. (Include starts & projected FY09 Starts).

(2) Analysis of affordability for Round IV projects is based on Starts units.

(3) Grand Total for affordability data contains a blend of completed units Rounds I - III and Round IV Starts through 6/09.