



City of New York

OFFICE OF COMPTROLLER

Scott M. Stringer
COMPTROLLER



AUDITS AND SPECIAL REPORTS

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Audit Report on the Department of
Housing Preservation and
Development's Monitoring of the
Affordable Housing Lottery's
Compliance with Eligibility Guidelines

SR17-135A

June 26, 2019

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
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SCOTT M. STRINGER

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To the Residents of the City of New York:

My office has audited the New York City (City) Department of Housing Preservation and Development (HPD) to determine whether HPD adequately monitors Marketing Agents' compliance with eligibility guidelines and established preferences of the City's Affordable Housing Lottery. We perform audits such as this to ensure that eligible applicants are offered apartments in the correct order in accordance with the goals of the City's Affordable Housing Lottery.

The audit found that HPD's monitoring of the Marketing Agents' compliance with eligibility guidelines and established preferences of the City's Affordable Housing Lottery is generally adequate. In 2013, HPD implemented an automated process for the housing lottery that ensures that every applicant is entered into the Housing Connect system, receives a randomized log number, and receives a chance at being selected for the affordable housing lottery, either through random selection or in accordance with an established preference. While working as intended overall, the audit identified some areas that need improvement. In particular, we found that HPD's files lacked specific documentation, such as asset certification forms, that it should have received and reviewed as part of its oversight of applicant eligibility. Such reviews are necessary to help ensure that only people who are within the programs' asset limit guidelines are allowed to obtain affordable housing through HPD's programs. Through an independent asset review of a sample of applicants, we found that all but one met HPD's property ownership requirement and thus were eligible for the housing they received. As to that one applicant, however, we found that the applicant who was awarded an apartment owned property in another state and the assessed value of that property exceeded the asset limit for a four-person household by more than \$60,000 for that particular affordable housing project. Finally, we found that HPD does not receive and review any documentation for applicants whom the Marketing Agent deemed ineligible. Independent review of the documentation supporting rejections would help ensure that a Marketing Agent does not improperly disqualify applicants with lower log numbers in an effort to favor applicants with a higher log number in violation of program rules.

The audit makes three recommendations including that HPD should ensure that its files contain required documentation as set forth in the Marketing Handbook and that it conducts a complete and thorough independent review of applicant eligibility.

The results of the audit have been discussed with HPD officials, and their comments have been considered in preparing this report. HPD's complete written response is attached to this report. If you have any questions concerning this report, please e-mail my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in blue ink that reads "Scott M. Stringer".

Scott M. Stringer

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER AUDITS AND SPECIAL REPORTS

Audit Report on the Department of Housing Preservation and Development's Monitoring of the Affordable Housing Lottery's Compliance with Eligibility Guidelines

SR17-135A

EXECUTIVE SUMMARY

The New York City (City) Department of Housing Preservation and Development (HPD) is the largest municipal housing preservation and development agency in the nation. Established in 1978, HPD works with public and private partners to provide high quality affordable housing for low- and moderate-income families in neighborhoods throughout the five boroughs. To accomplish that goal, HPD enters into agreements with developers who agree to construct new buildings or rehabilitate existing ones that will include apartments at rents or sale prices that are “affordable” as defined by the City. HPD offers a variety of different programs such as subsidies and financing tools (e.g. loans and tax incentives) to developers to provide affordable apartments for individuals and families. In exchange for obtaining these benefits, including the ability to purchase properties at a reduced cost, the developers are required to sell or rent to the public a certain number of apartments (units) within their dwelling complexes at affordable prices.

Because the demand for affordable housing in New York City far exceeds the supply available, HPD uses a lottery system to ensure that, in accordance with program guidelines, set-asides, and preferences applicable to each development project, the process for selecting applicants is fair and provides equal opportunity to all who seek housing. HPD's Marketing and Affordability Unit (Marketing Unit) oversees the marketing of affordable housing units, the lottery process that is used, and reviews required documents to verify applicant eligibility.

The housing developer's representative (the Marketing Agent) is responsible for interviewing applicants and reviewing the documentation they provide to determine whether the applicants meet the requirements for household size and annual household income as established by the housing program and stated in the advertisements. The Marketing Agent, before renting or selling a unit, is required to verify the applicant's information, perform background and credit checks, and submit the Application Information Form (AIF) along with supporting documentation to HPD for approval.

As of May 19, 2017, 15 active projects were listed on New York City Housing Connect (Housing Connect), the HPD Marketing Unit's online application system, with a total of 522 affordable units available. The application deadlines for these projects—all within Fiscal Year 2017—varied.

We conducted this audit to determine whether HPD adequately monitors Marketing Agents' compliance with eligibility guidelines and established preferences of the New York City Affordable Housing Lottery.

Audit Findings and Conclusion

The audit found that HPD's monitoring of the Marketing Agents' compliance with eligibility guidelines and established preferences of the New York City Affordable Housing Lottery is generally adequate. In 2013, the lottery changed from a solely manual process to an automated one that allows applicants to submit applications electronically on-line or through the mail. HPD now creates the lottery log through an automated process that ensures that every applicant is entered into the Housing Connect system, receives a randomized log number, and receives a chance at being selected for the affordable housing lottery, either through random selection or in accordance with an established preference.

However, we identified some areas of the application review process where HPD needs improvement. In particular, we found that HPD's files lacked specific documentation, such as asset certification forms, that it should have received and reviewed as part of its oversight of applicant eligibility. Such reviews are necessary to help ensure that only people who are within the programs' asset limit guidelines are allowed to obtain affordable housing through HPD's programs. Through an independent asset review of a sample of applicants, we found that all but one met HPD's property ownership requirement and thus were eligible for the housing they received. As to that one applicant, however, we found that the applicant who was awarded an apartment owned property in another state and the assessed value of that property exceeded the asset limit for a four-person household by more than \$60,000 for that particular affordable housing project. Finally, we found that HPD does not receive and review any documentation for applicants whom the Marketing Agent deemed ineligible. Independent review of the documentation supporting rejections would help ensure that a Marketing Agent does not improperly disqualify applicants with lower log numbers in an effort to favor applicants with a higher log number in violation of program rules. These matters are discussed in greater detail in the sections that follow in this report.

Audit Recommendations

The audit resulted in three recommendations, specifically, that HPD:

- Ensure that its files contain required documentation as set forth in the Marketing Handbook and that it conducts a complete and thorough independent review of applicant eligibility.
- Consider performing asset property searches for prospective residents to determine whether they meet HPD property ownership requirements and are within applicable asset limits before awarding leases for the affordable apartments.
- Implement controls within its affordable housing lottery process whereby its officials test a random sample of cases to determine whether the reasons provided for rejecting applicants were valid so as to reduce the likelihood that a Marketing Agent might improperly disqualify an applicant.

Agency Response

In its response, HPD stated that it already implemented one recommendation and believes that the other two are not necessary. Specifically, HPD officials stated, “we agree with much of what the Audit Report contains. . . . [W]e also believe that certain recommendations in the report address monitoring practices that are already sufficient or strong.”

We disagree with HPD’s assessment that its monitoring practices addressed in the report are “already sufficient or strong” and continue to recommend that HPD implement the recommendations to obtain additional assurance that eligible applicants are offered apartments in the correct order, in accordance with the goals of the City’s Affordable Housing Lottery.

AUDIT REPORT

Background

HPD is the largest municipal housing preservation and development agency in the nation. Established in 1978, HPD works with public and private partners to provide high quality affordable housing for low- and moderate-income families in neighborhoods throughout the five boroughs. To accomplish this goal, HPD enters into agreements with developers who are required to construct new buildings or rehabilitate existing ones that include apartments at rents or sale prices that are “affordable” as defined by the City. HPD offers a variety of different programs such as subsidies and financing tools (e.g. loans and tax incentives) to developers to provide affordable apartments for individuals and families.¹ In exchange for obtaining these benefits, including the ability to purchase properties at a reduced cost, the developers are required to sell or rent to the public a certain number of apartments (units) within their dwelling complexes at affordable prices.

Because the demand for affordable housing in New York City far exceeds the supply available, HPD uses a lottery system to ensure that the process for selecting applicants is fair and provides equal opportunity to all who seek housing. HPD’s Marketing Unit oversees the marketing of affordable housing units, the lottery process that is used, and reviews required documents to verify applicant eligibility.

Prior to 2013, HPD used a manual process to choose among applicants whereby on the day of the lottery the Marketing Agent would, in the presence of an HPD monitor, pick up mailed-in applications from an approved P.O. Box and transport them to a designated location to be opened. At that designated location, the many thousands of applications would then be placed on the floor and manually mixed up by the Marketing Agent’s staff and then placed in to large opaque black plastic bags. The Managing Agent’s staff would thereafter randomly select a required minimum number of applications from the plastic bags and document the selected applications on log sheets in the order the mail was opened, to create the lottery log. Information would be entered onto the log sheets such as the applicant’s name, address, the household members and their relationship to applicant, the households’ income, and the applicant’s housing preferences. Under this method, while each applicant would have an equal chance of having their mailed application selected from one of the large opaque black plastic bags, only applications that were selected from the plastic bags would receive a log number. Since this was a manual process, it could take multiple days and had inherent in it certain control risks.

Since 2013, the Marketing Unit has been using its online application system, Housing Connect, which allows people to search and submit applications for affordable housing opportunities in New York City. Developers creating City-sponsored affordable housing are required to follow marketing and tenant selection procedures dictated by HPD and the City’s Housing Development Corporation (HDC).² In addition, HPD ceased to use a manual applicant selection process in 2013 and switched to a computerized lottery system.

¹ The multiple programs offered by HPD and/or HDC are funded in multiple ways, including through federal, New York State, and City programs, each of which has discrete structures and guidelines. City-sponsored affordable housing refers here to government affordable housing subsidized by HPD and/or HDC.

² New York City Housing Development Corporation is a municipal housing finance company that issues tax-exempt and taxable bonds to finance mortgages to developers for the development and preservation of multi-family housing in New York City. <https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=4251156>. HPD’s Commissioner serves as the Chair of HDC’s Board of Directors.

Under HPD's current system, the Marketing Unit opens the lottery for each project to the public on the Housing Connect website. The project developer for each affordable housing project designates a Marketing Agent that is approved by HPD. The Marketing Agent is required to post approved advertisements on the Housing Connect website and in a minimum of three newspapers at least 60 days prior to the application submission deadline. The date of the first published advertisement must be the same date as the advertisement posted on the Housing Connect website. Additionally, the posted advertisement in every location where it is published must indicate the deadline date by which all applications must be submitted. Applicants can apply online or through the mail. Paper applications are required to be submitted to the designated post office box listed in the advertisements. Approximately 7 to 10 business days after the application deadline, the Marketing Agent, in the presence of an HPD monitor, retrieves all mailed in applications from the P.O. Box and transports them to a site where only applications postmarked by the deadline date are manually entered into the Housing Connect system. HPD reconciles the number of applications entered in to the system to the number of envelopes counted at the beginning of the entry process.

As part of the lottery process, HPD's Marketing Unit uses the Housing Connect system to randomize and assign log numbers to all of the applications in the system for a particular project, including the mailed applications that are manually entered into the system. Once the lottery log is generated, the Marketing Agent for the particular project being marketed selects prospective residents from the lottery log in numerical order. However, exceptions are made for people entitled to certain set-asides and preferences, including people with disabilities, (e.g., mobility or vision/hearing impairments), area residents who live within the jurisdiction of a particular community board, and New York City municipal employees. People who qualify for these and other preferences and set asides will be chosen first from the lottery in order of their randomized lottery numbers. Thereafter, the rest of the applicants are processed in the order of their randomized lottery log numbers. In all cases, current City residents are selected for processing before non-residents.

The Marketing Agent is responsible for interviewing applicants and reviewing documentation they provide to determine whether the applicants meet the requirements for household size and annual household income as required by the housing program and stated in the advertisement. The Marketing Agent is required to verify this information, perform background and credit checks, and submit the Application Information Form (AIF) along with income supporting documentation to HPD for approval prior to renting or selling a unit.

As of May 19, 2017, there were 15 active projects on Housing Connect with a total of 522 affordable units available. The application deadlines for these projects varied and all were within Fiscal Year 2017.

Objective

The objective of this audit was to determine whether HPD adequately monitors Marketing Agents' compliance with eligibility guidelines and established preferences of the New York City Affordable Housing Lottery.

Scope and Methodology Statement

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 this audit was Fiscal Year 2016 through April 25, 2019.

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 and was discussed at an exit conference held on May 28, 2019. On May 30, 2019, we submitted a draft report to HPD officials with a request for comments. We received a written response from HPD officials on June 13, 2019. In their response, HPD officials stated that they already implemented one recommendation and believes that the other two are not necessary. Specifically, HPD officials stated, “we agree with much of what the Audit Report contains. . . . [W]e also believe that certain recommendations in the report address monitoring practices that are already sufficient or strong.”

We disagree with HPD’s assessment that the monitoring practices addressed in the audit recommendations are “already sufficient or strong.” Each recommendation addresses a specific weakness identified in the audit. By implementing the recommendations HPD could obtain additional assurance that the Marketing Agents who review applicants’ information are following the agency’s guidelines and that only eligible applicants are offered apartments in the correct order, which is the goal of the City’s Affordable Housing Lottery.

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

FINDINGS AND RECOMMENDATIONS

The audit found that HPD's monitoring of the Marketing Agents' compliance with eligibility guidelines and established preferences of the New York City Affordable Housing Lottery is generally adequate. In 2013, the lottery changed from a solely manual process to an automated one that allows applicants to submit applications electronically online or through the mail. HPD now creates the lottery log through an automated process that ensures that every applicant is entered into the Housing Connect system, receives a randomized log number, and receives a chance at being selected for the affordable housing lottery, either through random selection or in accordance with an established preference.

However, there are some areas of the application review process where HPD needs improvement. We found that HPD's files lacked specific documentation, such as the asset certification forms, that it should have received and reviewed as part of its oversight of applicant eligibility. Such reviews are necessary to help ensure that only people who are within the programs' asset limit guidelines are allowed to obtain affordable housing programs. Through an independent asset review of a sample of applicants, we found that all but one met HPD's property ownership requirement and thus were eligible for the housing they received. As to that one applicant, however, we found that the applicant who was awarded an apartment owned property in another state and the assessed value of that property exceeded the asset limit for a four-person household by more than \$60,000 for that particular affordable housing project. Finally, we found that HPD does not receive and review any documentation for applicants that the Marketing Agent deemed ineligible. A review of such documentation would help ensure that a Marketing Agent does not improperly disqualify applicants with lower log numbers in an effort to favor applicants with a higher log number in violation of program rules.

HPD's Current Lottery Process Provides Adequate Controls to Reasonably Ensure That Eligible Applicants Are Selected for Housing

We found that HPD's current automated lottery process contains adequate controls, when followed, to reasonably assure HPD that eligible applicants are properly selected for its affordable housing programs. Under its automated process, HPD uses the Housing Connect system to randomize and assign lottery log numbers to each application that was entered into the system. This includes applications that were submitted online by applicants as well as applications that were mailed in and manually entered into the system by Marketing Agents under HPD's supervision.³ As part of this audit, we reviewed the lottery log for a sampled affordable housing project in Manhattan that was offering 50 affordable apartments. It had more than 38,000 applicants of which only 60 submitted applications by mail. We found that each application was assigned a unique log number on the lottery log for the 50 apartments.

With the implementation of the Housing Connect system, the Marketing Agent is not responsible for the creation of the lottery log. Furthermore, information from each applicant, such as the applicant's name, language, address, e-mail address, household members, and date of birth, age, household size, and household income and preference categories are automatically filled in on

³ According to an HPD official, because of the availability of online filing through Housing Connect, the number of applications mailed in has substantially decreased.

the lottery log. The Housing Connect system generates an electronic log in which every application is assigned a log number.

Subsequently, the Marketing Agent works from the electronically generated lottery log to select applicants in sequential order of their log number. The Marketing Agent uses the disability set-aside or preference categories automatically filled in on the lottery log to select applicants with disabilities, applicants living within the community board, and applicants who are municipal employees prior to selecting from the applicants with no preference. The Marketing Agent then processes the application in accordance with the Marketing Handbook,⁴ when contacting applicants for evaluation and prospective residency.

Overall, HPD's automated lottery process is an efficient and effective way of ensuring that the applicants for the affordable housing lottery are all on a single lottery list and have an equal opportunity of being selected, that the applicant's information recorded on the initial application is accurately recorded in the lottery log, and that they have been accorded the appropriate preferences and set-asides. Our review of the supporting documentation submitted by the moved in applicants did not find any discrepancies between the information on the log and the information on the documents.

HPD's Files Lack Required Verification Documents Which Weakens Its Ability to Ensure Only Eligible People Are Selected for Housing

Our review of two sampled affordable housing lottery projects, one located in Manhattan and the other in Brooklyn, revealed that HPD approved 50 applicants to move into the affordable housing project located in Manhattan without documentation in its files that the Managing Agents were required to provide for HPD's review to verify that applicants did not exceed the asset limit guidelines. Specifically, the Asset Certification Form was missing in 29 (58 percent) of the 50 sampled applicant files. HPD's files, for both the Manhattan and Brooklyn affordable housing lotteries, generally contained the other documentation such as copies of tax returns, pay stubs, and employment verification forms required for its independent review of applicant eligibility. We also saw documentation that verified the status of applicants who were awarded affordable apartments and had claimed a disability set-aside or preference.

The Marketing Agent for each affordable housing project is required to submit verification documents to HPD for applicants it deems eligible to receive an affordable apartment. As the oversight agency, HPD is required to review those documents to verify applicant eligibility. The Marketing Handbook states, "[n]o resident may be moved into the building, and no lease or contract may be signed, until the Agency has completed its review of the applicant files."

The Marketing Handbook further states, "[t]he Marketing Agent must require that all adult members of the applicant household complete a certification of assets, which must be signed and notarized." The Asset Certification Form serves, through self-certification, to identify an applicant's assets as well as any income earned from those assets. Since the Asset Certification Form was missing from many of the HPD's applicant files, we checked and found that the Asset Certification Form was also missing in 26 (52 percent) of the Marketing Agent's 50 sampled applicant files. Thus, HPD officials gave approval, and deemed applicants eligible for more than half of the affordable apartments being offered, despite neither they nor the Marketing Agent

⁴ Marketing Agents are required to follow the "Marketing Handbook," a collaboration between HPD and HDC, which contains the policies, procedures, and requirements for marketing and selecting residents for the affordable housing units.

having specific documentation they were required to receive and review pursuant to their guidelines set forth in the Marketing Handbook.

Since the Asset Certification Form was missing from at least half of the files, and this form requires applicants to list information, including their real estate assets, we conducted an independent asset property search to determine whether these 26 applicants met HPD property ownership policies, and whether any owned property that exceeded the applicable asset limit. We found that all but one of the applicants met HPD's property ownership requirement and thus were eligible for the housing they received. As to one applicant, however, we found that the applicant who was awarded an apartment owned property in another state and the assessed value of that property exceeded the asset limit for a four-person household by more than \$60,000 for that particular affordable housing project. The Marketing Handbook states, "[f]or a rental affordable unit, the value of the applicant's household assets may not exceed the amount of the current HUD income limit for a four-person household for the [Area Median Income] AMI limit applicable to such unit." We note that the Marketing Agent *did* run a credit report for this applicant and the property was not listed on the report. However, this information should have been provided on the Asset Certification Form.

Without having the required Asset Certification Form there is an increased risk that an applicant can be incorrectly approved for an apartment.

No Oversight for Rejected Applications on Lottery Log

HPD does not review the decision to reject an application unless it receives a complaint from the applicant. Instead, HPD relies on the unreviewed decisions of the Marketing Agents. HPD's process is to only review files for those applicants that are deemed eligible by the Marketing Agent.

As part of its oversight, HPD requires Marketing Agents to provide bi-weekly lottery log updates that indicate the status for each applicant whose log number was reached. In those bi-weekly updates, the Marketing Agents report whether each application has been accepted, is in process, or has been rejected. Applications that are rejected must have a reason identified on the log. The purpose of the log is to ensure that the applicants are being selected and processed from the log sequentially and that no applicants are skipped. HPD accepts the reason provided for all of the rejections as being valid without testing the validity of the rejection or requesting back-up documentation unless a rejected applicant make a complaint.

Although it may be cumbersome for HPD to screen the rejected applicants, it would be prudent for the agency to do so to ensure that Marketing Agents are not mistakenly or intentionally disqualifying eligible applicants with a lower number on the lottery log in order to reach another applicant with a higher log number. It should be noted that our review of two lottery logs did not find any instance of an improper rejection, but a control should still be put in place to reduce the possibility of improper rejections intentionally or unintentionally occurring.

During our review of the lottery logs for each of two separate affordable housing lotteries, one located in Manhattan and the other in Brooklyn, we randomly selected 95 cases (37 from Manhattan and 58 from Brooklyn) where applicants were rejected or not selected to move in, to determine whether the reason provided for the rejection was valid and whether rejection letters were sent to these applicants. We reviewed the Marketing Agents' files to obtain the necessary documentation, as such information is not maintained in HPD's files. Based on our review, we determined that in 93 cases, the reasons provided on the lottery log for rejections were supported

by the documentation on file. There were two cases in the Manhattan lottery where the reason for the rejection differed from what the disposition code or status on the log indicated. However, we found that documentation adequately justifying the two rejections was provided by the Marketing Agent. The Marketing Agent informed us that while it had that information in its files, the log had not been properly updated. We also saw copies of rejection letters and e-mails, and found that the correct reasons for rejections were sent to the rejected applicants. The letters and e-mails also appropriately informed the applicant that the rejection decision can be appealed. We also saw copies of wait list letters for applicants who were placed on a waiting list.

As noted, the only circumstance under which HPD currently reviews applicant rejections is where an applicant is rejected and the applicant appeals unsuccessfully to the Marketing Agent first, and then subsequently makes a complaint to HPD. Otherwise, there is no type of control in place that would deter, prevent, or detect possible cases where applicants were inappropriately disqualified for an affordable apartment.

Recommendations

HPD should:

1. Ensure that its files contain required documentation as set forth in the Marketing Handbook and that it conducts a complete and thorough independent review of applicant eligibility.

HPD Response: “Since the period covered by the audit, HPD has already implemented this recommendation, and has taken steps to strengthen its practice further. Specifically:

- In 2018, HPD incorporated a new Tenant Income Certification checklist for the tenant application review process to help ensure that the Marketing Agent and HPD’s Marketing Unit collect and maintain all required forms and documentation in a complete and consistent manner.
- In 2020, HPD will release a new version of the online lottery system, Housing Connect 2.0, which is an end-to-end application and monitoring system. Applicants will be able to submit key eligibility documents through the system, which will streamline the collection of documents and create a single repository to which both the Marketing Agent and HPD’s Marketing Unit will have access.”

Auditor Comment: As discussed in the audit report, the Asset Certification Form was missing from over half of the files that we sampled in both the Marketing Agent’s and HPD’s files. While we support HPD’s efforts to strengthen its procedures for the tenant application review process, we reiterate that HPD should ensure that it receives all required forms and documentation as set forth in its Marketing Handbook.

2. Consider performing asset property searches for prospective residents to determine whether they meet HPD property ownership requirements and are within applicable asset limits before awarding leases for the affordable apartments.

HPD Response: “HPD considers its current practices in this area as being sufficient. Specifically:

- every applicant is required to provide tax filings (which should indicate ownership interest in real property) and Marketing Agents conduct credit checks (which should also indicate ownership interest in real property); given this, the compliance process incorporates due diligence in evaluating applicants’ ownership of asset properties.

- alongside the above, every applicant is required to declare any real property holdings (including shares of stock in a cooperative housing corporation; any type of direct or indirect, full or partial ownership; and interest or ownership through an LLC) in a signed Asset Certification. This form notifies applicants that 'the consequences for providing false or knowingly incomplete information in an attempt to qualify for this program may include the disqualification of my application, the termination of my lease (if discovery is made after the fact) and referral to the appropriate authorities for potential criminal prosecution.'
- before approved applicants enter into leases or contracts of sale, the households re-affirm in a sworn affidavit that they do not own property that was not previously disclosed in the application process."

Auditor Comment: Although HPD maintains that its current practices in this area are sufficient, we found that they were insufficient to flag a case in which the tenant was awarded an apartment despite owning property with an assessed value that exceeded the applicable asset limit guidelines. In this case, both HPD and the Marketing Agent had a copy of the applicant's tax filings but still did not flag the matter for review. Additionally, neither HPD nor the Marketing Agent had a signed Asset Certification form on file from the applicant. Therefore, we continue to recommend that HPD consider performing asset property searches as before awarding leases for affordable apartments.

3. Implement controls within its affordable housing lottery process whereby its officials test whether the reasons provided for rejecting applicants were valid for a random sample of cases so as to reduce the likelihood that a Marketing Agent might improperly disqualify an applicant.

HPD Response: "HPD considers its current practices in this area as being sufficient, and is taking steps to strengthen its practice further. Specifically:

- HPD reviews a random sample of rejected application files under certain circumstances, such as when HPD has received complaints about a Marketing Agent, or a Marketing Agent appears to have not followed Marketing Handbook guidelines when determining eligibility.
- HPD has streamlined and clarified the appeal and complaint process; applicants are now proactively informed of recourse at each stage of the eligibility review process, and the final stage of appeal involves independent eligibility review by HPD.
- Housing Connect 2.0 will capture all key eligibility documents; the Marketing Unit will therefore have the ability to monitor rejections in real time and review key documents, where possible, without Marketing Agent involvement or engagement."

Auditor Comment: As explained at the exit conference, our recommendation is that HPD review a random sample of rejected applications regardless of whether it receives a complaint or appeal from a rejected applicant or is aware of a Marketing Agent's noncompliance with applicable guidelines. Because HPD neither requires the Marketing Agent to submit proof that notification letters were sent to applicants who were rejected nor randomly tests the reasons for such rejections, its reliance on appeals and complaints leaves a weakness in its process that could result in improper disqualifications, and awards of apartment leases out of the sequence established by the lottery system. Accordingly, we continue to recommend that HPD implement this recommendation.

DETAILED 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 this audit is Fiscal Year 2016 through April 25, 2019 and includes affordable housing lotteries processed through the Housing Connect system.

We met with HPD officials to obtain an understanding of the controls and processes in place with regard to how HPD monitors the New York City Affordable Housing Lottery. Specifically, we interviewed HPD's Director of Marketing and Affordability Oversight Program and the Senior Policy Analyst for the same program.

To gain an understanding of HPD's tenant selection process we reviewed its policies, procedures, and criteria applicable to the selection of tenants for the NYC affordable housing lotteries published in the "Marketing Handbook – Policies and Procedures for Resident Selection and Occupancy," October 2016 revised edition, the result of a collaborative effort by HPD and HDC.

To obtain a population of projects and applicants for affordable housing in our audit scope, we requested a complete list of affordable housing lotteries for rental property that took place between July 1, 2015 and November 30, 2017. On November 30, 2017, HPD provided a list that included 146 projects marketed between July 1, 2015 and November 21, 2017. To determine whether this was a complete list of affordable housing lotteries, we searched the internet for advertisements of affordable housing lotteries that were marketed between July 1, 2015 and November 21, 2017 and found 208 advertisements that appeared to fit the criteria of what we requested. Based on information provided by HPD we determined that the list provided by HPD was complete and the reason that we found 62 additional lotteries advertised (208-146) was that 49 were HDC projects, and not HPD projects; 8 were Mitchell Lama projects not included in this audit scope; 4 were houses or condos also not in this audit scope; and 1 was a project where the developer ultimately withdrew from the tax program and the project was closed.

To determine whether we could rely on the information provided on the list, such as number of units to market for each affordable housing project, we compared the numbers on the list provided by HPD to the numbers listed on the advertisements we obtained from the internet. For 129 (88 percent) of the 146 projects listed, the number of units agreed. For two of the projects there were no affordable housing units listed since the advertisements were for applicants to be added to a waiting list for future vacant apartments. For the remaining 15 projects, HPD officials provided explanations as to why the numbers differed. In seven cases there were database errors that were corrected. In three cases, the developers opted in to a new 421-a tax incentive program and a portion of the affordable units changed and were re-advertised as phase II. Finally, in five cases, the numbers differed because additional affordable units became available due to previous tenants not returning. We analyzed the information, taking into consideration the explanations provided by HPD officials. As a result, we concluded that we could reasonably rely on the data.

To determine whether HPD is adequately monitoring the Marketing Agent's compliance with eligibility guidelines for the affordable housing lottery, we judgmentally selected two affordable

housing projects for review. The list of 146 affordable housing lotteries provided by HPD showed that the number of units (apartments) available per project ranged from 1 to 975. Through analysis we determined that 49 of these projects were offering between 20 and 65 units per project, with an average of 38 apartments being offered per affordable housing project. Therefore, we selected for testing purposes 2 of the 49 projects, an affordable housing project in Manhattan that advertised 50 affordable units, and another project in Brooklyn that advertised 33 affordable units.

To determine whether HPD obtained required documentation from the Marketing Agents as part of its oversight of the Affordable Housing Lottery, we requested copies of the documents that HPD reviewed to verify applicant eligibility. HPD officials provided us with copies of documentation such as final lottery logs with disposition codes, applicant files, list of applicants approved by HPD and leased to move in, and the certified rent roll.

To determine whether the randomization process of the computer-generated lottery logs was reliable, information technology specialists from our Information Technology Audit Unit observed the randomization process. The specialists found that a unique lottery log is run for each affordable housing project. Once the lottery log is generated, the computer system does not provide capability for users to modify or regenerate the list. Only the system administrator can reopen the specific affordable housing program and regenerate the list upon approval from HPD senior management.

To determine whether the reason listed on the lottery log, (i.e., status comments and disposition code) for applicants who were disqualified from receiving an affordable apartment was valid, we met with the Marketing Agents for each affordable housing project and requested to see documentation in the applicant files that was used to reach that decision.

To determine whether applicants whose log number was reached and were disqualified from receiving an affordable apartment, received notification from the Marketing Agents, we requested to see copies of the denial letters that were sent whether through US Postal Service or via electronic mail.

To determine whether the Marketing Agent obtained required documentation from the applicants, as per the Marketing Handbook, to govern the decision regarding applicant eligibility for an affordable apartment, we requested copies of the documentation. Since the Marketing Agent is required to submit some of this information to HPD, we did not request specific information if we found it in HPD's files.

To determine whether recipients of apartments in the affordable housing lottery that did not have an Asset Certification Form on file, met HPD's property ownership policies or owned property that exceeded the applicable asset limit, we conducted an asset property search.

To determine whether HPD verified the status of applicants who were selected from the lottery log based on a claimed Disability Set-Aside (mobility, vision, or hearing), or Preference (community board resident or New York City municipal employee), and was awarded an affordable apartment based on eligibility, we reviewed HPD's files for evidence. We looked for third party verification from a medical doctor to confirm disability status. We used the New York City Department of Finance's Digital Tax Maps to determine whether the applicant resided in the particular community board at the time of application. Additionally, we looked at paystubs for applicants to see whether they were indeed municipal employees.

The results of our tests, while not projectable to their respective populations, provided a reasonable basis to support our findings and conclusions within the context of our audit objectives.



City of New York
DEPARTMENT OF
HOUSING PRESERVATION AND DEVELOPMENT
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LOUISE CARROLL
Commissioner

June 13, 2019

Marjorie Landa
Deputy Comptroller for Audit
Office of the New York City Comptroller
One Centre Street, Room 1100
New York, New York 10007

Re: Audit Report on the Department of Housing Preservation and Development's Monitoring of the Affordable Housing Lottery's Compliance with Eligibility Guidelines, SR17-135A

Dear Deputy Comptroller Landa,

Thank you for the opportunity to respond to your Audit Report on the Monitoring of the Affordable Housing Lottery's Compliance with Eligibility Guidelines (the "Audit Report").

We have reviewed the Audit Report and are pleased that it concurs with our assessment that HPD's compliance monitoring in this area is adequate; we agree with much of what the Audit Report contains. As described in the accompanying response, we also believe that certain recommendations in the report address monitoring practices that are already sufficient or strong.

Once again, thank you for providing the opportunity to comment on the Audit Report. I would be happy to discuss our response with you further.

Sincerely,

A handwritten signature in blue ink, appearing to read "Louise Carroll", with a long horizontal flourish extending to the right.

Louise Carroll



Agency Response:

**NYC Department of Housing Preservation and Development to NYC Comptroller
Department of Housing Preservation and Development's Monitoring of the
Affordable Housing Lottery's Compliance with Eligibility Guidelines**

Audit Number: SR17-135A

Date: June 13, 2019

The objective of this audit was to determine whether the Department of Housing Preservation and Development (HPD) adequately monitors Marketing Agents' compliance with eligibility guidelines and established preferences in the New York City Affordable Housing Lottery. We were pleased that the audit report concurs with our assessment that HPD's compliance monitoring in this area is adequate, and we agree with much of what is shared in the audit report. We also believe that certain recommendations in the report address monitoring practices that are already sufficient or strong, as described below.

Audit Finding Area: HPD's Current Lottery Process Provides Adequate Controls to Reasonably Ensure That Eligible Applicants Are Selected for Housing

The audit report states that "HPD's automated lottery process is an efficient and effective way of ensuring that the applicants for the affordable housing lottery are all on a single lottery list and have equal opportunity of being selected, that the applicants information recorded on the initial application is accurately recorded in the lottery log, and that they have be accorded the appropriate preferences and set-asides."

Audit Finding Area: HPD's Files Lack Required Verification Documents Which Weakens Its Ability to Ensure Only Eligible People Are Selected for Housing

Recommendation 1: *HPD should ensure that its files contain required documentation as set forth in the Marketing Handbook and that it conducts a complete and thorough independent review of applicant eligibility.*

Agency Response to Recommendation 1: Since the period covered by the audit, HPD has already implemented this recommendation, and has taken steps to strengthen its practice further. Specifically:

- In 2018, HPD incorporated a new Tenant Income Certification checklist for the tenant application review process to help ensure that the Marketing Agent and HPD's Marketing Unit collect and maintain all required forms and documentation in a complete and consistent manner.
- In 2020, HPD will release a new version of the online lottery system, Housing Connect 2.0, which is an end-to-end application and monitoring system. Applicants will be able to submit key eligibility documents though the system, which will streamline the collection of documents and create a single repository to which both the Marketing Agent and HPD's Marketing Unit will have access.

Recommendation 2: *HPD should consider performing asset property searches for prospective residents to determine whether they meet HPD property ownership requirements and are within applicable asset limits before awarding leases for the affordable apartments.*

Agency Response to Recommendation 2: HPD considers its current practices in this area as being sufficient. Specifically:

- every applicant is required to provide tax filings (which should indicate ownership interest in real property) and Marketing Agents conduct credit checks (which should also indicate ownership interest in real property); given this, the compliance process incorporates due diligence in evaluating applicants' ownership of asset properties.
- alongside the above, every applicant is required to declare any real property holdings (including shares of stock in a cooperative housing corporation; any type of direct or indirect, full or partial ownership; and interest or ownership through an LLC) in a signed Asset Certification. This form notifies applicants that "the consequences for providing false or knowingly incomplete information in an attempt to qualify for this program may include the disqualification of my application, the termination of my lease (if discovery is made after the fact) and referral to the appropriate authorities for potential criminal prosecution."
- before approved applicants enter into leases or contracts of sale, the households re-affirm in a sworn affidavit that they do not own property that was not previously disclosed in the application process.

Audit Finding Area: No Oversight for Rejected Applications on Lottery Log

Recommendation 3: HPD should implement controls within its affordable housing lottery process whereby its officials test whether the reasons provided for rejecting applicants was valid for a random sample of cases so as to reduce the likelihood that a Marketing Agent might improperly disqualify an applicant.

Agency Response to Recommendation 3: HPD considers its current practices in this area as being sufficient, and is taking steps to strengthen its practice further. Specifically:

- HPD reviews a random sample of rejected application files under certain circumstances, such as when HPD has received complaints about a Marketing Agent, or a Marketing Agent appears to have not followed Marketing Handbook guidelines when determining eligibility.
- HPD has streamlined and clarified the appeal and complaint process; applicants are now proactively informed of recourse at each stage of the eligibility review process, and the final stage of appeal involves independent eligibility review by HPD.
- Housing Connect 2.0 will capture all key eligibility documents; the Marketing Unit will therefore have the ability to monitor rejections in real time and review key documents, where possible, without Marketing Agent involvement or engagement.