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STATE COMPTROLLER



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STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

September 8, 1997

Mr. Joseph B. Lynch  
Acting Commissioner  
Division of Housing and Community Renewal  
Hampton Plaza  
38-40 State Street  
Albany, NY 12207

Report 96-F-29

Dear Mr. Lynch:

Pursuant to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution and Section 8, Article 2 of the State Finance Law, we have reviewed the actions taken by officials of the Division of Housing and Community Renewal (DHCR) as of April 22, 1997 to implement the recommendations contained in our prior audit report 95-S-35. Our prior report, which was issued September 6, 1995, examined DHCR's oversight of the procedures used to bill, collect and account for revenues.

**Background**

The Division of Housing and Community Renewal (DHCR) administers a variety of housing programs. It is authorized by law to collect fees, fines and penalties in the course of its administration of these programs. The five DHCR housing programs examined in our prior audit report were the Maximum Base Rent (MBR) program, the Emergency Tenant Protection Act (ETPA) program, the Factory Manufactured Homes (FMH) program, the Compliance program, and the Enforcement program.

**Summary Conclusion**

In our prior audit, we found that DHCR needed to improve its procedures to bill, collect and account for revenue. Due to inaccurate bills, unreliable records, and ineffective collection efforts; hundreds of thousands of dollars in reported fees, fines and penalties were outstanding for the five housing programs covered by our audit. Some amounts had been outstanding for more than three years. Our prior audit report concluded that further action was needed to control revenues. In our follow-up review, we found that DHCR has made progress in implementing the recommendations contained in our prior report.

## **Summary of Status of Prior Audit Recommendations**

The prior audit report contained ten recommendations. Our follow-up review shows that DHCR officials have fully implemented three recommendations, partially implemented one recommendation and not implement one recommendation. The five prior audit report recommendations pertaining to the FMH program (recommendations six through ten) are no longer applicable to DHCR because the FMH program has been transferred to the Department of State.

### **Follow-up Observations**

#### **Recommendation 1**

*Review and correct ETPA records for the period prior to March 31, 1991 and pursue the outstanding amounts.*

Status - Implemented

Agency Action - DHCR officials stated that they reconciled ETPA records for the period prior to March 31, 1991 and pursued outstanding accounts. As of January 7, 1997, DHCR reported that the outstanding balance for the ETPA administrative fee bill is less than one-quarter of the amount owed when we conducted our original audit (September 1992). DHCR officials believe that this reduction is due to their efforts to maintain accurate records, produce accurate bills, and reconcile past billing differences. In early 1997, as part of ongoing efforts to collect funds from the municipalities, DHCR sent out notices to communities with current outstanding balances. This resulted in the collection of \$49,770. Presently, only four communities account for 78 percent of the outstanding balance.

#### **Recommendation 2**

*Review and correct the 1988-89 and 1990-91 MBR billing records and then use all available collection options.*

Status - Not Implemented

Agency Action - DHCR officials do not agree with this recommendation. They stated that there were no outstanding balances for the 1988-89 and 1990-91 cycles and that examples cited in the report could have been explained after further investigation. They believe the amount of staff time and expenditure of resources that would be needed to physically check and reconcile records is not warranted considering the agency's other priorities.

Auditors' Comments - DHCR officials claim there were no outstanding balances, but records show there was \$174,000 outstanding as of July 31, 1994. DHCR has not performed any cost benefit analysis to determine if it is prohibitive to investigate the records. DHCR should pursue the outstanding amounts, possibly on a sample basis, to determine if it would be cost beneficial to review all records.

**Recommendation 3**

*Review the documentation supporting landlords' claims of exemption from MBR fees and correct the billings and records as appropriate.*

Status - Partially Implemented

Agency Action - At the conclusion of our original audit DHCR officials reported that their limited resources can better be utilized if focused on current and future caseloads. In responding to our follow-up review, officials state that a cost-benefit analysis indicates that reviewing all files is not warranted due to the large amount of staff time that would have to be dedicated and the few dollars that would be realized. They state that their current process allows owners to challenge any denial of rent increase if the owner believes there is a billing error. The records are then reviewed and, if DHCR has erred, the MBR will be granted.

Auditors' Comments - Although DHCR did not review all of the billing records, they now have a process in place which will ensure that a landlord is not wrongly denied a rent increase.

**Recommendation 4**

*Use all cost-beneficial options that are available to pursue outstanding Enforcement program penalties.*

Status - Implemented

Agency Action - DHCR has instituted a number of steps to improve collection efforts. The steps include obtaining access to TRW credit records and using these records to identify assets of debtors, reorganizing the collection workload to enhance efficiency in collections and record-keeping, and referring overdue penalties to the Attorney General's Office.

**Recommendation 5**

*Take steps to ensure that the Compliance program accounts receivable records include all penalties imposed, and pursue outstanding amounts.*

Status - Implemented

Agency Action - DHCR has reviewed decisions imposing fines and checked the decision against computerized records. The review indicated that all penalties had been recorded and no discrepancies were found. With regards to pursuing outstanding amounts, DHCR indicates that it has instituted the same steps shown in response to recommendation number four.

**Recommendations 6 -10**

Status - Not Applicable

Agency Action - The FMH program has been moved to the Department of State.

Major contributors to this report were Marty Chauvin and Richard Loveless.

We would appreciate your response to this report within 30 days, indicating any action planned or taken to address the unresolved matters discussed in this report. We wish to thank the management and staff of DHCR for the courtesies and cooperation extended to our staff during this review.

Very truly yours,

Jerry Barber  
Audit Director

cc: Patricia Woodworth