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COMPTROLLER**



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**OFFICE OF THE  
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE  
GOVERNMENT ACCOUNTABILITY**

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**NEW YORK STATE  
DIVISION OF HOUSING  
AND COMMUNITY  
RENEWAL**

**COMPLIANCE WITH  
SELECTED REPORTING  
REQUIREMENTS**

**Report 2006-S-41**

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## AUDIT OBJECTIVES

Our objectives were to determine whether: (1) housing authorities in New York State are submitting the annual reports required by the Public Housing Law (PHL), (2) such reports are available for public inspection, and (3) the Division of Housing and Community Renewal (DHCR) adequately controls the submission, review and related follow-up concerning these reports.

## AUDIT RESULTS - SUMMARY

We found that only 15 of the 192 entities in the State that fit the definition of a public housing authority are submitting the required annual reports. It is DHCR's interpretation of the PHL that only housing authorities that operate State-aided projects are required to file such reports. However, their position is not consistent with the requirements contained in the PHL and DHCR's related rules and regulations. Having the annual reports available to DHCR for all housing authorities, could be helpful to DHCR in fulfilling its oversight role in regards to the State's housing stock, including management and long-range planning.

We also found that the reports that are submitted often lack some of the required information. DHCR performs only limited reviews of these reports, and does not follow up to obtain either the missing reports or missing required information. Lastly, DHCR has made no effort to make the reports available to the public.

Our report contains three recommendations for improvement. DHCR officials generally agreed with the recommendations, stating that they will: amend their regulations to clearly set forth which entities are required to submit annual reports; consider establishing policies and procedures for monitoring and reviewing these reports; and explore ways to make the reports available on their website.

This report, dated June 26, 2007, is available on our website at: <http://www/osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or  
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Division of State Government Accountability  
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## BACKGROUND

DHCR is responsible for the supervision, maintenance and development of affordable low and moderate income housing in New York State (State). Since the enactment of the Public Housing Law in 1939, the State has financed the construction of 66,123 apartments for low-income families in 143 housing developments owned and operated by 42 public housing authorities.

In regards to the oversight of housing authorities, Article 3, Section 37(2) of the PHL states that “An authority shall file in the office of the [DHCR] commissioner annual reports, which shall be open to public inspection.” This law requires that the annual reports include the following detailed information regarding the housing authority: the amount of any government loan; amount of any periodic subsidy for the project; average rental costs per room; number of vacant apartments; vacancy rates; annual total operating costs; annual operating costs per room; annual rental unit income; annual income from other sources; and the minimum, maximum and average income levels of the families occupying the project.

## AUDIT FINDINGS AND RECOMMENDATIONS

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### *Reporting Requirements*

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In total, we identified 192 entities in the State that fit the definition of a public housing authority and, therefore, are subject to the reporting requirements of Article 3, Section 37(2) of the PHL. Eleven of these housing authorities are referenced in the PHL. The remaining 181 housing authorities were created subsequent to the enactment of the PHL.

We reviewed the process followed by DHCR officials to track the submission of annual reports, which contain budget information for the subsequent fiscal year. Having the required annual reports available to DHCR could be valuable in helping DHCR to fulfill its oversight role in regards to the State’s housing stock, including management and long-range planning. However, we found that DHCR currently requires the submission of annual reports for only 19 of the 192 housing authorities. It is DHCR’s interpretation of the PHL that only housing authorities that operate State-aided projects are required to file such reports. Housing authorities that have been federalized (i.e., have received Federal subsidies) or restructured (i.e., have obtained private sector investment) to upgrade their developments, are not required to submit annual reports to DHCR.

However, in reviewing the PHL, we did not find any provision that would exempt any housing authority from the annual report requirements of Section 37(2). Section 37(2) does not limit the filing of annual reports to only State-aided projects that have not been federalized or restructured. In fact, DHCR’s own rules and regulations follow the same language as Section 37(2) of the PHL. If there are sound reasons why an authority should not be required to file an annual report with the Commissioner, DHCR should take proper steps to amend its rules and regulations to allow for such exceptions. In response to our preliminary findings, DHCR officials indicated that they will consider taking steps to amend their rules and regulations.

The PHL requires that these reports be open to public inspection. While DHCR officials indicated that they would make such information available upon specific request, the availability of the reports is not publicized or promoted, and links to annual reports are not included in the DHCR website. At the

closing conference for this audit, DHCR officials agreed to consider taking steps to increase public awareness of annual report availability through its website.

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*Monitoring and Review of Annual Reports*

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DHCR is responsible for ensuring that annual reports are submitted prior to the start of each fiscal year and that the reports are accurate, complete and properly reviewed. Follow-up action should be taken as needed to ensure compliance with PHL requirements.

DHCR's Housing Management Bureau is responsible for tracking the submission of the annual reports. DHCR management has delegated all of the responsibility for obtaining, tracking and reviewing annual reports to one employee, a housing representative. After logging the receipt of the annual report, the housing representative told us that he reviews and confirms selected information contained in the report. The focus of his review pertains to the calculation of the State subsidy. DHCR accepts incomplete filings, so long as they contain the subsidy-related information. The housing representative does not ensure that all data fields required by Section 37(2) are completed. He also does not document his review of the reports or the verification of the expense items contained therein.

For the 19 housing authorities that DHCR officials maintain are required to submit annual reports, we tested whether all required reports were submitted and whether all required data fields were completed. For the fiscal year beginning April 1, 2005, we found 15 housing authorities submitted reports. DHCR officials informed us that two of the four housing authorities that did not submit a report continue to receive a State subsidy; the other two have not submitted a report since the time that their State subsidy ended.

Section 37(2) requires a total of ten different components to be filled in for each annual report. We reviewed the 15 submitted annual reports and found 71 of the total 150 (47 percent) required components were left blank. We also reviewed the 13 reports submitted as of August 2006, for the fiscal year beginning April 1, 2006. We found 34 of 130 (26 percent) required components were not filled in. We found no evidence of DHCR management review of the housing representative's work, no reports generated to routinely notify management of the housing authorities that do not comply with the Section 37(2) requirements, and no documentation of DHCR's efforts to obtain the missing reports and data components. DHCR officials informed us that they do monitor the submission of reports, but agree that their activities had not been fully documented.

DHCR officials indicated that our findings place undue emphasis on the review of reports, which are of limited value to the supervision of housing authorities. DHCR officials indicated staff resources are allocated toward field visits to the projects, recommending upgrades to the facilities, review of and recommendations for improvements in operating procedures, and helping to secure additional financing through such programs as public housing modernization, drug elimination, weatherization, and energy conservation. With limited staff and resources available, DHCR officials maintain that such matters must take higher priority. Nonetheless, DHCR officials state they will direct the assigned housing representative to prepare reports on a regular basis indicating whether housing authorities have complied with Section 37(2) filing requirements and to send follow-up correspondence with respect to missing or incomplete reports.

## Recommendations

1. Ensure that all housing authorities required by the PHL to submit annual reports do so. If DHCR deems that certain authorities should be exempt from filing reports, take proper steps to amend DHCR rules and regulations to reflect this policy. Maintain a record of those housing authorities that are no longer required to submit reports, along with the reasons why.

(DHCR officials stated they will amend their regulations to clearly set forth which entities are required to submit these reports.)

2. Take steps to increase public awareness of annual report availability.

(DHCR officials replied that they will review the feasibility of making the information available on their website.)

3. Establish policies and procedures for monitoring and reviewing annual reports, including management reports that summarize instances of noncompliance.

(DHCR officials agreed to consider this recommendation.)

## AUDIT SCOPE AND METHODOLOGY

We audited compliance by DHCR and the public housing authorities with selected reporting requirements contained in the PHL for the period April 1, 2004 through August 31, 2006. To accomplish our objectives, we reviewed pertinent sections of the PHL and DHCR's rules and regulations, and interviewed various DHCR officials. We also reviewed relevant form letters, guidance memos, report logs, and all annual reports submitted during the audit scope period.

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

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State, several of which are performed by the Office of Operations. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

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## **AUTHORITY**

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

## **REPORTING REQUIREMENTS**

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

Within 90 days of the final release of this report, as required by Section 170 of the

Executive Law, the Commissioner of DHCR shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and, if not implemented, the reasons therefor.

## **CONTRIBUTORS TO THE REPORT**

Major contributors to this report include Frank Houston, Cindi Frieder, Myron Goldmeer, Jeremy Mack, David Louie, Jean-Renel Estime, Brenda Maynard, and Paul Bachman.

## APPENDIX A - AUDITEE RESPONSE

Eliot Spitzer  
Governor



Deborah VanAmerongen  
Commissioner

New York State Division of Housing and Community Renewal  
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New York, NY 10004

May 21, 2007

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Division of State Services  
State Audit Bureau  
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New York, N.Y. 10038

**Re:** Draft Audit Report 2006-S-41 dated April 6, 2007

Dear Mr. Houston;

Thank you for the opportunity to respond to the recommendations of your draft audit report 2006-S-41, *Compliance with Selected Reporting Requirements*. Our comments and intended actions to be taken are as follows:

**Recommendation:**

Ensure that all housing authorities required by the Public Housing Law (PHL) to submit annual reports do so. If DHCR deems that certain authorities should be exempt from filing reports, take proper steps to amend DHCR rules and regulations to reflect this policy. Maintain a record of those housing authorities that are not longer required to submit reports along with the reasons why.

**Response:**

It is DHCR's interpretation of Section 37(2) that only housing authorities which operate State-aided projects that have not been federalized or restructured are required to file annual reports. As of this date, there are nineteen housing authorities in this category. The following information is submitted with respect to this interpretation:

1. While the Public Housing Law refers to the creation of 192 housing authorities, it appears that several dozens of these entities are inactive.
2. Although Section 37(2) does not limit the filing of annual reports to State-aided projects that have not been federalized or restructured, it is a basic principle of statutory construction that a statute is to be construed as a whole, and all parts are

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to be read together to determine its meaning. Other provisions of the PHL, specifically PHL §16, limits DHCR's authority to State projects.

3. DHCR has played a central role in facilitating the redevelopment of deteriorated housing authority projects under a "mixed-finance" arrangement involving funds from other State low and moderate income housing programs. This type of redevelopment permits a substantial infusion of funds through a combination of Housing Modernization funds administered by the Housing Trust Fund Corporation, Low Income Housing Tax Credits issued by DHCR, and proceeds from tax-exempt bonds, in addition to the State subsidy under the PHL. Due to their complex arrangements and additional requirements, these developments have separate DHCR reporting requirements. (See PHL Section 20)

In response to your recommendation, DHCR will clearly set forth the above position by amending its regulations.

**Recommendation:**

Take steps to increase public awareness of annual report availability.

**Response:**

DHCR will internally review this recommendation with program staff and with its information technology unit with an eye towards making information available on our website.

**Recommendation:**

Establish policies and procedures for monitoring and reviewing annual reports including management reports that summarize instances of noncompliance.

**Response:**

DHCR will also take this recommendation into consideration.

If you have any questions regarding this response, you may contact me at 518-473-8443 or by email at [mkozlowski@dhcr.state.ny.us](mailto:mkozlowski@dhcr.state.ny.us).

Sincerely,



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Acting Director, Internal Audit

Cc: Deborah VanAmerongen  
Brian Lawlor  
David Cabrera

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