

THOMAS P. DiNAPOLI
STATE COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

December 20, 2024

RuthAnne Visnauskas
Commissioner/CEO
Homes and Community Renewal
Hampton Plaza
38-40 State Street
Albany, NY 12207

Re: Housing Trust Fund Corporation:
Oversight of the Rural Rental
Assistance Program
Report 2023-S-53

Dear Commissioner Visnauskas:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 and Article X, Section 5 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 2803 of the Public Authorities Law, we have conducted an audit of Housing Trust Fund Corporation (HTFC), a component of Homes and Community Renewal (HCR), to determine if project owners are receiving Rural Rental Assistance Program (RRAP) payments only for eligible units and are properly maintaining the units for which they receive RRAP payments, and whether HTFC is engaging in adequate outreach activities to make sure the program is reaching rural areas throughout the State. Our audit covered the period from April 2019 through June 2024.

Background

RRAP is administered by HTFC in partnership with the United States Department of Agriculture (USDA). RRAP provides rental subsidies for low-income elderly and family tenants residing in multi-family properties in rural areas of the State, with mortgages financed through USDA's Section 515 Program (Section 515 Program). The properties in these programs are referred to as projects by HTFC and USDA. Project owners are the borrowers whose mortgages are financed through the Section 515 Program, and include corporations, non-profits, and local housing authorities. HTFC provides the direct rental subsidies through contracts with project owners for units occupied by eligible tenants.

HTFC and USDA have a memorandum of understanding (MOU) that outlines the responsibilities of each agency for administering RRAP. According to the MOU, USDA is responsible for enforcing compliance with Section 515 Program regulations through triennial supervisory reviews. These reviews include interviews with project staff, reviews of tenant files, physical inspections of the projects and units, and verification of tenant eligibility and subsidy amounts. USDA is required to provide the results of its supervisory reviews to HTFC. USDA is also responsible for providing tenant data and certifications submitted by project owners,

along with project worksheets, which support project subsidies to HTFC. Under the MOU, HTFC is responsible for contracting with property owners for RRAP assistance and making RRAP payments based on USDA's monthly project worksheets and State rules and regulations. HTFC officials are also permitted to physically inspect projects and review tenant files to ensure payments are being made for eligible tenants under HTFC's RRAP contract. Additionally, HTFC periodically advertises new opportunities for RRAP assistance through notices of funding availability (NOFAs). Eligible project owners evaluate and respond to these NOFAs to apply to participate or expand their participation in RRAP.

Project owners are required to provide decent, safe, and sanitary housing for tenants participating in RRAP under the Section 515 Program. They are also required to advertise the availability of housing units to all potential low-income applicants, even if there is a waitlist. The project owners are responsible for receiving tenant applications, assessing eligibility, and calculating rental subsidies. Typically, project owners hire management companies that have staff located at each project to carry out these tasks on their behalf. For example, management company staff review personal information to evaluate tenant eligibility and certify, at least annually, that each tenant is eligible for rental assistance.

As of May 2024, HTFC had contracted with 242 projects to provide assistance for up to 5,020 units. Not all the 5,020 units were occupied by residents who qualify for RRAP assistance and, therefore, were not being subsidized at the time of the contract. However, by contracting for up to a certain number of units with project owners, HTFC can subsidize the additional units at a project if they become occupied in the future by tenants who apply and are eligible for RRAP assistance. According to HTFC's data, in May 2024, HTFC paid subsidies totaling approximately \$1.9 million for 4,211 of the 5,020 (84%) contracted units. For the period April 2019 through January 2024, HTFC spent about \$99 million on RRAP subsidies.

The USDA's data-sharing agreement with HTFC (related to the Section 515 Program and RRAP) prevented us from viewing any tenant-specific information; therefore, we could not evaluate whether HTFC was providing subsidies for eligible tenants. Consequently, we were prevented from assessing tenant eligibility and the accuracy of individual unit subsidies. However, we were able to verify that HTFC made the correct number of subsidy payments for a particular project. Also, we could not follow up on certain management company actions related to deficiencies we observed during our review of units because the documentation included tenant-specific information. Additionally, because of limitations in data published by USDA, we could not determine how many vacancies exist at projects receiving RRAP assistance. However, we visited eight properties and for those properties there were 14 vacant units out of a total 216 units (6.5%).

Results of Audit

Overall, we determined that HTFC is making RRAP payments to property owners for the correct number of units. We reviewed payments totaling \$350,372 made for units at a sample of eight projects between January and May 2024 and determined that HTFC made payments for the correct number of RRAP-eligible units. We also determined that units and projects were maintained properly by project owners. For the 52 units at the eight projects in our sample, we found deficiencies in physical conditions in 14. However, these deficiencies were often tenant-specific and known to the property managers, rather than related to the overall property condition and maintenance. For example, we observed significant clutter blocking exits, a damaged sink, and unsanitary conditions. In these cases, tenants are issued notices by the management company to correct deficiencies within certain time frames and, if they fail to do

so, a lease violation is issued. Multiple lease violations could lead to tenant eviction. Overall, we found that project owners and managers were responsive to correcting maintenance issues. Of the 70 maintenance requests that we examined, 64 (91%) were completed within 14 days. We also determined that HTFC is engaging in outreach activities to make sure RRAP is reaching rural areas throughout the State. HTFC officials contact Section 515 Program property owners directly to notify them of the availability of RRAP funds and also publish NOFA advertisements in local newspapers. HTFC issued its most recent NOFA in September 2024.

During our audit, we found opportunities for HTFC to better ensure it receives all the information it should from USDA as stated in the MOU that would allow HTFC officials to sufficiently monitor individual RRAP projects. Specifically, HTFC is not receiving the results of USDA triennial supervisory reviews as required under the MOU. USDA officials stated they are behind on completing these reviews and, due to USDA's conversion from a hard copy to an electronic record-keeping system, we could not determine when officials last inspected each project. Also, according to HTFC officials, during the COVID-19 pandemic, beginning in 2020, USDA was not able to conduct reviews. However, according to project staff at one site we visited, USDA had not conducted a supervisory review since 2006, well before the COVID-19 pandemic began. Because HTFC does not regularly receive supervisory review results, officials may not be aware of the extent of the USDA backlog. To assist them with inspecting Section 515 Program properties, USDA entered into a contract with a third-party vendor to conduct physical property inspections starting in October 2022. However, the current MOU does not specifically include any language requiring USDA to provide the results of inspections conducted by its vendor to HTFC.

While HTFC is permitted to conduct its own reviews at projects receiving RRAP assistance, officials stated that HTFC does not devote administrative funding to conduct its own dedicated monitoring of RRAP and instead maximizes the funds available to support tenants through rental subsidies. Officials stated that such monitoring would be duplicative of USDA's responsibilities. Additionally, HTFC officials noted that RRAP properties may be inspected or monitored as part of their oversight of other assistance programs. For example, HTFC officials stated they monitored at least 79 RRAP projects during the audit scope period as part of their oversight of other federal and State financing programs. However, the oversight focused on the requirements of these other programs and not specifically on RRAP requirements, though they may overlap in some instances. Further, projects without additional financing from HTFC programs would not be subject to these reviews. Proactively obtaining all data available under the MOU would help HTFC officials decide how best to monitor projects at their discretion. For example, this information would provide an important management control for HTFC to ensure project owners who want to participate or expand their participation in RRAP are operating their projects according to the Section 515 Program and RRAP requirements.

Recommendations

1. Obtain and continue to receive the results of USDA triennial supervisory reviews in accordance with the MOU.
2. Work with USDA to clarify language in the MOU to reflect current practices, including but not limited to, providing HTFC with the results of reviews conducted by USDA's contractor.

Audit Scope, Objectives, and Methodology

The objectives of our audit were to determine if project owners are receiving RRAP payments only for eligible units and are properly maintaining the units for which they receive RRAP payments, and whether HTFC is engaging in adequate outreach activities to make sure the program is reaching rural areas throughout the State. The audit covered the period from April 2019 through June 2024.

To accomplish our objectives and assess related internal controls, we reviewed relevant sections of the State Private Housing Finance Law, federal and State regulations, HTFC procedures, USDA handbooks, and MOUs between HTFC and USDA. We also interviewed agency and USDA officials, reviewed agency data, and conducted site visits at projects receiving RRAP subsidies to physically inspect rental units and interview project management company staff.

We used a non-statistical sampling approach to provide conclusions on our audit objectives and to test internal controls and compliance. We selected judgmental samples. However, because we used a non-statistical sampling approach for our tests, we cannot project the results to the respective populations. To review the eligibility and maintenance of units and outreach efforts conducted by management company staff, we judgmentally selected a sample of eight out of 242 projects receiving RRAP subsidies based on project type, management company size, geographic location, and physical property conditions to conduct site visits. Our samples, which are discussed in detail in the body of our report, include:

- A judgmental sample of 52 out of 216 rental units at the eight projects in our sample, based on apartment number and location of a unit on the property and also within a building to assess the physical property conditions of the units across a project.
- A judgmental sample of 70 maintenance work orders at the eight projects in our sample, selected from all hard copy requests, based on filing order maintained by the management company on site and the unit the work order was for, to assess whether repairs were made in a reasonable time frame.
- A judgmental sample of occupancy reports and payment data for the most recent 5 months in our scope at the time of our review (January–May 2024), for the same eight out of 242 projects in our site visit sample. We used these reports to test whether HTFC officials paid the correct number of subsidies each month.

We obtained data from the RRAP Automation System, project occupancy reports, and HTFC's internal RRAP spreadsheet. We assessed the reliability of that data by interviewing knowledgeable individuals about each system, performing electronic testing, and tracing to and from source documents. Furthermore, we reviewed the functional capabilities of the RRAP Automation System. We determined that the data from these systems were sufficiently reliable for the purposes of this report. Certain other data in our report was used to provide background information. Data that we used for this purpose was obtained from the best available sources, which were identified in the report. Generally accepted government auditing standards do not require us to complete a data reliability assessment for data used for this purpose.

Statutory Requirements

Authority

This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 and Article X, Section 5 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 2803 of the Public Authorities Law.

We conducted our 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.

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, including some duties on behalf of public authorities. For HTFC, these include operating the State's accounting system, reporting HTFC as a discrete component in the State's financial statements, and approving selected contracts. These duties could be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent audit of HTFC's oversight and administration of RRAP.

Reporting Requirements

A draft copy of the report was provided to HCR officials for their review and comment. Their comments were considered when preparing this final report and are attached in their entirety at the end of it. Officials agreed with our findings and indicated actions they would take to implement them.

Within 180 days after the final release of this report, as required by Section 170 of the Executive Law, the Commissioner/CEO of Homes and Community Renewal 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 where the recommendations were not implemented, the reasons why.

Major contributors to this report were Bob Mainello, Brian Krawiecki, Ryan Gregory, Norris Wilson, and Abu Hossain.

We wish to thank the management and staff of the Housing Trust Fund Corporation for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Heather Pratt
Audit Director

cc: Sean Fitzgerald, Homes and Community Renewal

Agency Comments



KATHY HOCHUL
Governor

Homes and
Community Renewal

RUTHANNE VISNAUSKAS
Commissioner/CEO

Housing
Trust Fund
Corporation

December 2, 2024

Heather Pratt, Audit Director
Office of the New York State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Re.: Report 2023-S-53, Housing Trust Fund Corporation: Oversight of the Rural Rental Assistance Program.

Ms. Pratt:

New York State Homes and Community Renewal appreciates the opportunity to respond to the above-referenced audit and thanks the Comptroller's staff for their professionalism and courtesy throughout the audit process.

Recommendation 1: Obtain and continue to receive the results of USDA triennial supervisory reviews in accordance with the MOU.

Agency Management's Response:

The Housing Trust Fund Corporation (HTFC) and United States Department of Agriculture (USDA) staff talk regularly about a variety of topics, including any recent compliance issues. However, as the report acknowledges, the USDA was limited in their ability to monitor the Section 515 portfolio during and after the pandemic due to travel restrictions and staffing shortages. HTFC will be reviewing the terms of the memorandum of understanding (MOU) with the USDA and updating it to reflect current practices and maintain information sharing within the currently defined roles. However, the basic roles outlined in the MOU will remain the same – the USDA will continue to take the lead in providing oversight. This partnership has been remarkably stable and consistent for the past four decades. RRAP remains a unique and efficient federal/state collaboration, meeting a critical and often under-served need for affordable housing assistance in rural areas.

Recommendation 2: Work with USDA to clarify language in the MOU to reflect current practices, including but not limited to, providing HTFC with the results of reviews conducted by USDA's contractor.

Agency Management's Response:

HTFC will engage USDA staff and seek to finalize any updates to the MOU by the end of 2025.

Please contact Sean Fitzgerald, Audit Coordinator, at (518) 894-5050 if you have any questions or require anything further.

Sincerely,

Daniel P. Buyer

Daniel P. Buyer
Vice President, Rental Assistance Program

Cc: RuthAnne Visnauskas
Betsy R.C. Mallow
Cathleen McCadden
Will Martin
Rebecca Koepnick
Amy Enzerillo
Sean Fitzgerald
Heidi Nark