



October 2018

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Better Guidance and Performance Measures Would Help Strengthen Enforcement Efforts

GAO Highlights

Highlights of [GAO-19-38](#), a report to congressional committees

Why GAO Did This Study

HUD established DEC in 1998 to consolidate enforcement functions. In fiscal year 2017, DEC received about 2,800 referrals from program offices for oversight of and enforcement actions against property owners, public housing agencies, and state and local grantees that do not comply with requirements.

The Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2017, included a provision for GAO to assess DEC's effectiveness addressing noncompliance. GAO examined (1) the processes selected program offices have in place to make referrals, (2) how DEC assesses its performance, and (3) challenges that may affect the ability of DEC to achieve its mission. GAO reviewed agreements and referral data between DEC and three of the nine HUD program offices that made referrals to DEC from fiscal years 2014 to 2017 (accounting for 73 percent of the total referrals during that period), and interviewed HUD staff in headquarters and field offices.

What GAO Recommends

GAO is making eight recommendations to HUD related to DEC, including for staff guidance on when to make referrals; targets for the number of DEC referrals based on program risk; outcome measures to track performance; and controls to ensure consistent data recording. HUD agreed with five of the eight recommendations, noting that setting referral targets was inconsistent with basing them on program risk. GAO maintains that setting referral targets can help ensure that program offices make referrals to DEC.

View [GAO-19-38](#). For more information, contact Daniel Garcia-Diaz at (202) 512-8678 or garciadiazd@gao.gov.

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What GAO Found

The three program offices of the Department of Housing and Urban Development (HUD) that GAO examined have a process in place for referring cases of potential noncompliance to the Departmental Enforcement Center (DEC), but two of the offices do not provide their staff with specific guidance on when to make referrals. The Office of Multifamily Housing makes referrals to DEC based on defined thresholds for noncompliance, such as for properties that do not pass physical inspections. In contrast, the Offices of Public and Indian Housing (PIH) and Community Planning and Development (CPD) have broad guidelines but not specific thresholds for when to refer an entity to DEC. These two offices do not provide field staff with specific guidance to help determine which housing agencies or grantees to refer to DEC for possible enforcement action. As a result, the offices cannot ensure that decisions on whether to make referrals are made on a well-supported and consistent basis, potentially limiting DEC's effectiveness in fulfilling its mission of providing independent oversight of HUD's programs. In addition, PIH and CPD have targets for how many annual referrals the program office will make to DEC, but the targets are not based on program risk. According to federal internal control standards, management should identify, analyze, and respond to risks related to achieving the defined objectives. Without a target number of referrals based on program risk, PIH and CPD cannot be confident that the number of cases referred to DEC is appropriate and that DEC resources are being used efficiently.

DEC tracks some performance measures, but it largely measures outputs, such as number of work assignments completed, rather than outcomes, such as financial performance improvements resulting from its work, that would help assess the impact of its activities. DEC also does not track the status of recommendations it makes to program offices or measure indicators of its timeliness in completing its reviews for the referrals it receives. In addition, GAO found that DEC staff did not consistently record two key data elements (including the corrective action taken) in the spreadsheet used to track referrals. Improving DEC's performance measurement system and data recording would be consistent with federal internal control standards and allow DEC to better assess its effectiveness, ensure accountability, and identify potential improvements.

DEC has experienced various information technology challenges that have affected its ability to carry out its mission. For example, DEC's current system is not designed to allow staff to easily determine the basis for certain referrals or identify and analyze trends in referrals over multiple years. In addition, DEC has experienced continuing outages and breaks in service. HUD has developed plans for a replacement system, but funding constraints have delayed the implementation of the new system. DEC staff also noted that the organizational location of DEC within the Office of General Counsel was a challenge to carrying out its mission because it limited DEC's ability to hold program offices accountable for corrections. HUD disagreed and also stated that the department has no plans to relocate DEC. Based on GAO's review, other factors, such as the lack of guidance for making referrals (discussed above), may better explain why DEC may not be utilized more effectively.

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Abbreviations

CPD	Community Planning and Development
DEC	Departmental Enforcement Center
HUD	Department of Housing and Urban Development
MFH	Office of Multifamily Housing
OGC	Office of General Counsel
OIG	Office of Inspector General
PIH	Office of Public and Indian Housing
REAC	Real Estate Assessment Center

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October 30, 2018

The Honorable Susan Collins
Chairman
The Honorable Jack Reed
Ranking Member
Subcommittee on Transportation, Housing and Urban Development, and
Related Agencies
Committee on Appropriations
United States Senate

The Honorable Mario Diaz-Balart
Chairman
The Honorable David Price
Ranking Member
Subcommittee on Transportation, Housing and Urban Development, and
Related Agencies
Committee on Appropriations
House of Representatives

The Department of Housing and Urban Development (HUD) administers a wide variety of programs that help households obtain quality, affordable housing and that seek to build and strengthen communities. Each year, these programs provide rental assistance to millions of lower-income households, mortgage insurance to hundreds of thousands of home buyers, and community development grants to hundreds of state and local governments. In 1997, HUD announced a management reform initiative, HUD 2020, designed to improve the agency's performance and eliminate waste, fraud, and abuse. One of the main reforms was to implement a new system of assessment, monitoring, and enforcement to ensure the quality of HUD-assisted housing. HUD established the Departmental Enforcement Center (DEC) in 1998 to help ensure program participants' compliance with HUD program requirements and consolidate non-civil rights enforcement actions across HUD into a single center. HUD program offices make referrals of potential noncompliance to DEC under formal agreements between the parties. In fiscal year 2017, HUD data shows that DEC received about 2,800 referrals from 9 program offices.

The Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2017, included a provision for GAO to assess the effectiveness of DEC in resolving owners' noncompliance with physical,

financial, and other requirements for public housing and multifamily housing properties.¹ This report examines (1) the processes that selected HUD program offices have in place to make referrals to DEC, (2) how DEC assesses its performance, and (3) challenges that may affect the ability of DEC to achieve its mission.

We focused our review on DEC and three HUD program offices: Community Planning and Development (CPD), Multifamily Housing (MFH), and Public and Indian Housing (PIH). Collectively, these three program offices accounted for 73 percent of the total referrals DEC received from fiscal years 2014 through 2017. To address the first objective, we reviewed the formal agreements between DEC and CPD, MFH, and PIH, as well as the guidance these program offices developed for monitoring multifamily properties, public housing agencies, and grantees. We compared this guidance against internal control standards for designing control activities and communicating internally.² We analyzed data from DEC's system for managing referrals from program offices (extracted as of March 2018) and a spreadsheet DEC maintains to track referrals from CPD and PIH (as of March 2018). To assess the reliability of the data, we performed various tests—including searching for missing data and dates, and checking for completeness of the data. We concluded that the data from DEC were sufficiently reliable for purposes of describing general trends.

To address the second objective, we reviewed DEC's performance measures and other information DEC collects and reports on its performance. We compared DEC's practices against federal internal control standards and leading practices of results-oriented organizations that we have identified in prior work.³ To address the third objective, we reviewed our prior reports and reports from the HUD Office of Inspector General (OIG) that identified challenges DEC faces in achieving its

¹See 163 Cong. Rec. H3949, H4086 (May 3, 2017).

²GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

³[GAO-14-704G](#), and GAO, *Executive Guide: Effectively Implementing the Government Performance and Results Act*, [GAO/GGD-96-118](#) (Washington, D.C.: June 1996).

mission.⁴ We also reviewed internal HUD documents related to these challenges, including plans for a new information technology system and a proposal to relocate DEC. For all of the objectives, we interviewed HUD headquarters staff from DEC, HUD Office of General Counsel (OGC) and OIG, and program office officials at HUD headquarters and 10 field locations.⁵ Appendix I contains more details about our scope and methodology.

We conducted this performance audit from July 2017 to October 2018 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.

Background

HUD established DEC in 1998 to consolidate enforcement activities of PIH, CPD, the Office of Fair Housing and Equal Opportunity (for non-civil rights violations), and MFH into one new organization.⁶ The HUD 2020 management reform plan envisioned that DEC would take enforcement action against: (1) public housing agencies that do not pass annual assessments;⁷ (2) owners of private, HUD-assisted housing that do not

⁴See, for example, GAO, *HUD Management: HUD's High-Risk Program Areas and Management Challenges*, [GAO-02-869T](#) (Washington, D.C.: July 24, 2002) and Department of Housing and Urban Development, Office of Inspector General, *Risk Based Enforcement Could Improve Program Effectiveness*, 2014-OE-0002 (Washington, D.C.: Feb. 12, 2016).

⁵We interviewed staff in each of HUD's six PIH networks and in CPD field offices in Atlanta, Georgia; Denver, Colorado; Fort Worth, Texas; and Los Angeles, California. We selected the Fort Worth and Los Angeles CPD field offices because they had made referrals to DEC between fiscal years 2016 and 2017, and selected Atlanta and Denver because they had not made referrals to DEC during this time period.

⁶The Office of Fair Housing and Equal Opportunity handles complaints of housing discrimination under the Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended). According to HUD officials, the DEC has not received any referrals related to the Office of Fair Housing and Equal Opportunity.

⁷About 3,300 public housing agencies administer public housing and other HUD programs that provide housing assistance for low-income households, including Section 8 voucher programs.

pass physical or financial audit inspections;⁸ and (3) local and state governments and non-profit organizations that do not comply with the requirements of grants they received from CPD and the Office of Fair Housing and Equal Opportunity (for non-civil rights violations).⁹ In addition, as part of the plan, HUD created the Real Estate Assessment Center (REAC) to help monitor public housing and HUD-insured multifamily housing projects by providing independent assessments of the physical quality and financial condition of public housing and multifamily developments.¹⁰

DEC's current mission is to provide independent oversight of the administration of HUD programs and its external partners. According to HUD, DEC's primary goal is to bring owners to full compliance so that there is no compromise in the quality of HUD-assisted housing. In instances where owners do not bring properties up to standard, and where physical and financial deficiencies persist, DEC can take appropriate enforcement action. This includes administrative sanctions, such as civil money penalties, suspension or debarment, as well as possible referral to HUD OIG when criminal activity is suspected, or to the Department of Justice for civil action.¹¹ DEC also conducts more targeted oversight reviews for some program offices. These reviews are intended to provide program offices with an independent means to analyze and evaluate the efficiency or vulnerability of their programs and operations.

DEC has staff in HUD headquarters and five field offices.¹² In general, headquarters staff develops policy and coordinates the reviews of the

⁸Under the project-based rental assistance program, HUD enters into contracts with property owners to provide rental assistance to lower-income tenants for a fixed period of time.

⁹Local and state governments and non-profit organizations receive grants from HUD to, among other things, improve neighborhoods and meet community development needs, such as by acquiring property, rehabilitating housing, or developing affordable housing.

¹⁰GAO has ongoing work examining, among other things, the effectiveness of REAC's inspections.

¹¹A suspension temporarily excludes an individual, organization, and its affiliates from participating in government transactions because of a serious program violation, such as the diversion of project assets, embezzlement, theft, forgery, false statements or claims, or bribery. A debarment, the most serious sanction, excludes an individual, organization and its affiliates from participating in government transactions, generally for 3 years, although it can be for longer.

¹²DEC has field offices in Atlanta, Georgia; Chicago, Illinois; Fort Worth, Texas; Los Angeles, California; and New York, New York.

referrals DEC receives from the HUD program offices while field office staff conducts the reviews. DEC works primarily with MFH and conducts more targeted oversight reviews for PIH and CPD. (See Appendix II for a breakdown of DEC referrals by program office and the state where the property is located.) These program offices have staff in headquarters and field offices, which are organized into 10 regions.¹³ There is at least one field office or regional office in each state, and the number of field offices varies by region. PIH further combines these regions into six networks.¹⁴

These program offices oversee different areas within HUD:

- MFH oversees the Federal Housing Administration’s multifamily mortgage insurance on loan originations, manages HUD’s portfolio of multifamily housing, provides rental assistance, and helps preserve affordable housing. Additionally, MFH administers project-based rental assistance, supportive housing for the elderly, and programs for persons with disabilities. Collectively, the properties MFH oversees provided affordable rental housing to more than 1.2 million low-income households in 2017.
- PIH helps low-income families through a number of programs. PIH provides assistance to state and local public housing agencies that generally own and administer units for eligible tenants. The Housing Choice Voucher program provides tenant-based rental assistance that eligible individuals and families can use to rent houses or apartments in the private housing market. Native American programs provide block grants and loan guarantees to tribal entities for housing development and assistance. PIH is supporting 2.2 million vouchers and 1.1 million public housing units in 2018.

¹³HUD’s 10 regions are: Region I: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; Region II: New Jersey and New York; Region III: Pennsylvania, Virginia, West Virginia, Maryland, Delaware, Washington, D.C.; Region IV: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and U.S. Virgin Islands; Region V: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin; Region VI: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas; Region VII: Kansas, Iowa, Missouri, and Nebraska; Region VIII: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming; Region IX: Arizona, California, Hawaii, and Nevada; and Region X: Alaska, Idaho, Oregon, and Washington.

¹⁴The six networks are: Northeast (Regions I, II, and III), Southeast (Region IV), Upper Midwest (Region V), Southwest (Region VI), Midwest (Regions VII and VIII), and Far West (Regions IX and X).

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- CPD provides financial and technical assistance to states and localities through the Community Development Block Grant and HOME Investment Partnerships programs—the federal government’s largest block grant programs for community development and affordable housing production, respectively. CPD also leads a number of HUD’s efforts to combat homelessness. Additionally, Congress appropriated about \$36 billion in new Community Development Block Grant-Disaster Recovery funds in fiscal years 2017 and 2018 to states and local governments that experienced major disasters in 2015, 2016 and 2017. CPD oversaw more than 37,000 grants in 2017.

DEC uses an internal database to manage the referrals it receives from HUD program offices. DEC’s system is designed to capture various data, including the date DEC received the referral, name of the property owner or grantee being referred, cause of the referral, status of the referral, final action to close the referral, and corrections made related to the referral, among other things.

Two of Three HUD Program Offices We Examined Lack Guidance for Making Referrals and Targets Based on Program Risk

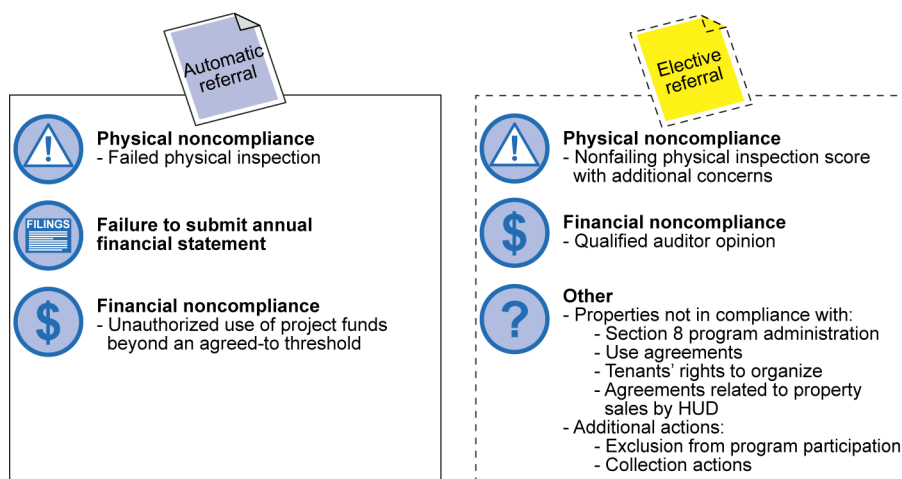
DEC and the three HUD program offices we examined have agreements in place that generally describe the process the offices follow to make referrals to DEC and the responsibilities of the parties. However, two of the three program offices (PIH and CPD) do not provide their staff with specific guidance for making referrals, and the target number of referrals these two offices have established to send to DEC does not address the risk of noncompliance.

Multifamily Housing Office Makes Referrals to DEC Based on Defined Thresholds

MFH makes automatic and elective referrals to DEC based on specific thresholds for program noncompliance defined in its agreement with DEC. MFH properties are automatically referred to DEC if: (1) the property scores below a certain threshold on a REAC physical inspection; (2) the owner fails to submit audited financial statements to HUD within 60 days following the end of the owner’s fiscal year; or (3) REAC’s automated compliance review of the property’s financial statements identifies unauthorized uses of project funds greater than an agreed-to threshold (see figure 1).

MFH also may make an elective referral to DEC based in part on specific situations of program noncompliance defined in their agreement, such as the failure to comply with program regulations or use agreements.¹⁵ MFH officials told us that they make these referrals on a case-by-case basis if they believe that DEC's expertise could help resolve the concerns. In addition, MFH officials distributed a 2017 DEC notice that clarified the procedures for making an elective referral to DEC. Whereas automatic referrals are system-generated, MFH can use its discretion whether to make an elective referral to DEC.

Figure 1: Office of Multifamily Housing Criteria for Making Referrals to the Departmental Enforcement Center

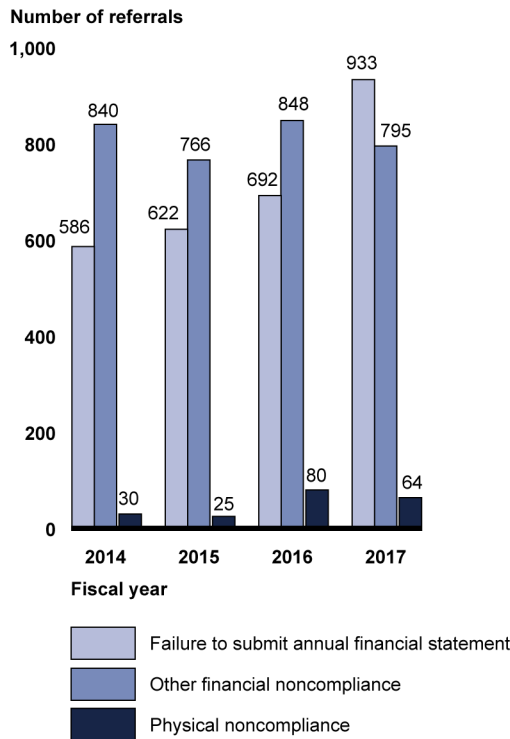


Source: GAO. | GAO-19-38

From fiscal years 2014 through 2017, the total number of referrals DEC received on MFH properties increased by 23 percent. However, as seen in figure 2, the composition of those referrals varied. Referrals related to failure to submit timely financial statements increased by about 59 percent, while referrals related to other instances of financial noncompliance decreased by about 6 percent. Referrals for physical noncompliance, while relatively few overall, increased by 113 percent.

¹⁵According to the agreement between DEC and MFH, DEC has the discretion to accept or reject elective referrals based on the sufficiency of the administrative record, the likelihood of a successful outcome, the amount of likely harm if no action is taken, and the availability of DEC resources. In the case of a rejection, DEC will confer with MFH to provide the reason for the rejection.

Figure 2: Number of and Reason for Referrals to Departmental Enforcement Center on Multifamily Housing Properties, Fiscal Years 2014-2017



Source: GAO analysis of Department of Housing and Urban Development data. | GAO-19-38

Note: Due to the categorization of the records, properties may be counted in multiple categories if the referral was based on more than one noncompliance issue. For example, a referral made for potential physical and financial noncompliance would be recorded in both categories.

MFH officials told us that the increase in referrals for failure to file timely financial statements was due, in part, to new program participants from 2011 to 2013 who did not understand the requirements. In addition, according to MFH officials, MFH changed certain thresholds of financial noncompliance from automatic to elective referrals in 2013, which officials believe resulted in fewer referrals for those types of financial noncompliance.

MFH officials also noted that the increase in physical noncompliance referrals in fiscal year 2016 likely resulted from the informal encouragement given to field offices to make more elective referrals. In addition, during this period HUD's inspection process came under additional scrutiny due to concerns about a multifamily property in Florida. The property had received a passing REAC inspection score in August

2015 but city code inspectors subsequently found multiple and serious deficiencies. The case attracted attention from the media and Congress and culminated in a Senate hearing in September 2016.¹⁶ Subsequently HUD reviewed the integrity of the REAC inspection and DEC referral processes.

DEC officials told us that one reason there are fewer referrals for physical noncompliance compared to financial noncompliance is that a relatively small number of properties reach the threshold for an automatic referral based on physical noncompliance (inspection score less than or equal to 30 out of 100).¹⁷ According to HUD data, REAC conducted approximately 8,700 physical inspections in 2017. Of these inspections, our analysis of DEC data showed that DEC received 64 referrals (0.7 percent of the inspections conducted) for physical noncompliance.¹⁸

PIH and CPD Program Offices Lack Specific Guidance for Making Referrals

PIH and CPD do not provide specific guidance to staff on when a referral should be made to DEC. This stands in contrast to MFH, whose agreement with DEC includes a more detailed discussion of what problems should result in a risk-based referral.

PIH. A PIH official told us that they periodically send an email to field offices requesting potential candidates for referrals to DEC, and that the email cites factors that might warrant such referrals—such as potential violations of statute, regulation, or agreement. However, beyond that, there is no guidance to help field staff decide when to make a referral. In addition, PIH does not provide direction to field offices on how to use the results of their quarterly risk assessment to identify high-risk PHAs for

¹⁶On September 22, 2016, the Banking, Housing, and Urban Affairs Subcommittee on Housing, Transportation, and Community Development conducted a hearing, entitled “Oversight of the HUD Inspection Process.”

¹⁷REAC inspects the physical condition of HUD-assisted properties. As part of the inspections, REAC inspects five areas: the building’s site, building exterior, building systems, dwelling units, and common areas. The physical condition of the property is scored based on the results of the inspection, with scores ranging from 0 to 100.

¹⁸HUD identified deficiencies in the quality of REAC inspections conducted by contractors in a 2017 report, and in 2016 and 2017, HUD decertified many contract inspectors after quality assurance assessments found that their inspections did not meet HUD standards.

potential DEC referrals.¹⁹ According to PIH officials, PIH has not issued more detailed guidance because it did not want to be too prescriptive in telling field office staff when to refer a public housing agency to DEC, as a DEC referral may not always be appropriate.

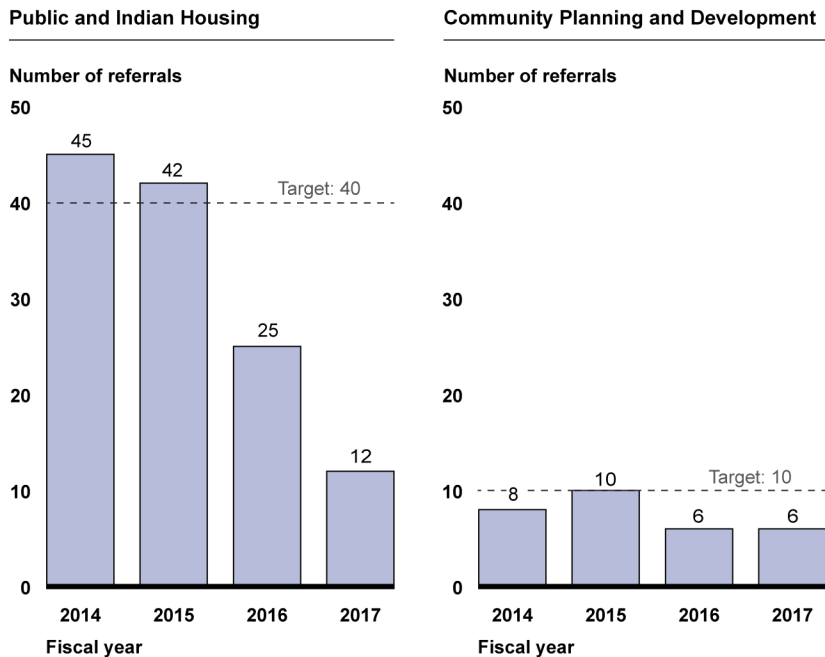
CPD. An official from a CPD field office told us that they may refer a grantee to DEC for an oversight review—for example, if they identify a complex financial issue requiring an in-depth financial investigation beyond the capacity of the field office. However, beyond that, neither DEC nor CPD have developed guidance to help field offices determine when to refer a grantee to DEC. In addition, CPD does not provide direction to field offices on how to use the results of their risk-based assessment of grantees to identify potential DEC referrals.²⁰ CPD officials told us that they do not provide guidance because they believe that their current approach where field offices make referrals to DEC on a case-by-case basis is better and more effective.

As shown in figure 3, in recent years, the number of referrals has declined slightly for PIH and varied for CPD. DEC has agreed with PIH and CPD on a target number of elective referrals they should aim to make to DEC each fiscal year. However, neither program office met their targets for referrals to DEC in fiscal years 2016 and 2017: PIH made 25 and 12 referrals, respectively, but had an annual target of 40, while CPD referred 6 each year but had a target of 10. A number of factors may help explain the decline in referrals and failure to meet targets. For example, PIH officials told us that a new requirement that PIH field offices make every attempt to satisfy oversight review recommendations may have resulted in hesitation to make referrals among some field staff.

¹⁹PIH conducts a quarterly risk assessment of all public housing agencies using quantitative and qualitative data across five risk categories: financial, physical, management, governance, and overall. PIH assigns a risk designation ranging from low-risk to very high risk for each category, and field staff are responsible for addressing higher-risk issues. Public housing agencies' risk designations are based on how far public housing agencies' score is from the mean total risk score. Public housing agencies more than 3 standard deviations from the mean are designated as "Very High Risk." Those agencies more than 2 standard deviations from the mean, or those that are considered troubled or in receivership, are designated as "High Risk." Those agencies that are 1-2 standard deviations from the mean are designated as "Moderate Risk"; and those agencies less than 1 standard deviation from the mean are designated as "Low Risk."

²⁰CPD assesses grantees each fiscal year across four categories of risk (grant management, financial management, services and satisfaction, and physical), and requires CPD field offices to conduct in-depth monitoring of grantees deemed high risk.

Figure 3: Number of Office of Public and Indian Housing and Community Planning and Development Oversight Review Referrals to Departmental Enforcement Center, Fiscal Years 2014-2017



Source: GAO analysis of Department of Housing and Urban Development data. | GAO-19-38

However, the lack of formal guidance for field staff may also play a role in the number of referrals made. According to officials from two CPD field offices, many field offices do not understand the role of DEC or the assistance it can provide, and officials from one field office told us that providing formal guidance would be helpful in this regard. Our analysis found that half of the CPD field offices had not made a referral to DEC during the previous two fiscal years and, according to PIH officials, the number of PIH referrals varied for reasons not related to noncompliance risks. The 2016 HUD OIG report noted that when program field offices requested DEC services, they did so largely because of personal relationships and trust between DEC and some field office managers, an observation reiterated by officials from one field office we interviewed.²¹

²¹Department of Housing and Urban Development, Office of Inspector General, Audit Report No. 2014-OE-0002.

According to the Office of Management and Budget, a “guidance document” is an agency statement of general applicability and future effect, other than a regulatory action, that sets forth a policy on a statutory, regulatory or technical issue or an interpretation of a statutory or regulatory issue.²² The office notes that guidance documents, used properly, can channel the discretion of agency employees, increase efficiency, and enhance fairness by ensuring equal treatment of similarly situated parties. In addition, federal internal control standards state that agencies should design control activities to achieve objectives and respond to risks, such as by documenting the responsibilities for these activities through policies and procedures.²³ Because two of the program offices (PIH and CPD) we examined have not developed specific guidance for making referrals for oversight reviews, these offices cannot ensure that field staff are identifying and making referrals on a well-supported, risk-based, and consistent basis, and this may limit DEC’s effectiveness in fulfilling its mission of providing independent oversight of HUD’s programs. Such additional guidance could include information on how the field offices should incorporate the results from their risk assessments, more detailed criteria on when the field office should make a referral, and examples of potential noncompliance that could be referred.

Target Number of Referrals for Two HUD Program Offices Are Not Based on Program Risk

The target number of referrals for two program offices, PIH and CPD, appears to have been selected somewhat arbitrarily, rather than based on the risks to the programs. As noted earlier, DEC, PIH and CPD have agreed to set targets annually for the number of elective referrals they will make. PIH’s quarterly target of 10 public housing agency referrals represents less than 2 percent of the total number of agencies PIH designates as very high-risk and high risk each quarter.²⁴ In addition, CPD’s target of 10 referrals per year represents about .03 percent of the grantees overseen by CPD and about 1 percent of the grantees monitored by CPD each year.

²²Office of Management and Budget, Final Bulletin for Agency Good Guidance Practices, Fed. Reg. 3432 (Jan. 25, 2007).

²³[GAO-14-704G](#).

²⁴According to PIH officials, because of how PIH defines the risk categories, there will always be public housing agencies in each of the categories. In the fourth quarter of fiscal year 2017, of the more than 3800 housing authorities nationwide, PIH classified 70 as Very High Risk, 478 as High Risk, 114 as Moderate Risk and 3,156 as Low Risk.

However, PIH and CPD officials could not explain the basis for selecting these targets, nor is it clear how these targets are related to the overall risk these program offices face. Both program offices' agreements with DEC state that they will review the agreements each year. PIH officials said this review typically has included a general discussion of the appropriate number of referrals to set as the target. DEC officials told us that future reviews will take a more risk-based approach to selecting that number, but they could not tell us when this would occur. In addition, according to a HUD official, program offices such as CPD are reviewing their processes for managing risk, which could impact the target number of referrals to DEC needed for them to adequately manage their risk.²⁵

According to federal internal control standards, management should identify, analyze, and respond to risks related to achieving the defined objectives, and management should design control activities in response to the entity's objectives and risks to achieve an effective internal control system.²⁶ Without a target number of referrals based on the risks to the programs, PIH and CPD offices cannot be confident that DEC resources are being used most efficiently to address the risks of noncompliance by housing agencies and grantees.

DEC Lacks Measures Needed to Fully Assess Its Performance

While DEC currently tracks some measures related to its performance, its performance measurement system is lacking in key respects that limit DEC's ability to fully assess its performance. DEC's performance measures include the number of work assignments completed, reduction in number of aged referrals (2 or more years old), and the number of families impacted by its enforcement activities.²⁷ DEC officials told us that they also track other measures, such as the dollar amounts of recoveries,

²⁵HUD is currently implementing an Enterprise Risk Management Program, an agency-wide approach to addressing the full spectrum of an organization's risks by understanding the combined effects of risks as an interrelated portfolio, rather than addressing risks within administrative silos. According to a HUD official, DEC personnel have been involved in both strategic and operational support of the program.

²⁶ [GAO-14-704G](#).

²⁷According to DEC officials, work assignments include MFH and nursing home projects, CPD and PIH reviews, departmental clearance reviews, and employee training assignments. We discussed the number of oversight reviews DEC conducted in fiscal years 2014 through 2017 earlier in this report. DEC officials also told us that they track additional process-related measures such as the numbers of days taken to input information on suspensions or debarments and the number of notices of violation or default issued to MFH property owners.

and the numbers of suspensions and debarments. These measures are contextual indicators—measures intended to provide a broader perspective on the conditions that may influence an agency’s ability to achieve its performance goals.²⁸ As shown in table 1, HUD data shows that for these contextual indicators DEC has recovered millions of dollars in inappropriately used HUD program funds and suspended or debarred some individuals. HUD data shows that DEC generally exceeded its targets for the performance measures.

Table 1: Departmental Enforcement Center (DEC) Performance Measures and Contextual Indicators, Fiscal Years 2014-2017

	Fiscal Year							
	2014		2015		2016		2017	
	Target	Actual	Target	Actual	Target	Actual	Target	Actual
Performance Measures								
Number of work assignments completed	1,500	2,170	1,500	2,101	2,800	3,341	2,800	2,509
Reduction in number of referrals 2 or more years old (percent)	Not used	Not used	Not used	Not used	At least 50	52	At least 50	53
Number of families impacted by DEC enforcement activities	150,000	215,219	150,000	211,198	Not used	Not used	Not used	Not used
Contextual Indicators^a								
Dollar amount of recoveries (millions)	N/A	\$11.2	N/A	\$24.0	N/A	\$18.9	N/A	\$16.3
Number of suspensions ^b	N/A	186	N/A	171	N/A	128	N/A	145
Number of debarments ^c	N/A	278	N/A	254	N/A	171	N/A	175

Source: GAO analysis of Department of Housing and Urban Development data. | GAO-19-38

^aContextual indicators are measures intended to provide a broader perspective on the conditions that may influence an agency’s ability to achieve its performance goals. According to HUD officials, HUD does not establish targets for their contextual indicators, as it does not believe that it is appropriate to set preliminary quotas or targets for these enforcement-related data points.

²⁸Examples of contextual indicators could include data on outcomes an agency is trying to influence over the long term or with only limited control and external factors that affect outcomes. According to OMB, agencies do not need to provide targets for contextual indicators, as their direct ability to influence these indicators is limited, or they do not intend to directly affect these indicators.

^bA suspension temporarily excludes an individual, organization, and its affiliates from participating in government transactions because of a serious program violation, such as the diversion of project assets, embezzlement, theft, forgery, false statements or claims, or bribery.

^cA debarment excludes an individual, organization and its affiliates from participating in government transactions, generally for 3 years, although it can be for longer.

Federal internal control standards state that agency management should define objectives in measurable terms so that performance toward those objectives can be assessed.²⁹ Consistent with those standards, we identified several challenges with DEC's system of performance measurement.

Lack of Outcome Measures

DEC's performance measures do not include outcome measures, which track the results of products and services. Instead, the performance measures track outputs, which are the direct products and services delivered by a program. Prior work and guidance that we have issued stress that performance measurement should evaluate outcomes related to program activities to judge program effectiveness.³⁰ Previously, DEC tracked some outcome measures, such as the increase in the percentage of residents living in acceptable insured or assisted multifamily housing as a result of civil or administrative enforcement actions. However, DEC no longer tracks those measures, and officials were unable to explain why they stopped tracking them. Similarly, the 2014 agreement between DEC and PIH included examples of outcome measures for program offices—such as financial performance improvements and early detection or prevention of fraud—but these measures are not in the current agreement.

Measuring outcomes can help assess a program's activities and operations, identify areas that need improvement, and ensure accountability for results. DEC officials told us that outcome measurement is challenging because it can be difficult to establish a direct correlation with DEC's work.³¹ We attempted to independently examine the outcome

²⁹[GAO-14-704G](#).

³⁰For example, see GAO, *Fragmentation, Overlap and Duplication: An Evaluation and Management Guide*, [GAO-15-49SP](#) (Washington D.C.: Apr. 14, 2015) and *Performance Measurement and Evaluation: Definitions and Relationships*, [GAO-11-646SP](#) (Washington, D.C.: May 2011).

³¹Similarly, we have previously reported that three other federal agencies with enforcement programs have cited the difficulty of measuring enforcement performance, in part due to the reactive nature of enforcement as well as the difficulty of quantifying deterrence. See GAO, *Telecommunications: FCC Updated Its Enforcement Program, but Improved Transparency Is Needed*, [GAO-17-727](#) (Washington, D.C.: Sep. 14, 2017).

of DEC's work. Specifically, we tried to measure the extent to which referrals to DEC resulted in suspensions or debarments of multifamily owners, but, in general, DEC's data did not readily allow for this type of assessment. Outcome measures such as timeliness and monetary outcomes can still be used to capture essential program information and help assess program effectiveness. By not measuring and reporting on outcomes, DEC cannot fully assess the effectiveness or impact of its activities, or determine where improvement is needed.

Lack of Recommendation Tracking

DEC does not track the status of its recommendations. DEC's oversight reviews sometimes result in recommendations to program offices to ensure program compliance with regulatory and policy requirements; streamline operations; improve customer service; and reduce program vulnerabilities to fraud, waste, abuse, or mismanagement. According to PIH and CPD's agreements, the program offices will make every attempt to satisfy the recommendations, but the program offices are not required to implement them.³² However, according to DEC officials, DEC does not gather information on the status of its recommendations or assess program offices' progress in implementing them. OGC officials told us that they were concerned about the burden that would be placed on program staff for providing such information, but PIH and CPD officials told us it would not require much additional work. We have previously reported that successful performance measures demonstrate results and provide useful information for decision makers.³³ Without tracking the status of its recommendations and the extent to which program offices are implementing its recommendations, DEC is limited in its ability to assess its effectiveness in improving program operations, such as better program compliance.

Lack of Measure of Timeliness

DEC does not have a performance measure to assess the timeliness of its reviews for the referrals it receives. DEC does not measure how much time it takes to complete a referral from MFH, PIH, or CPD. DEC's guidance and its agreements with CPD and PIH state that DEC will complete oversight reviews and issue a final report to program offices within 90 business days of the referral. These reviews are intended to be completed within this timeframe so that CPD and PIH program offices will

³²If the program offices and DEC cannot agree on the recommendations, PIH's and CPD's agreements allow the program offices or DEC to elevate the disagreement to more senior officials at HUD for resolution, up to the Deputy Secretary.

³³GAO, *Tax Administration: IRS Needs to Further Refine Its Tax Filing Season Performance Measures*, [GAO-03-143](#) (Washington, D.C.: Nov. 22, 2002).

have prompt feedback to address any areas of concern. According to HUD officials, DEC tracks the timeliness of its oversight work. However, DEC has not created a performance measure to track the extent that it is meeting its goals. In addition, DEC has no target timeframe for MFH referrals because, according to DEC officials, these referrals require varying strategies for fact gathering, analysis, and determining a course of action. Our analysis of HUD data showed that from fiscal years 2014-2017, DEC took an average of 168 days to complete its review after receiving a referral from MFH for failure to file financial statements, and an average of 254 days to complete its review for referrals related to financial noncompliance. We have previously reported that one attribute of a successful performance measure was whether the measure covered a government-wide priority, such as timeliness.³⁴ Because it does not have a measure related to its timeliness in completing its reviews nor report on that information, DEC cannot ensure accountability or evaluate its efficiency for completing the reviews.

Lack of Consistent Recording of Dates and Corrective Actions Taken

DEC did not consistently record two pieces of information that could be relevant in assessing its performance—date of referral and corrective action taken. We analyzed an internal spreadsheet DEC uses to track the referrals it received from CPD and PIH to conduct oversight reviews of grantees and housing agencies. DEC did not record the date that the referral was assigned a DEC lead analyst (the point DEC begins tracking the referrals) or the date DEC signed the final report for 36 percent of the CPD referrals and 20 percent of the PIH referrals DEC completed from fiscal years 2015-2017. Consequently, we could not reliably evaluate DEC’s average timeframes for completing an oversight review referral.

In addition, DEC did not consistently record information on the corrective actions taken by DEC or MFH following a DEC review. DEC’s MFH referral-tracking database includes an “Outcomes” module with a “Corrections Made” field where DEC analysts can choose a description of the corrections made as a result of the review by either MFH or by the owner of the property, such as filing an annual financial statement. However, based on our review of this database, DEC analysts are not regularly using the “Corrections Made” field.

According to DEC officials, the inconsistent recording of dates and corrective actions was likely due to human error. This may suggest the

³⁴[GAO-03-143](#).

lack of a process or controls to ensure accurate and complete recording of this information. Federal internal control standards state that an agency's managers should use quality information, such as the accurate and timely recording of transactions, to achieve the agency's objectives and manage risk.³⁵ Without such controls, DEC will continue to have unreliable data to measure its timeliness in completing reviews and will not be able to reliably track the status of its recommendations to MFH and hold that office accountable for their implementation.

Information Technology Challenges Have Affected DEC's Ability to Achieve Its Mission

Information technology challenges have affected the ability of DEC to achieve its mission. Although DEC has experienced staffing declines over time, there is disagreement about the extent to which these declines have impacted DEC's ability to achieve its mission. Further, disagreement exists over DEC's placement within HUD and the impact on DEC's ability to achieve its mission.

Information Technology

DEC has experienced various information technology challenges that have affected its ability to achieve its mission. For example, the system does not allow DEC to easily determine the basis for a financial referral it receives from REAC on MFH properties. Instead, according to HUD, to determine the issues that triggered the referral, DEC staff must review each property's financial statements—a labor-intensive process. In addition, DEC's information technology system is designed to share information among staff but not to analyze or track information. Its referral data are stored in databases that generally cover one fiscal year each, according to OGC officials, which makes it challenging to identify trends. Further, DEC officials told us that the system has experienced continuing outages and breaks in service.

HUD has acknowledged that DEC needs more robust information technology to carry out its enforcement and tracking functions. The HUD Enforcement Management System is part of the department's efforts to streamline, consolidate, and automate its enforcement business processes. According to HUD, the system will consolidate six enforcement-related systems into one and automate the monitoring and

³⁵[GAO-14-704G](#).

compliance review processes for several offices within HUD. Officials said this will help DEC manage its workflow and reviews and enable it to more easily track the focus of a review and any monetary findings. OGC officials noted that the department implemented the first phase of the HUD Enforcement Management System in December 2015, initially focusing on HUD's Office of Fair Housing. However, HUD's development contract expired in March 2017. Due to funding constraints, as of June 2018, HUD had not awarded a new contract that would incorporate DEC, and such funding is not expected to be allocated until at least fiscal year 2020, according to OGC officials.³⁶

Staff Resources

Although DEC has experienced staffing declines over time, disagreement exists within HUD about the impact of these staffing declines on DEC's ability to achieve its mission. DEC's staff level in fiscal year 2017 (an estimated 95 full-time equivalents) represented its lowest staff level since fiscal year 1999.³⁷ HUD OIG reported in 2016 that limits on DEC resources resulted in lost opportunities to improve program effectiveness and strengthen conditions that discouraged waste, fraud, and abuse.³⁸ The report also noted that these limits had prevented DEC from extending comprehensive enforcement activities to all program offices, which had reduced its effectiveness. OIG's report further noted that DEC said it would need additional staff to perform financial analysis and enforcement if DEC were to expand its efforts with PIH and CPD. OIG recommended that OGC provide DEC with the resources and support to strengthen enforcement across HUD programs.

HUD disagreed with the OIG's conclusion that staffing declines limited DEC's ability to achieve its mission. HUD noted that DEC's decrease in

³⁶According to DEC officials, DEC's component was scheduled to be the second component developed of the HUD Enforcement Management System. However, after the first component was implemented, HUD decided to transition it to a different platform before adding other components.

³⁷According to HUD, some of the decline in staffing resulted from DEC's realignment with HUD's OGC. As part of the realignment, about 50 DEC attorney and paralegal staff joined the Offices of Regional Counsel or Office of Program Enforcement; 13 DEC administrative staff and 6 DEC information technology division staff were integrated into HUD OGC's Office of Operations; and the Mortgagee Review Board and its staff were moved from DEC to the Office of Housing.

³⁸Department of Housing and Urban Development, Office of Inspector General, Audit Report No. 2014-OE-0002.

workload over time mitigated the effect of reduced staffing. In addition, HUD said that despite its reduced resources, DEC had succeeded in preventing some individuals from participating in MFH programs through suspension or debarment, and in encouraging compliance. HUD stated that DEC had sufficient staffing to handle MFH referrals under current protocols and serve as HUD's troubleshooter by conducting oversight reviews for CPD and PIH. As of August 2018, HUD had not provided the department's status of actions taken or planned related to OIG's recommendation to the OIG.³⁹

Organizational Structure

Disagreement also exists regarding the placement of DEC within HUD. At its creation in 1998, DEC was located within HUD's Office of the Deputy Secretary, but in 2002 it was moved to OGC. HUD OIG and DEC officials have stated that DEC's placement within OGC limits DEC's ability to achieve its mission. OIG reported in its 2016 report that DEC's initial placement within the Deputy Secretary's office provided DEC with independent enforcement authority.⁴⁰ In addition, DEC officials told us that DEC's initial placement highlighted HUD's commitment to enforcement and that its current placement limits its authority to oversee program areas and hold them accountable for corrections.

In a December 2017 internal paper, DEC proposed returning to the Deputy Secretary's office. It noted that DEC's oversight of programmatic operations began to decline in 2016, and that PIH referrals to DEC through December 2017 represented less than one-half of the goal of one percent of PIH's inventory.⁴¹ DEC's paper also noted that a return to the Deputy Secretary's office would highlight HUD's responsibility to develop and maintain effective internal controls, independent of the program areas. Finally, DEC stated that its placement within the Deputy Secretary's office would provide an opportunity to consolidate the department's enterprise risk management functions. According to HUD

³⁹The HUD OIG made eight recommendations in its report, including that HUD implement an enterprise-wide approach to enforcement and strengthen DEC's authority to enforce program requirements, and that the General Counsel provide resources and support to strengthen enforcement across HUD programs.

⁴⁰Department of Housing and Urban Development, Office of Inspector General, Audit Report No. 2014-OE-0002.

⁴¹According to DEC officials, at the time the goal was developed there were about 3,400 public housing agencies. The officials rounded the one percent of that total to 40 public housing agencies.

officials, as of August 2018, the department had no plans to move DEC and did not request funding for such a move in HUD's fiscal year 2019 budget.

In response to the 2016 OIG report, HUD stated that DEC's current location within OGC had not affected DEC's ability to make referrals for enforcement or initiate suspension or debarment actions. HUD added that placing DEC within OGC achieved significant efficiencies by consolidating DEC's administrative, information technology, and legal functions without affecting the ability of either office to carry out its mission. OGC officials told us that DEC's current placement within OGC is similar to the Federal Bureau of Investigation's placement within the Department of Justice. They also noted that DEC's enforcement and compliance analysts and attorneys coordinate enforcement activities and that DEC field office directors routinely seek legal advice from OGC attorneys. According to OGC, returning DEC to the Deputy Secretary's office would have adverse effects on the administrative efficiencies achieved.

It is unclear whether DEC's placement within OGC has adversely affected DEC's ability to fulfill its mission. We asked DEC staff for documentation that would support a move to the Deputy Secretary's office, but the information we received did not provide specific examples of how DEC's current placement limited its ability to achieve its mission. Furthermore, as part of their 2017 paper discussing a proposed relocation, DEC officials did not identify how DEC's placement in OGC adversely impacted it. Other factors besides DEC's current location may explain why DEC may not be utilized more effectively. For example, we previously identified findings related to the lack of guidance that might contribute to program offices' underutilization of DEC. In addition, as we note above, the absence of guidance on when program offices should make referrals may limit DEC's ability to assess its enforcement efforts. These findings generally are independent of DEC's organizational location.

Conclusions

DEC has recovered millions of dollars in inappropriately used HUD program funds, suspended or debarred some individuals, and helped strengthen program offices' monitoring efforts. However, our review identified opportunities for DEC to better achieve its mission and assess its impact:

- **Guidance.** PIH and CPD field office staff use their discretion in deciding which cases to refer to DEC, but these decisions do not appear to always be based on well-supported assessments of risk.

Without specific guidance to help staff direct their decision making, DEC and the program offices cannot ensure that referrals are made using a consistent and risk-based approach, limiting DEC's effectiveness in fulfilling its mission of providing independent oversight of HUD's programs.

- Target number of referrals. The target number of referrals that PIH and CPD aim to make to DEC has not been chosen based on a risk-based process and it is not clear how these targets related to the programs' overall risks. Without a determination of appropriate risk-based target numbers, PIH and CPD cannot ensure that they are using DEC resources efficiently to address the risks of noncompliance by housing agencies and grantees.
- Performance measurement. Although DEC reports on some aspects of its performance, it lacks measures that assess outcomes rather than outputs and does not report on the timeliness of its reviews or track program offices' implementation of its recommendations. Without improvements in its performance measurement, it will be difficult for DEC to fully assess and demonstrate its effectiveness, ensure accountability, and identify and prioritize potential improvements.
- Data recording. Controls to ensure that analysts consistently record referral dates and corrective actions taken would give DEC more reliable data with which to assess its timeliness and the impact of its enforcement activities.

Recommendations for Executive Action

We are making the following eight recommendations to HUD:

The Director of the Departmental Enforcement Center and the Assistant Secretary for Community Planning and Development should develop written guidance for CPD's field offices to use when determining whether to make a referral to the Departmental Enforcement Center. (Recommendation 1)

The Director of the Departmental Enforcement Center and the Assistant Secretary for Public and Indian Housing should develop written guidance for PIH's field offices to use when determining whether to make a referral to the Departmental Enforcement Center. (Recommendation 2)

The Director of the Departmental Enforcement Center and the Assistant Secretary for Community Planning and Development should develop

targets for the number of referrals that CPD should make to DEC that are based on program risk. (Recommendation 3)

The Director of the Departmental Enforcement Center and the Assistant Secretary for Public and Indian Housing should develop targets for the number of referrals that PIH should make to DEC that are based on program risk. (Recommendation 4)

The Director of the Departmental Enforcement Center should develop and implement performance measures that assess the outcomes, or desired results, of its enforcement activities. (Recommendation 5)

The Director of the Departmental Enforcement Center should develop and implement performance measures of its timeliness in completing oversight reviews. (Recommendation 6)

The Director of the Departmental Enforcement Center should track the implementation of the recommendations that it makes to program offices as a result of its oversight reviews. (Recommendation 7)

The Director of the Departmental Enforcement Center should develop controls to ensure that analysts consistently and reliably record dates related to referral activity, corrective action taken, and other key information used to determine DEC's impact. (Recommendation 8)

Agency Comments

We provided a draft of this report to HUD for review and comment. HUD provided written comments that are reprinted in appendix III. HUD disagreed with three of the eight recommendations and agreed with the other five. In its general comments, HUD indicated that it planned to use DEC to address the most egregious violators of HUD's programs. HUD also anticipated assessing the current agreements between DEC and HUD program offices and, where appropriate, revising those agreements to incorporate current agency goals and priorities, among other things. HUD further noted that DEC's work would continue to be a part of HUD's agency-wide risk and fraud management mitigation activities.

HUD disagreed with the third and fourth recommendations that DEC should work with CPD and PIH to develop targets for the number of referrals that the program offices should make to DEC that are based on program risk. In its written comments, HUD said that developing "targets" for the number of referrals made to DEC could potentially be inconsistent with the methodology of basing referrals on program risk and that a single

measure of risk-based referrals would be a more effective strategy. As discussed in the report, the current target numbers of referrals for the program offices to make to DEC appear to have been selected somewhat arbitrarily and the officials could not explain the basis for selecting these targets. By identifying a target number of referrals based on the anticipated need for DEC reviews, the program offices can more efficiently plan the use of their resources. Setting the targets will also allow DEC and the program offices to better assess whether they are achieving their goals and objectives, and may encourage program offices to refer entities to DEC.

HUD also disagreed with our sixth recommendation that DEC should develop and implement performance measures that measure its timeliness in completing reviews, noting that DEC has tracked the timeliness of its oversight work since 2014. However, as we discuss in the report, DEC has not included performance measures related to the timeliness of its reviews, which is separate from tracking the information. We revised the language in the final report to note that DEC tracks this information, but has not created a related performance measure.

HUD agreed with our remaining five recommendations and provided information about planned steps to implement them. HUD noted in its response to our first and second recommendations that CPD and PIH would establish parameters for when a referral will be made to DEC. With respect to our fifth recommendation, HUD stated that DEC would work with relevant offices in fiscal year 2019 to develop performance measures that assess outcomes of enforcement activities and would consult with federal enforcement agencies to understand how they measure outcomes. In response to our seventh recommendation, HUD stated that DEC would make improvements to its information system to track the implementation of the oversight review recommendations. Finally, HUD noted that it anticipates incorporating quality control components into DEC's data collection efforts to ensure that dates, corrective actions taken, and other key information are captured consistently and reliably to address our eighth recommendation.

We are sending copies of this report to the appropriate congressional committees and the Secretary of Housing and Urban Development. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8678 or GarciaDiazD@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in Appendix IV.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Daniel Garcia-Diaz". The signature is fluid and cursive, with a long horizontal stroke at the bottom.

Daniel Garcia-Diaz
Director,
Financial Markets and Community Investment

Appendix I: Objectives, Scope, and Methodology

Our objectives were to examine (1) the processes that selected Department of Housing and Urban Development (HUD) program offices have in place to make referrals to the Departmental Enforcement Center (DEC), (2) how DEC assesses its performance, and (3) challenges that may affect the ability of DEC to achieve its mission.

We focused our review on DEC and three HUD program offices: Community Planning and Development (CPD), Multifamily Housing (MFH), and Public and Indian Housing (PIH). Collectively, these three program offices accounted for 73 percent of the total referrals DEC received from fiscal years 2014 through 2017 (6,724 of the 9,258 total referrals). To address the first objective, we reviewed DEC's formal agreements with CPD, MFH, and PIH to determine the roles and responsibilities of the parties, any criteria for making referrals, and any goals on number of reviews.¹ In addition, we reviewed guidance developed by program offices for monitoring multifamily properties, public housing agencies, and grantees to determine what, if any, criteria existed for making referrals to DEC. We also observed demonstrations of the system DEC uses to manage referrals and the risk assessment tool PIH uses in its reviews of public housing agencies. We compared the guidance and the processes for determining the role DEC should play against federal internal control standards.²

We analyzed data from DEC's system for managing referrals from program offices (extracted as of March 2018) and a spreadsheet DEC maintains to track referrals from CPD and PIH (as of March 2018). We used the data extract to compute the number and type of referrals DEC received from the program offices from fiscal years 2014 through 2017. We interviewed DEC and program office staff about the number of referrals that program offices made during this time period. To assess the reliability of the data, we performed various tests—including searching for missing data and dates, and checking for completeness of the data. We concluded that the data from DEC were sufficiently reliable for purposes of describing general trends.

¹DEC also has formal agreements with 8 other offices in HUD: the Office of Fair Housing and Equal Opportunity, Office of Field Policy and Management, Office of General Counsel, Office of Healthcare Programs, Office of Healthy Homes and Lead Hazard Control, Office of Inspector General, Office of Native American Programs, and Office of Public Affairs. These agreements were outside the scope of our review.

²GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

We interviewed DEC and program office officials at HUD headquarters to discuss how program offices make referrals to DEC and any guidance or training DEC or program offices provide regarding the referral process. We also conducted interviews with staff in each of HUD's six PIH networks and in CPD field offices in Atlanta, Georgia; Denver, Colorado; Fort Worth, Texas; and Los Angeles, California. We selected the Fort Worth and Los Angeles CPD field offices because they had made referrals to DEC between fiscal years 2016 and 2017, and selected Atlanta and Denver because they had not.

To address the second objective, we reviewed the current and previous performance measures used by DEC. We compared DEC's practices against federal internal control standards and against practices GAO has previously identified as being associated with agencies that were successful in measuring their performance.³ We used the data extract discussed above to compute the average number of days DEC took to complete referrals on multifamily properties and the extent that information was not recorded. We also interviewed DEC and OGC officials regarding the performance information DEC collects and reports.

To address the third objective, we reviewed prior reports from GAO and from the HUD Office of Inspector General that identified and discussed challenges DEC faces in achieving its mission.⁴ We also reviewed internal HUD documents related to these challenges, including plans for a new information technology system, historical staff levels, and a proposal DEC officials created to relocate DEC back to the Deputy Secretary's Office. We also interviewed officials from various HUD headquarters and field offices, HUD's Office of Inspector General, and DEC about challenges DEC may face in achieving its mission.

We conducted this performance audit from July 2017 to October 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain

³See [GAO-14-704G](#) and GAO, *Executive Guide: Effectively Implementing the Government Performance and Results Act*, [GAO/GGD-96-118](#) (Washington, D.C.: June 1996).

⁴See, for example, GAO, *HUD Management: HUD's High-Risk Program Areas and Management Challenges*, [GAO-02-869T](#) (Washington, D.C.: July 24, 2002) and Department of Housing and Urban Development, Office of Inspector General, *Risk Based Enforcement Could Improve Program Effectiveness*, 2014-OE-0002 (Washington, D.C.: Feb. 12, 2016).

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.

Appendix II: Location of Entities That Were Referred to the Departmental Enforcement Center, Fiscal Years 2014-2017

From fiscal year 2014 through 2017, the Department of Housing and Urban Development’s Departmental Enforcement Center received about 8,000 referrals from the agency’s program offices. Table 3 provides details on the number of referrals by program and state from fiscal years 2014 through 2017.

Table 2: Referrals to the Departmental Enforcement Center, by Program Office and State or Territory Where the Property Was Located, Fiscal Years 2014-2017

	Community Planning and Development	Housing ^a	Public and Indian Housing	Office of Healthcare Programs	Other ^b	Total
Alabama	0	96	4	30	0	130
Alaska	0	21	1	1	1	24
Arizona	1	78	3	61	0	143
Arkansas	0	59	6	11	0	76
California	2	626	10	146	3	787
Connecticut	0	110	3	77	0	190
District of Columbia	1	85	1	5	1	93
Florida	2	316	4	73	1	396
Georgia	0	240	5	22	63	330
Guam	0	0	1	0	0	1
Illinois	6	211	10	238	0	465
Indiana	0	121	3	45	0	169
Kansas	0	39	1	19	0	59
Kentucky	0	130	0	11	0	141
Louisiana	3	69	4	28	0	104
Maine	0	37	1	16	0	54
Maryland	0	210	1	54	1	266
Massachusetts	0	172	6	119	0	297
Michigan	1	158	15	43	0	217
Minnesota	0	165	0	47	1	213
Mississippi	0	41	2	20	0	63
Missouri	0	103	2	19	0	124
Nebraska	1	16	4	11	0	32
Nevada	0	54	1	3	0	58
New Hampshire	0	34	2	12	0	48
New Jersey	1	181	3	81	2	268
New Mexico	0	13	1	2	0	16
New York	1	504	5	292	1	803

Appendix II: Location of Entities That Were Referred to the Departmental Enforcement Center, Fiscal Years 2014-2017

	Community Planning and Development	Housing^a	Public and Indian Housing	Office of Healthcare Programs	Other^b	Total
North Carolina	0	210	2	81	1	294
Oklahoma	0	42	4	7	0	53
Oregon	0	61	22	33	0	116
Pennsylvania	0	201	1	71	2	275
Puerto Rico	1	14	3	0	0	18
Rhode Island	1	53	3	11	0	68
South Carolina	1	135	2	25	2	165
Tennessee	0	220	1	58	0	279
Texas	10	267	24	61	0	362
Utah	0	57	2	20	1	80
Virginia	0	176	3	14	1	194
Washington	0	95	2	28	0	125
West Virginia	0	25	1	6	0	32
No state identified	8	120	24	43	214	409
Total	40	5565	193	1944	295	8037

Source: GAO analysis of Department of Housing and Urban Development data. | GAO-19-38

Note: The number of properties, grantees and public housing agencies monitored by HUD varies by state.

^aHousing includes referrals made for both multifamily and single-family housing sponsored programs.

^bOther includes Human Resources, Office of Fair Housing and Equal Opportunity, Office of General Counsel, Office of Inspector General, Office of Lead Hazard Control and Healthy Homes, trainings, and where no program office was listed.

Appendix III: Comments from Department of Housing and Urban Development



GENERAL COUNSEL

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-0500

October 9, 2018

Daniel Garcia-Diaz, Director
Financial Markets and Community Investment
Government Accountability Office
441 G Street NW
Washington, DC 20548

Subject: Effectiveness of the Department of Housing and Urban Development's
Departmental Enforcement Center (DEC); Engagement Code 102169

Dear Mr. Garcia-Diaz:

On behalf of the Secretary of the Department of Housing and Urban Development ("HUD"), thank you for the opportunity to review and comment on the draft report of the Government Accountability Office ("GAO"), titled "Better Guidance and Performance Measures Would Help Strengthen Enforcement Efforts" ("Draft Report"), which concerned the effectiveness of the Departmental Enforcement Center ("DEC") in addressing non-compliance with HUD's regulatory requirements. GAO's audit was triggered by a directive in the Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2017, to "assess the effectiveness of the DEC to meet the goal of resolving issues of non-compliance with the requirements for owners of public housing and multifamily housing properties, including physical and financial non-compliance."¹

GAO's Draft Report concluded that the DEC had recovered millions of dollars in inappropriately used HUD program funds, excluded problematic persons from participating in federal programs, and helped strengthen the monitoring efforts of HUD's program offices.

We appreciate this affirmation that the DEC has been effective in resolving issues of owner non-compliance, including physical and financial non-compliance. HUD's plan going forward is to use the DEC to address the most egregious violators of HUD's programs. This will involve an assessment of current protocols between the DEC and HUD program offices and, where appropriate, a re-tooling of those protocols to incorporate current agency goals and priorities; establishment of performance measurements involving the objectives reflected in the re-tooled protocols; and supportive infrastructure, including IT systems, to implement the re-tooled protocols, track goal accomplishments and assess future effectiveness. The DEC's work will continue to be an integral part of HUD's Strategic Objective for Enterprise Risk and Fraud Management mitigation activities in the coming years.

¹ See 163 Cong. Rec. H3949, H4086 (May 3, 2017). We note that the scope of GAO's audit of the DEC extended beyond the rental housing programs that HUD insures and subsidizes to include some of the Community Planning and Development grant programs that the DEC has provided snapshot reviews for in recent years.

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The Draft Report has identified areas of possible improvement; it offered recommendations to provide specific guidance to program staff in selecting matters for DEC referrals and the need for a targeted number of such matters, improved performance measurement and consistent data recording. We welcome these suggestions to improve our work processes and effectiveness. Specifically, our intentions include the following:

Recommendation 1

The Director of the Departmental Enforcement Center (DEC) and the Assistant Secretary for Community Planning and Development should develop written guidance for CPD's field offices to use when determining whether to make a referral to the Departmental Enforcement Center.

The Director and the Assistant Secretary for Community Planning and Development ("CPD") have agreed to establish parameters in which a referral from CPD will be made to the DEC. The guidelines will be posted to the DEC's website and distributed to CPD program directors in HUD field offices.

Recommendation 2

The Director of the Departmental Enforcement Center and the Assistant Secretary for Public and Indian Housing should develop written guidance for PIH's field offices to use when determining whether to make a referral to the Departmental Enforcement Center.

The Director and the General Deputy Assistant Secretary for Public and Indian Housing ("PIH") have agreed to establish parameters in which a referral from PIH will be made to the DEC. The guidelines will be posted to the DEC's website and distributed to PIH regional and field office directors.

Recommendations 3 and 4

3. The Director of the Departmental Enforcement Center and the Assistant Secretary for Community Planning and Development should develop targets for the number of referrals that CPD should make to DEC that are based on program risk. 4. The Director of the Departmental Enforcement Center and the Assistant Secretary for Public and Indian Housing should develop targets for the number of referrals that PIH should make to DEC that are based on program risk.

Developing "targets" for the number of referrals made to the DEC potentially could be inconsistent with the methodology of basing referrals on program risk. For instance, if referrals are to be made of all grantees identified as being designated "high-risk," and in FY 19 that number is 10 but the annual "target" is 15, then either the target number would have to be changed or the risk-based methodology would have to be changed.

We believe that a single measure of risk-based referrals is a more effective strategy.

Recommendation 5

The Director of the Departmental Enforcement Center should develop and implement performance measures that assess the outcomes, or desired results, of its enforcement activities.

The DEC Director will work with PIH, CPD, HUD's Office of Strategic Planning and Management, and HUD's Office of Policy Development and Research in FY19 to explore the development of

performance measures that assess the outcomes or desired results of enforcement activities. The DEC Director will also consult with enforcement agencies in the federal government to ascertain how they measure outcomes and desired results.

Recommendation 6

The Director of the Departmental Enforcement Center should develop and implement performance measures that measure its timeliness in completing oversight reviews.

We respectfully submit that this recommendation may have been derived from partial data. Timeliness is measured in the oversight work done by the DEC and has been since 2014.

Recommendation 7

The Director of the Departmental Enforcement Center should track the implementation of the recommendations that it makes to program offices as a result of its oversight reviews.

By December 31, 2018, a new list will be added to the DEC SharePoint site for recording and tracking specific oversight review recommendations. The DEC will seek to revise the protocols between to seek the cooperation of HUD programs in tracking recommendation outcomes.

Recommendation 8

The Director of the Departmental Enforcement Center should develop controls to ensure that analysts consistently and reliably record dates related to referral activity, corrective action taken, and other key information used to determine DEC's impact.

The Director of the DEC anticipates immediately incorporating a quality control component into the DEC's data input. This will be accomplished through local oversight and spot reviews by headquarters. By December 31, 2018, summary views will be added to the DEC Activities SharePoint lists that identify records missing data in key fields. DEC management will use these views to ensure analysts consistently and reliably record dates related to referral activity, corrective action taken, and other key information used to determine DEC's impact.

In sum, HUD accepts most of the eight recommendations set forth in the Draft Report and will work to implement them within the plan I have outlined above. However, HUD believes establishing hard numeric targets for referrals for enforcement is inappropriate and inconsistent with other recommendations.

Thank you for the opportunity to respond to the Draft Report. We look forward to working with GAO in the future.

Sincerely,



J. Paul Compton, Jr.

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

In addition to the contact named above, GAO staff who made key contributions to this report include Marshall Hamlett (Assistant Director), Daniel Newman (Analyst-in-Charge), William R. Chatlos, Laura Gibbons, John McGrail, Marc Molino, and Tovah Rom.

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