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DEPARTMENT OF LOCAL AFFAIRS, DIVISION OF HOUSING

PANDEMIC HOUSING RELIEF PROPERTY OWNER PRESERVATION PROGRAM



OCTOBER 2021

PERFORMANCE AUDIT

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October 8, 2021

KERRI L. HUNTER, CPA
—
STATE AUDITOR

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the Property Owner Preservation Program, which was a COVID-19 pandemic relief program administered by the Division of Housing within the Department of Local Affairs from July 2020 through June 2021. The audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government, and Section 2-7-204(5), C.R.S., which requires the State Auditor to annually conduct performance audits of one or more specific programs or services in at least two departments for purposes of the SMART Government Act. The report presents our findings, conclusions, and recommendations, and the responses of the Division of Housing.

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REPORT HIGHLIGHTS



PANDEMIC HOUSING RELIEF– PROPERTY OWNER PRESERVATION PROGRAM PERFORMANCE AUDIT, OCTOBER 2021

DEPARTMENT OF LOCAL AFFAIRS
DIVISION OF HOUSING

CONCERN

Overall, we found that the Division of Housing (Division) should improve its processes for emergency housing assistance programs to ensure that (1) it pays the right amount based on program criteria and (2) property owners comply with program requirements.

KEY FINDINGS

- House Bill 20-1410 authorized the Property Owner Preservation (POP) program in June 2020, and the Division established eligibility requirements, built an online application portal, staffed the program, and started accepting applications for assistance within 1 month, by July 2020.
- The Division distributed \$47.13 million in POP program rental relief aid through 23,181 payments from July 2020 through March 2021, our testing period.
- We found that for 10 of 62 payments reviewed, the Division paid \$15,960 more than allowed by program guidelines. These included duplicate payments, payments for fees that were not allowed by the program, a payment for unpaid rent that was incurred prior to the pandemic, and a payment that was higher than the amount requested.
- Based on the results of our audit work, we estimate that about 5 percent of the \$47.13 million POP program payments that the Division made from July 2020 through March 2021, or \$2.39 million in payments, included similar problems and was paid in error.
- We identified issues with the effectiveness of the Division's POP program compliance controls. Specifically, we found:
 - ▶ The Division did not obtain a signed rental agreement for four of 60 sampled files. We estimate that about 6.67 percent of 23,179 POP program payments that the Division made from July 2020 through March 2021 was paid prior to the Division obtaining a signed rental agreement to verify the accuracy of information related to the tenant, rental period, and rental amounts owed.
 - ▶ The Division did not send timely tenant notification letters—a planned program compliance control—for 17 of the 60 (28 percent) sampled files.
 - ▶ The Division did not send tenant notification letters at all for 11,000 payments, or 47 percent of payments made through March 2021. After being notified of this discrepancy during the audit, the Division sent the notification letters.

BACKGROUND

- From March 2020 through February 2021, the State allocated \$94.25 million in federal and state funds to the Division within the Department of Local Affairs to help stabilize the housing sector and reduce the risk of homelessness for vulnerable individuals impacted by the COVID-19 pandemic.
- The Division developed the Property Owner Preservation (POP) program, which allowed property owners, rather than tenants, to apply for overdue rent owed by tenants affected by the pandemic.
- From July 2020 through June 2021, the Division reported it distributed more than \$50 million in federal and state funds through the POP program, which included more than 24,400 payments to roughly 1,600 property owners.
- The POP program ended in June 2021.

RECOMMENDATIONS

The Division of Housing should ensure that (1) housing assistance funds are used as intended and payments are accurate, and (2) it has sufficient controls in place to reduce the risk of housing assistance program noncompliance by:

- Implementing sufficiently-detailed payment review procedures.
- Following up on the overpayments identified during the audit and requesting that the funds be returned.
- Periodically monitoring approved payments to ensure that staff obtained a signed rental agreement or followed applicable guidance on documentation needed to substantiate payment, if different, before approving payments.
- Implementing written procedures to outline the Division's process and staff roles and responsibilities for sending tenant notifications, and periodically monitoring to ensure notifications have been sent.



CHAPTER 1

OVERVIEW

The COVID-19 pandemic has resulted in an unprecedented level of individuals who are vulnerable to housing instability. Since the start of the pandemic, the State and federal government have invested large amounts of money in housing relief aid to help stabilize the housing sector and reduce the risk of homelessness for vulnerable individuals during the pandemic. For example, the legislative declaration for House Bill 20-1410, which set aside \$19.65 million in federal funds for housing assistance, emphasized the purpose of distributing housing aid and stated that, “Ensuring that people remain in their homes by paying rent or mortgages will keep more people from becoming homeless and allow those individuals and families to remain in safe environments, maintaining their health and safety from COVID-19.”

The Division of Housing (Division) at the Department of Local Affairs (Department), which is responsible for working with a variety of entities to increase the availability of affordable housing, was charged with spending housing-focused pandemic relief funds. From March 2020 through January 2021, the Governor, through executive orders, and the General Assembly, through the appropriations process, allocated \$94.25 million in state and federal funding to the Division for emergency housing assistance to be spent by the end of Fiscal Year 2021. Exhibit 1.1 shows, in chronological order, funds allocated to the Division for emergency housing assistance through January 2021, the funding source, and spending deadlines. The Division received additional federal funding for pandemic-related housing assistance after January 2021, including from the Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021, but those funds were not part of our audit.

EXHIBIT 1.1. EMERGENCY HOUSING ASSISTANCE FUNDS ALLOCATED TO THE DIVISION OF HOUSING MARCH 2020 THROUGH JANUARY 2021				
Legislation or Executive Order	Funding Source	Effective Date	Spending Expiration	Amount
Executive Order D 2020 012	State Disaster Emergency Fund	March 20, 2020	September 20, 2020	\$3,000,000
Executive Order D 2020 070	Federal CARES ¹ Act	May 18, 2020	December 30, 2020	\$10,000,000
House Bill 20-1410	Federal CARES Act	June 22, 2020	December 30, 2020	\$19,650,000
Executive Order D 2020 216	Federal CARES Act	October 9, 2020	December 30, 2020	\$2,600,000
Senate Bill 20B-002	State General Fund	December 7, 2021	June 30, 2021	\$59,000,000
TOTAL				\$94,250,000
SOURCE: Office of the State Auditor's analysis of legislation and executive orders issued by the Governor from March 2020 through the General Assembly's 2020 Extraordinary Session.				
¹ Coronavirus Aid, Relief, and Economic Security (CARES) Act				

The Division allocated the pandemic relief funds to five housing assistance programs, tackling different aspects of housing needs, including programs that allowed tenants and homeowners to apply for housing assistance, programs that provided housing counseling to those at risk of homelessness, and a new type of program that allowed property owners to apply for housing assistance on behalf of their tenants. From July 2020 through March 2021, the date of our testing, the Division used a total of \$47.13 million in 23,181 payments on this new property owner-focused approach through the Property Owner Preservation (POP) program. Of the \$47.13 million distributed through the POP program through March 2021, \$24.74 million (52 percent) was from federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funds and \$22.4 million (48 percent) was from state funds. By the end of Fiscal Year 2021, the Department reported spending \$50.31 million through the POP program.

The impetus to direct pandemic relief funding to a program in which the property owners could apply for aid came from House Bill 20-1410. Enacted in June 2020, the law established circumstances and restrictions under which property owners may apply for rental assistance on behalf of tenants, with the idea being that there could be efficiencies gained by the property owner requesting rental payments they were owed in order to help tenants pay their bills and help property owners to continue to operate during the economic disruption of the pandemic. Specifically, the bill allowed the Division to develop policies and procedures for property owners to request rental assistance for their tenants and prohibited property owners from initiating eviction proceedings against tenants if the program covered their unpaid rent. Under the authority of House Bill 20-1410, the Division created the POP program, with the first relief payments issued in July 2020. The POP program was unique and considered to be on the forefront of efficient housing assistance distribution and was well-received by housing advocates and property owners.

According to information from the Division, from July 2020 through June 2021, the Division processed more than 24,400 payments for

roughly 1,600 rental property owners, from our estimates, and distributed more than \$50 million in rental assistance through the POP program. The POP program ended in June 2021 when the state and federal funds allocated to the program expired. Subsequent federal funding through the Consolidated Appropriations Act, 2021, passed December 2020, and the American Rescue Plan Act of 2021, passed in March 2021, had specific criteria for the types of tenant income and demographic information that needed to be collected with applications for housing assistance—information that could only be provided by the tenant directly. As such, the Division used other housing assistance programs to distribute subsequent federal funds.

AUDIT PURPOSE, SCOPE, AND METHODOLOGY

We conducted this performance audit pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of the state government, and Section 2-7-204(5), C.R.S., the State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act. Audit work was performed from January 2021 through September 2021. We appreciate the cooperation and assistance provided by the management and staff of the Department and Division during this audit.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The audit's key objective was to evaluate whether the POP program was effective at paying the right amount of assistance to the right parties, based on program requirements established by the Division. The scope

of the audit did not include evaluations of other housing assistance programs operating at the Division.

To accomplish our audit objective, we performed the following audit work:

- Tested a sample of 60 out of 23,179 POP program payments distributed from July 2020 through March 2021 for compliance with the Division's program guidelines. Testing included evaluating application documents provided by property owners and maintained by the Division and copies of payment notification letters mailed by the Division to tenants.
- Evaluated two payments made to local governments who applied for all tenants with single applications. The Division granted the governments a waiver from normal application processing.
- Evaluated Division payment processing procedures and supporting data.
- Interviewed Division staff to gain an understanding of the Division's operations and application of POP program guidelines, internal application review procedures, and program compliance procedures.
- Used the work of a statistician to project the results of the file testing to estimate a range of POP program payments with similar problems.
- Evaluated the Division's POP program fraud reporting hotline logs, from August 2020 through July 2021, to obtain information on tenants who contacted the Division about property owners that did not comply with the program requirements.

We relied on sampling techniques to support our audit work. We selected a random statistical sample of 60 of 23,179 POP program payments distributed from July 2020 through March 2021. The purpose of the sample was to determine whether payment amounts

complied with and were accurate based on program requirements and whether the Division's procedures to reduce the risk of paying property owners that did not comply with the program operated effectively.

We selected our sample using the Monetary Unit Sampling (MUS) method. MUS focuses on the monetary units, such as individual dollars, and randomly selects individual monetary units for the sample. Because we used MUS, our sample represents the distribution of dollars distributed for rental assistance; therefore, those payments that had more associated dollars had a greater likelihood of being selected.

As required by auditing standards, we planned our audit work to assess the effectiveness of those internal controls that were significant to our audit objective. Details about audit work supporting our conclusions and recommendations, including any deficiencies in internal control that were significant to our audit objective, are described in the remainder of this report.

A draft of this report was reviewed by the Division. We have incorporated the Division's comments into the report where relevant. The written responses to the recommendations and the related implementation dates are the sole responsibility of the Division.

CHAPTER 2

OVERPAYMENTS AND PROGRAM COMPLIANCE CONTROLS

In order to help the most people at risk of housing instability resulting from the COVID-19 pandemic, the Division of Housing (Division) worked to distribute housing assistance funds quickly. House Bill 20-1410 authorized the Property Owner Preservation (POP) program and was signed by the Governor on June 22, 2020; the Division started accepting applications for the program July 15, 2020. Within 1 month, the Division designed eligibility requirements and application processes, worked with the Office of Information Technology to build an online application portal, and obtained and trained staff to review applications.

The Division designed the POP program requirements to help ensure that the right amount of assistance was paid and that the money went only to those property owners who were eligible for the program, while also distributing funds as quickly as possible. Designing the program included assessing risks and designing controls to help mitigate them. The Division established program eligibility requirements, which included that:

- The property must be located in Colorado.
- The property owner must sign a housing assistance program agreement attesting that they will not start eviction proceedings for the months they receive aid, charge late fees for these months, or seek duplicate payments from the tenant.
- Monthly rental amounts must be at or below the affordability level for a household making 100 percent of the area median income of the county in which the property is located.
- Tenants must provide attestations that they need rental assistance because of financial shortfalls caused by the pandemic.

The Division was responsible for distributing relief aid to prevent evictions during the pandemic and determining the required application documentation and review procedures. Throughout this, the Division had to balance (1) the speed with which it distributed more than \$50 million in POP program relief aid from July 2020 through June 2021 through 24,400 payments to roughly 1,600 property owners with (2) accuracy in ensuring the right amount of payments went out the door.

This chapter discusses our two findings related to the Division's processes to ensure that (1) it paid the right amounts of relief aid, based on program criteria; and (2) property owners complied with program requirements. In addition, because the POP program ended, the chapter includes recommendations to reevaluate and implement procedures to strengthen the Division's payment approval and program compliance control processes for current and ongoing emergency housing assistance programs.

OVERPAYMENTS

The amount of rental assistance a property owner could have requested through the POP program was defined by the Division in its program guidelines. Overpayments resulted when the amount paid by the Division was either duplicated, meaning the Division paid for a rental balance that had already been paid for, or it paid for charges that were not allowable by the program guidelines.

The Division published the POP program guidelines on its website and made them available for property owners to view when applying. In general, POP program rental assistance should have only covered rent that accrued after March 2020, and had not been paid by any other source. Rent could include utility, garage, and pet ownership charges that might be included as part of the rental agreement. POP program rental assistance could not be used to cover any late fees, legal fees, or fees charged for returned payments due to insufficient funds that the tenant or property owner may have incurred.

The Division's application reviewers used internal application review procedures to guide their work applying the program guidelines and verifying that the requested rental assistance amount was supported by the tenant's ledger and lease, or other written rental agreement, and that the amount met eligibility requirements.

To apply for the POP program, property owners enrolled in the program and submitted a separate application for each tenant that they were requesting funds for, along with the written rental agreement, the ledger showing the amount of unpaid rent owed by the tenant, and a certification of need attestation signed by the tenant. Property owners could request assistance for multiple months of unpaid rent in one request. The Division did not limit the amount a property owner could request as long as the program still had available funds. From July 2020 through March 2021, our testing period, the Division made more than 23,000 payments for a total of about \$47 million in emergency rental assistance.

Included in these payments were two requests in September 2020, totaling almost \$346,000, from two local governments for rental assistance to reimburse them for April 2020 rent amounts for all of the tenants in the two workforce housing units owned by each of the local governments. For these two requests, the Division waived the requirement that the property owners provide an application for each tenant. Instead, the Division required the local governments to submit (1) a letter attesting that all of their residents needed rental assistance for April 2020, and (2) a spreadsheet listing all workforce housing units with the tenants' names and monthly rental amounts, among other information about each unit.

Once the Division approved a payment request, staff filled out a spreadsheet, called the POP App Worksheet, to input the property owner and tenant names, and payment amounts. Division staff input data from this spreadsheet into the Division's data system—Elite—that interacts with the State's accounting system, the Colorado Operations Resource Engine (CORE). From CORE, the State processed payments directly to property owners via mail or direct deposit.

WHAT WAS THE PURPOSE OF THE AUDIT WORK AND WHAT WORK WAS PERFORMED?

The purpose of the audit work was to determine if the Division paid the correct amounts in rental assistance based on the Division's program guidelines. We reviewed supporting documentation for 62 payments totaling \$522,058 made from July 2020 through March 2021. Specifically, we selected and reviewed a statistically valid random sample of 60 payments totaling about \$176,000 that were made through the Division's normal application process. In addition, we reviewed the two payments totaling almost \$346,000 made to two local governments for their housing units for which the Division waived normal processing requirements.

HOW WERE THE RESULTS OF THE AUDIT WORK MEASURED AND WHAT PROBLEMS DID THE AUDIT WORK IDENTIFY?

We identified some instances where the Division did not pay out the correct amount based on program guidelines and the information submitted by property owners. We found that for eight of the 60 payments (13 percent) in our random sample, the Division paid a total of \$13,397 more than was allowable according to program guidelines. Three payments had more than one type of overpayment. Specifically, we found the following:

- **DUPLICATE PAYMENTS.** The Division’s POP program guidelines stated that, “Property owners who receive rent from tenant or another assistance provider for the same unit and month will be required to repay funds to the State of Colorado.” We found that four of the 60 payments (7 percent) in our sample, totaling \$12,358, had already been paid by the POP program. For two of the payments, Division staff mistakenly entered the approved payment amounts in the spreadsheet twice and thus, duplicate payments were processed in CORE. For the other two payments, Division staff paid the full balance of the ledger submitted by the property owners even though the ledger had not correctly applied past POP program payments; as a result, the property owners were paid for the same rent period twice with POP funds.
- **PAYMENTS OF INELIGIBLE FEES.** POP program guidelines specifically excluded any “late fees, legal fees and fees charged for returned payments due to insufficient funds” owed by a tenant from the amount of unpaid rent that a property owner could be reimbursed by the program. We found that five of the 60 payments (8 percent) in our sample included a total of \$565 in ineligible fees.
- **UNPAID RENT INCURRED PRIOR TO PANDEMIC.** Statute [Section 24-32-721(1.7)(b), C.R.S.] stated that rental assistance was only for

tenants “who, on or after March 1, 2020 have experienced financial need due to the COVID-19 pandemic”; POP program guidelines echo this requirement. We found that one of the 60 payments in our sample included \$424 in rental assistance for a balance of unpaid rent that was accrued by the tenant prior to March 1, 2020.

- **INACCURATE PAYMENT.** POP program guidelines stated that the amount of assistance paid to a property owner should align with the amount requested by the property owner and the amount supported by the tenant’s lease and ledger. We found that one of the 60 payments in our sample exceeded the property owner’s request by \$50.

In addition, for the two payments that the Division made to the two local governments for their housing units, we identified about \$2,563 in overpayments by the Division.

- **PAYMENT EXCEEDED UNPAID RENT.** POP program guidelines stated that the amount of rental assistance paid must be commensurate with the “lease or other written agreement for each tenant at the property.” We found that the Division paid one local government \$2,162 more than the total amount of unpaid rent submitted by the local government on its application.
- **PAYMENT MADE FOR VACANT UNIT.** POP program guidelines stated that property owners were not eligible for assistance payments for unoccupied units. We found that the Division paid one local government \$401 for one unit that was marked as “no tenant” by the local government.

WHY DID THESE PROBLEMS OCCUR?

According to the Division, the problems we identified related to overpayments occurred due to the speed with which Division staff were processing applications and approving payments in an effort to quickly distribute the relief funds to those in need. While we recognize that the Division implemented the program quickly, we also identified two areas where the Division could make improvements to its processes that should be considered for other rental assistance programs that it operates.

First, the Division's internal application review procedures did not provide sufficient guidance to staff on what should or should not be approved for rental assistance or on the appropriate level of review of approved payments before they were issued. Specifically, the internal application review procedures lacked explicit instructions for reviewers to verify that amounts related to ineligible fees, prior unpaid rent balances already covered by POP payments, and amounts incurred prior to program eligibility were subtracted from ledger balances when calculating payment amounts. Instead, reviewers relied on the unpaid balance reported by property owners on the ledger when determining payment amounts. Second, the Division's procedures did not include sufficient review of approved payment amounts that were manually calculated and entered into the payment processing spreadsheet or applications where the Division waived normal processing controls.

WHY DO THESE PROBLEMS MATTER?

When the Division does not ensure that it pays out the correct amount of rental assistance to applicants, it means that the funds are not being used for their intended purpose and it reduces the amount of funds available for other applicants who are in need of assistance. Based on the results of our work, we estimate with 90 percent confidence that of the \$47.13 million paid through the POP program from July 2020 through March 2021, the Division paid at least \$625,000, but not more than \$4.40 million, in error. Our estimate of the amount most likely

paid in error is \$2.39 million, or about 5 percent of the total amount of rental assistance distributed from July 2020 through March 2021. The average amount of rental assistance provided through the POP program was about \$2,000 per payment. Based on our estimated most likely amount paid in error of \$2.39 million, the Division could have made about 1,200 additional payments through the POP program if these erroneous payments had not occurred.

Additionally, although the POP program ended in June 2021, the Division continues to provide other rental assistance programs that require applicants to provide documentation to substantiate and validate their rent amounts and need for assistance. Therefore, it is important that the Division have sufficient controls in place to ensure that payments made through these other programs are accurate.

RECOMMENDATION 1

The Division of Housing (Division) at the Department of Local Affairs should ensure that housing assistance funds are used as intended and payments are accurate by implementing sufficiently-detailed payment review procedures, including written guidance to staff on the appropriate methods to verify eligible expenses when processing applications. Additionally, the Division should follow up on the overpayments identified during the audit and request that the funds be returned by property owners, as applicable.

RESPONSE

DIVISION OF HOUSING

AGREE. IMPLEMENTATION DATE: FEBRUARY 2022.

Application Review: The Division of Housing (DOH) implemented the suggested review procedures for the POP program in June 2021, including a written process sheet and a weekly meeting with POP staff to review and update processes as needed, address staff questions, and share best-practices. Since the POP program has concluded, DOH will ensure that our other housing assistance programs implement sufficiently-detailed payment review procedures for division staff, as applicable, including written guidance on the appropriate methods to verify eligible expenses when processing applications.

In the creation of the POP program, DOH staff learned up to 25 different fees may be charged to a tenant on a monthly basis, and there is little consistency in forms being used for reporting. For future emergency rental assistance programs, DOH is working to automate the review of these fees with artificial intelligence. Fees will be assessed through AI for consistency. Human validation will be used for all fees, particularly for fees outside of standard practice.

Overpayments: The identified overpayments have been responded to and are being returned. No later than February 2022, the Division will work with the Attorney General's office to address any unreturned overpayments following the third written request.

PROGRAM COMPLIANCE CONTROLS

In order to assist in keeping people housed during the pandemic health crisis, the Division worked quickly to implement the POP program and start distributing rental assistance. Because of the quick startup of the program and its unique nature in allowing property owners to apply for their tenants' unpaid rent, the Division designed program compliance controls to reduce the risk of paying property owners who were not eligible for the program or did not comply with program requirements.

Requiring housing assistance payment attestations from property owners and certification of need attestations from tenants simplified the process for applications, but relied on the good faith of applicants. Therefore, the Division designed pre-payment controls to reduce the risk that the property owners were not eligible and post-payment controls to reduce the risk that property owners would take rental assistance, but still evict the tenant, undermining the purpose of the program.

Two of the primary program compliance controls designed by the Division were (1) a pre-payment control requiring that a lease or other written rental agreement be provided with the application materials, and (2) a post-payment control sending a letter to the tenant to notify them that the property owner received funds on their behalf and that the property owner could not pursue eviction for the months funded by the program.

WRITTEN RENTAL AGREEMENTS—For the POP program, the residential lease or other written rental agreement was the key document that connected the property owner who received funds to the tenant who had a financial need, and substantiated the amount of assistance that the property owner was eligible to receive on behalf of the tenant. Signed leases indicate a legal contract that both the tenant and property owner have agreed to, which substantiate the validity of the lease terms such as rental amounts and dates of occupation, and they allowed the

Division to match tenant names to the tenant-signed certification of need attestations submitted with the POP applications.

NOTIFICATION LETTERS—After approving a POP application and issuing payment, the Division mailed a letter to the tenant’s rental unit address. The notification letter was included in the Division’s written fraud prevention procedures. The letter included (1) the months and amounts of rent paid on their behalf; (2) the list of commitments made by the property owner in exchange for rental assistance, such as waiving late fees, and halting any eviction proceedings; and (3) the housing fraud hotline phone number and email address to report noncompliance by the property owner related to the payment, such as a property who kept the POP program payment and did not apply it to a tenant’s unpaid rent balance.

WHAT WAS THE PURPOSE OF THE AUDIT WORK AND HOW WERE THE RESULTS OF THE AUDIT WORK MEASURED?

The purpose of our audit work was to assess the effectiveness of the Division’s internal controls over the POP program to reduce the risk of paying rental assistance to property owners who did not meet program requirements set up to ensure payments helped tenants in need and prevented evictions. To assess this, we applied the following criteria.

THE DIVISION SHOULD OBTAIN AN EXECUTED RENTAL AGREEMENT BEFORE ISSUING PAYMENT FOR RENTAL ASSISTANCE. The Division’s pre-payment control required property owners to establish that the tenant had agreed to pay certain monthly rental amounts and the signed rental agreement was the document the Division used to substantiate and verify the rental obligation claims from the property owner. Program guidelines required, “Lease or other written agreement for each tenant at the property.” Internal application review procedures indicate that leases should be signed and staff indicated in interviews the value of executed leases in demonstrating that the lease is a legal document

ensuring that the tenant and the landlord have agreed to the monthly rent amount and lease term.

THE DIVISION SHOULD PROVIDE LETTERS TO TENANTS WHEN PAYMENT IS PROVIDED TO PROPERTY OWNERS. The Division's post-payment control set up in fraud hotline procedures states that, "When checks are paid on behalf of a tenant, the tenant receives a letter from D[ivision] O[f] H[ousing]..." The procedure does not include a specific timeframe for when the letters should be issued; however, the Division reported that it planned for the letters to be mailed weekly when payments were issued.

WHAT PROBLEM DID THE AUDIT WORK IDENTIFY?

We identified issues with the effectiveness of the Division's compliance controls related to written rental agreements and notification letters. We tested a random sample of 60 payments made from July 2020 through March 2021 to determine whether the Division consistently obtained executed written rental agreements prior to issuing rental assistance payments and whether the Division sent timely notification letters to tenants. Overall, we found issues with 51 of the 60 payments, as outlined below. Three files had problems with both unsigned leases and tenant notification letters.

THE DIVISION DID NOT ALWAYS OBTAIN AN EXECUTED RENTAL AGREEMENT BEFORE ISSUING PAYMENT FOR RENTAL ASSISTANCE. We found the Division did not obtain an executed rental agreement prior to issuing rental assistance, as required by application review procedures, for two of the 60 sampled files (3 percent). Specifically, the application files contained a lease that had not been signed by the tenant.

In addition, for two payments from the sample of 60, the application files contained a model lease that the property owner used for their properties in general. Although these two payments were processed early in the program when the Division's guidelines allowed property

owners to submit model leases, the leases did not include the monthly rent amount, the tenants' names, the dates of the rental term, or signatures.

THE DIVISION DID NOT ALWAYS SEND NOTIFICATION LETTERS TO TENANTS AT THE TIME THE DIVISION PAID RENT ON THEIR BEHALF. We found that the Division did not send notification letters to tenants within 7 days after their check run date for 50 of the 60 sampled files (83 percent).

- For 17 payments (28 percent), the Division sent the notification letters between 9 and 57 days after the payments were approved.
- For 33 payments (55 percent), the Division had not yet sent notification letters at all until the issue was identified by auditors. After being notified by the auditors, the Division sent the notification letters between 66 and 315 days after the payments were approved.

WHY DID THESE PROBLEMS OCCUR?

THE DIVISION DID NOT CONSISTENTLY ENSURE IT RECEIVED A SIGNED RENTAL AGREEMENT WHEN ITS PROCESSING GUIDELINES CHANGED. When originally designing the POP program requirements, the Division anticipated that large property owners with multiple tenants would apply for the program. With this in mind, the Division established program guidelines that allowed property owners to provide a sample, unsigned lease. Application review procedures stated that, "Specific Lease for the tenant is ideal. Until further notice sample lease allowable." Two payments in our sample included model leases from the property owners.

The Division stated that in the early months of the program, it realized that the program would serve many types of property owners and it preferred to see individual signed rental agreements in order to verify property owner eligibility and support requested payment amounts. The Division revised its program guidelines and application to require an executed signed lease or other written rental agreement starting in early September and new application review procedures effective September

11, 2020, instructed reviewers to, “Confirm that all Supporting Documentation is uploaded and each document is completed, signed, and dated...Tenant’s current lease is required...Confirm tenant and landlord have signed and dated.” However, two payments for which the Division had only unsigned leases on file were submitted in November 2020 and December 2020, respectively, and were processed by the same application reviewer. This indicates that additional training and monitoring may have been needed on the new requirement.

Although the level and type of documentation required to substantiate emergency housing program payment amounts may change as new guidance is issued, it is important for the Division to ensure that staff are aware of and comply with current processing procedures. For example, the Division is currently working on distributing federal Emergency Rental Assistance funds, which were not part of our audit. According to the Division, the federal government has indicated that states may have flexibility in the level of documentation required to get these emergency federal funds out to recipients. Specifically, in August 2021, the U.S. Department of the Treasury indicated that a current lease signed by the tenant and landlord must be obtained if available because it establishes where the tenant lives and the rental payment amount, but that other documentation may be used if a current, signed lease is not available. The Division should monitor to ensure that staff follow current requirements when approving payments.

THE DIVISION DID NOT HAVE WRITTEN PROCEDURES FOR PROCESSING LETTERS. Specifically, the Division’s internal application review procedures did not include direction on who should produce and mail the letters or how often this should be done. The staff member whose role included printing tenant notification letters and preparing envelopes for the mail, took a leave of absence for 13 weeks. According to Division management, other staff who processed payments during that employee’s leave of absence did not know it was their responsibility to also send the notification letters in that person’s absence. The Division was not aware the letters were not sent until we identified the

error during the audit. The Division sent these letters out in late May when we informed them of the discrepancy.

WHY DO THESE PROBLEMS MATTER?

When the Division does not have effective processes to ensure its program compliance controls are implemented, there is a risk that property owners were not eligible or did not follow program requirements, reducing the effectiveness of the program in keeping tenants at risk of eviction housed during the pandemic.

Based on the results of our audit work, we estimate with 90 percent confidence that of 23,179 POP program payments made from July 2020 through March 2021, the Division approved at least 538, but not more than 3,384 payment requests without having obtained a signed rental agreement to verify the accuracy of information related to the tenant, rental period, and rental amounts owed. Our estimated most likely number of payments without a signed rental agreement is 1,550, or about 6.67 percent of the payments made through March 2021. As stated above, some of these payments may not have included signed rental agreements because the initial design of the program allowed property owners to submit model leases with their application.

Notification letters for 11,000 payments, or about 47 percent of the payments made through March 2021 were not sent by the Division at the time of payment. Since the application process was based on good faith attestations provided by property owners, without the notification letters sent at the time of payment, tenants may not have been aware that their rent had been paid and they would not have been informed about the POP program fraud hotline and their options for reporting any noncompliance by the property owners. From August 2020 through July 2021, the Division received about 80 allegations that property owners were not complying with program provisions. If the tenant notification letters were provided for the months between January and May 2021, the Division may have received more allegations.

While the POP program ended in June 2021, the Division continues to administer other rental assistance programs that rely on program compliance controls to ensure that the funds go to their intended use. Therefore, it is important that the Division have effective compliance controls in place to ensure that payments made through these other programs are appropriate and effective.

RECOMMENDATION 2

The Division of Housing (Division) at the Department of Local Affairs should ensure that it has sufficient controls in place to reduce the risk of noncompliance with its rental assistance program requirements by:

- A Periodically monitoring approved payments to ensure that staff (i) obtain a signed rental agreement before approving rental assistance payments or (ii) follow applicable guidance on what documentation is needed to substantiate payment, if different.
- B Implementing written procedures outlining the Division’s process and staff roles and responsibilities for sending tenant notifications, and periodically monitoring to ensure that the notifications have been sent.

RESPONSE

DIVISION OF HOUSING

- A AGREE. IMPLEMENTATION DATE: NOVEMBER 2021.

Review of applications for rental assistance is currently conducted by non-profit partners and a contractor. Our Emergency Rental Assistance Program (ERAP) contractor’s Quality Control (QC) plan, approved in May 2021, includes review of all approved applications by a trained QC reviewer. This QC review includes verification of housing tenancy documents as per our program guidelines.

Monitoring of a percentage of our grantee and contractor work is standard practice for DOH contract manager. As new funds are appropriated to DOH, the Division hires new staff as allowed by the funding source to ensure sufficient controls are in place. We will

ensure that reviewing the tenancy document is a primary component of this monitoring by November 2021.

B AGREE. IMPLEMENTATION DATE: NOVEMBER 2021.

The Division of Housing (DOH) will implement written procedures outlining processes and staff roles for sending tenant notification letters and monitoring. Since January 1, 2021 DOH has utilized an online application tool for the Emergency Rental Assistance Program (ERAP) which fully replaced the POP program in early February for new applicants. In the ERAP online system, the tenant can access information about the amount of funds that were approved and paid to the property owner on their behalf. In addition, when a payment is approved, the application reviewer sends an email to the tenant and landlord that includes a chart of the months and amounts approved. By November 2021, DOH will add to its monitoring plan to review that these emails have been sent.

For future programs modeled after POP, in which the tenant is not registered online, DOH will automate the process of sending tenant notifications by utilizing services provided by Integrated Document Solutions (IDS). The Program Manager will send a template letter and a data file to IDS following each payment cycle. The data file will include the tenant name, mailing address, payment amount, and months the payment covers. IDS will be responsible to complete the mail merge, print, and mail the letters to the tenants directly. DOH will implement written procedures for staff roles and monitoring services provided by IDS.