



HUD OIG and CPD NCDA Region VI 2017 Conference

Theresa Carroll, ARIGA

Laredo, Texas | October 25, 2017

Overview

- **What is OIG?**
- **What rules should a CPD grantee follow?**
- **Common problems.**
- **What the best problem deterrents?**
- **Other helpful tips.**
- **Fraud.**
- **Civil and administrative sanctions.**



Inspector General Act

The Inspector General Act of 1978, as amended, established the duties, responsibilities, and authorities of a Federal Inspector General (IG).

- Conduct independent and objective audits, investigations, inspections, and evaluations;
- Promote economy, efficiency, and effectiveness;
- Prevent and detect fraud, waste, and abuse;
- Review pending legislation and regulation; and
- Keep the agency head and the Congress fully and currently informed.



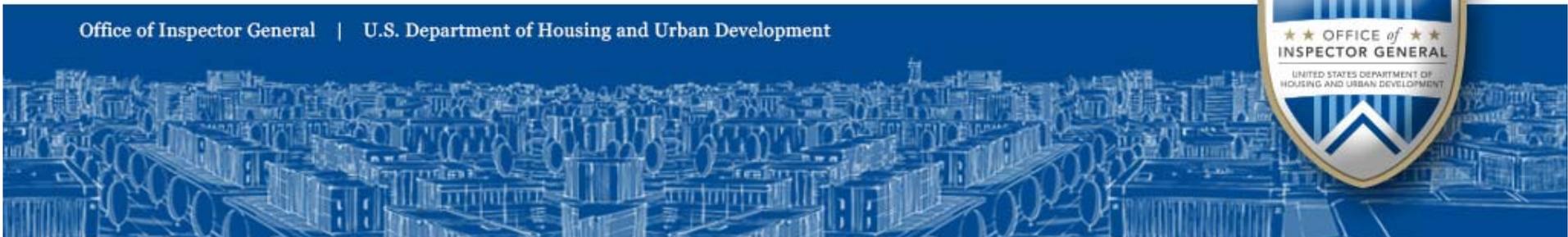
Office of Investigations

The OIG's Office of Investigations employees are statutory federal law enforcement officers, called special agents, that specialize in criminal investigations regarding issues in and against the Department.



Office of Audit

- Conducts audits, reviews, and other activities relevant to HUD's mission.
- Keeps the Secretary, Congress, and the public fully and currently informed.
- Works collaboratively with HUD and program participants to ensure success of HUD program goals.

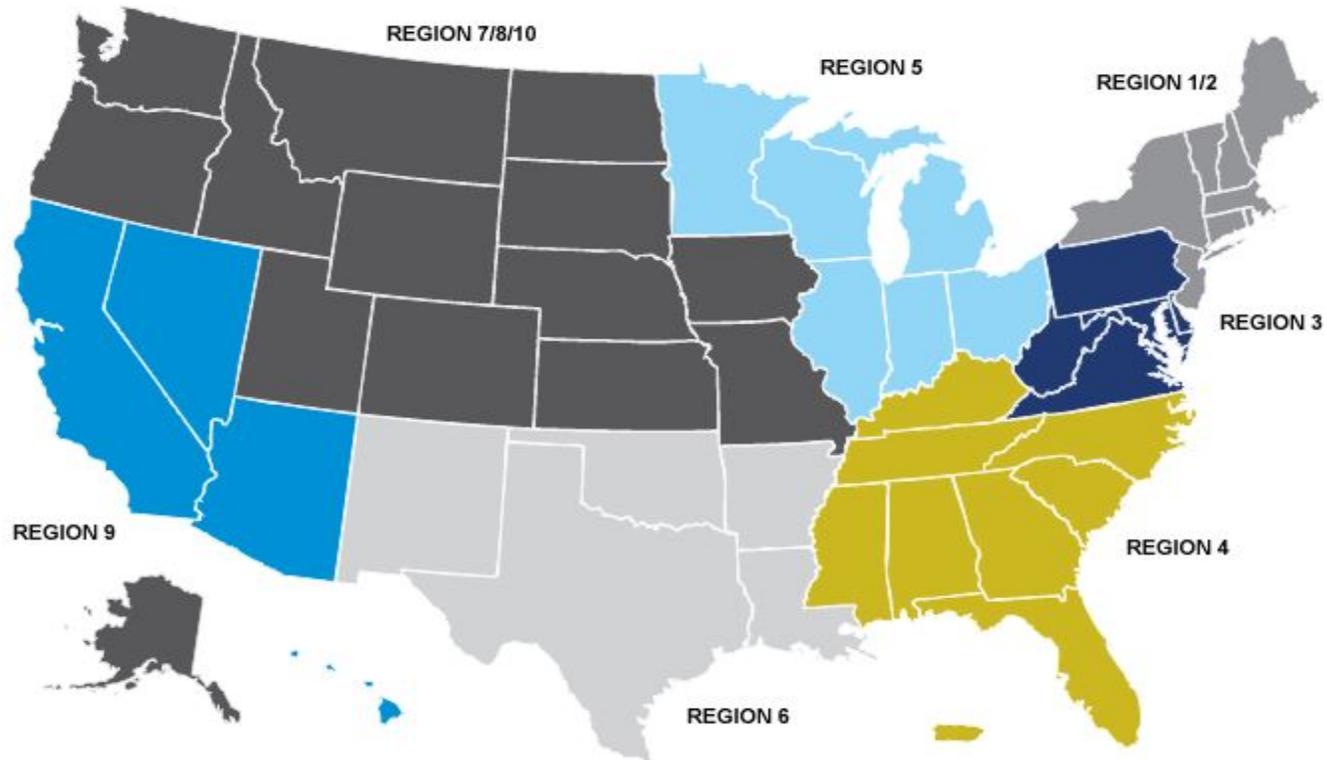


Office of Evaluations

The Office of Evaluation provides independent assessments in a timely, credible, and constructive manner for agency managers, policymakers, and others. Their products are used to determine efficiency, effectiveness, impact, and/or sustainability of HUD operations, programs, or polices and identify and recommend improvements and administrative action.



Office of Investigations/ Audit-Region 6



Office of Inspector General | U.S. Department of Housing and Urban Development



Results of Our Work

The Inspector General Act of 1978 requires the Inspector General to prepare **semiannual reports** summarizing the activities of the Office of Inspector General for the preceding six month periods. The semiannual reports are intended to keep the Secretary and the Congress fully informed of significant findings, progress the Agency has made and recommendations for improvement.



OIG CPD Audit Results

Semi-Annual Report	CPD reports	Disaster Reports	Total Reports
Sept 30,2016	11	10	21
March 31, 2017	2	6	8
March 31, 2017 *	20	12	32

* - not finalized



OIG CPD Audit Results

Semi-Annual Report	Questioned Costs and Funds Put to Better Use
Sept 30, 2016	\$5,080.06 million
March 31, 2017	\$54.79 million
March 31, 2017 *	\$60.22 million

* - not finalized





**What rules should a CPD
grantee follow?**

Federal Requirements

CDBG (Entitlement and State), CDBG Disaster Recovery, CDBG Colonias Set-aside, Section 108 loans, and NSP -

24 CFR 570

HOPWA – **24 CFR 574**

ESG – **24 CFR 576**

Continuum of Care – **24 CFR 578**

Shelter Plus Care – **24 CFR 582**

Supportive Housing - **24 CFR 583**



Federal Requirements

Consolidated Plan – **24 CFR part 91**

Environmental Requirements -
24 CFR parts 50 and 58

General HUD Program Requirements -
24 CFR part 5



Federal Requirements

Uniform Administrative Requirements,
Cost Principles, and Audit
Requirements for Federal Awards - **2**
CFR part 200



State of Texas' Requirements

Regulation of Conflicts of Interest

Local Government Code, Title 5, Subtitle C,
Chapter 171



State of Texas' Handbooks

2012 Texas Conflict of Interest Laws MADE EASY

Model Purchasing Manual for Texas Cities and Counties 2010





Common problems

Common Findings

- Failure to maintain documentation
- Costs paid not reasonable or necessary
- Contracting
- Failure to meet a national objective
- Failure to account for or properly spend program income
- Ineligible activities



Common Findings

- **Failure to perform or inadequate property inspection**
- **Failure to spend funds before drawing down more funds**
- **Ineligible CHDOs**
- **Not properly maintaining affordability periods**
- **Failure to meet environmental requirements**





Basic administrative principles

Policies, records, and accounting data

200.302 Financial management.

(b) The financial management system of each non-Federal entity must provide for

- Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received.
- Accurate, current, and complete disclosure of the financial results of each Federal award or program.
- Records that identify adequately the source and application of funds for federally-funded activities.
- Effective control over, and accountability for, all funds, property, and other assets.
- Comparison of expenditures with budget amounts
- Written procedures for determining the allowability of costs in accordance with Subpart E—Cost Principles



Policies, records, and accounting data

Standards for Financial Management

200.303 Internal Control

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award.



Policies, records, and accounting data

Cost Principles (Subpart E of 2 CFR 200)

200.403 Factors affecting allowability of costs.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.

(e) Be determined in accordance with generally accepted accounting principles (GAAP).

(g) Be adequately documented.



Policies, records, and accounting data

Cost Principles (Subpart E of 2 CFR 200)

200.404 Reasonable costs.

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally-funded.





Contracting

Procurements and contracts

200.318 General procurement standards

(a) The grantee must use its own **documented** procurement procedures **which reflect applicable State, local, and tribal laws and regulations**, provided that the procurements conform to applicable Federal law and the standards identified in this part.



Procurements and contracts

200.318 General procurement standards

(c)(1) The grantee **must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.** No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a **real or apparent conflict of interest.** The officers, employees, and agents of the grantee may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. The standards of conduct must provide for disciplinary actions for violations of conflict of interest standards.

(c)(2) If the grantee has a parent, **affiliate, or subsidiary** organization that is not a state, local government, or Indian tribe, the grantee must also maintain written standards of conduct covering **organizational conflicts of interest.**



Procurements and contracts

Grantees must maintain **records** sufficient to detail the history of each procurement. Records include but are not limited to:

1. Rationale for the method of procurement selected
2. Selection of contract type
3. Information regarding contractor selection and rejection, and
4. Basis for the contract price.

200.318 General procurement standards (i)



Procurements and contracts

Competition

All procurement transaction must be conducted in a manner that provides **full and open competition**. Restrictions include:

- Unreasonable requirements
- Requiring unnecessary experience or excessive bonding
- Noncompetitive pricing
- Noncompetitive contracts to consultants on retainer
- Organizational conflicts of interest
- Brand name only
- Any arbitrary action in the procurement process

2 CFR 200.319 (a)



Procurements and contracts

- Procurements cannot include geographic preferences.
- Grantees must have written procedures for procurement transactions.
 - Clear and accurate description of what is being procured.
 - Identify all requirements which offerors must fulfill.
 - All factors to be used in evaluating bids or proposals.
- Prequalified lists must be current and include enough sources to ensure competition.

2 CFR 200.319 (b)-(d)



Procurements and contracts

Methods of Procurement

1. Micro-purchases
2. Small purchase procedures
3. Sealed bids
4. Competitive proposals
5. Noncompetitive proposals

2 CFR 200.320



Procurements and contracts

Micro-purchases

- A purchases of supplies or services using simplified acquisition procedures; however, the aggregate dollar amount of purchases **cannot exceed** the **micro-purchase threshold**.
- Micro-purchase threshold amount is adjusted for inflation and is set at 48 CFR subpart 2.1. Initially, it was \$3,000. Currently, it is \$3,500.
- Purchases may be award without soliciting competitive quotations, if the PHA can show the price is reasonable.
- PHAs must distribute micro-purchases equitably among qualified suppliers.

2 CFR 200.67 and 200.320(a)



Procurements and contracts

Small Purchases

A purchases of supplies or services using simplified acquisition procedures; however, the aggregate dollar amount of purchases **cannot exceed** the **simplified acquisition threshold**.

Threshold amount is adjusted for inflation and is set at 48 CFR subpart 2.1. Currently, it is \$150,000.

Purchases may be awarded after price or rate quotations are obtained from an adequate number of qualified sources.

2 CFR 200.88 and 200.320(b)



Procurements and contracts

Sealed Bids

1. For acquisitions that exceed the simplified acquisition threshold (\$150,000).
2. Bids must be publicly solicited.
 - Contain a completed, adequate and realistic specification or purchase description.
 - Two or more bidders are willing and able to compete.
3. A firm fixed price contract is awarded.
4. Contract awarded to lowest price.
5. Generally the preferred method for securing construction contracts.

2 CFR 200.88 and 200.320(c)



Procurements and contracts

Sealed Bids

1. Bids must be solicited from a adequate number of suppliers.
2. Must provide sufficient response time.
3. Bids must be publicly opened at the time and place specified.
4. Must award the contract to the lowest responsive and responsible bidder.
5. Any and all bids may be rejected - if there is a sound documented reason.

2 CFR 200.320(c)



Procurements and contracts

Competitive Proposals

1. For acquisitions that exceed the simplified acquisition threshold (\$150,000).
2. More than one source submits an offer or proposal and either a fixed price or cost reimbursement type contract is awarded.
 - Used when conditions are not appropriate for the use of sealed bids.
 - Used when contracting for architectural-engineering services and selection is made based on qualifications (price is not used as a selection factor can only be used for A&E professional services).

2 CFR 200.320(d)



Procurements and contracts

Competitive Proposals

Grantees issue **requests for proposals** which

- Must be publicized
- Identify all evaluation factors and their importance
- Solicited from and adequate number of qualified sources
- Evaluation and selection methods must be written

2 CFR 200.320(d)



Procurements and contracts

Noncompetitive Proposals

Solicitation of a proposal from only **one source**.

Although grantees are generally required to conduct all their procurements by full and open competition, they may, in certain cases, use a noncompetitive proposal. One or more of the following must apply.

- The item is available from only one source.
- Public exigency or emergency will not permit a delay.
- HUD express authorizes a noncompetitive proposal in response to a written request.
- After solicitation of a number of sources, competition is determined inadequate.

2 CFR 200.320(f)



Procurements and contracts

Small and Minority Business Participation

Grantees **must** take necessary affirmative steps to assure that minority business, women's business enterprises, and labor surplus firms are used where possible.

2 CFR 200.321



Procurements and contracts

Contract Cost and Price

Grantees **must** perform a cost or price analysis in connection with every procurement action in excess of the simplified acquisition threshold including contract modifications. As a starting point, it must be done before receiving bids or proposals.

Grantees must **negotiate profit as a separate element** for each contract when there is no price competition and in all cases where a cost analysis is performed.

The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

2 CFR 200.323



Procurements and contracts

Contract Provisions

Grantees must contain the applicable provisions in Appendix II of 2 CFR 200.

2 CFR 200.326

The contract must address:

- Administrative, contractual, or legal remedies in instances of breach.
- Termination for cause and for convenience
- Equal Employment Opportunity
- Davis-Bacon Act
- Contract Work Hours and Safety Standards Act
- Rights to Inventions Made Under a Contract or Agreement
- Clean Air Act
- Debarment and Suspension
- Byrd Anti-Lobbying Amendment





National objectives

National objectives

Grantees must certify that their use of funds meet one of the following three national objectives:

- 1. Benefit to low- and moderate- income families**
- 2. Aid in the prevention or elimination of slums or blight**
- 3. Meet community needs having an urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community**



National objectives

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Program income

Program income

Generally - it means **gross income** received by an entitlement entity, State, or a subrecipient directly generated, in whole or in part, from the use of CDBG funds.

- Proceeds from sale or lease of property purchased/improved with CDBG.
- Proceeds from the disposition of CDBG purchased equipment.
- Payments of principal & interest on CDBG loans.
- Proceeds from the sale of loans or obligations secured by loans made with CDBG.
- Interest earned on program income pending its disposition.



Program income

- Program income on hand must be **used before** additional funds are drawn down from the Treasury.
- Subject to all CDBG requirements for as long as it exists.
- HUD reports that \$450 million in program income is collected annually by CDBG grantees.
- Secretary can exempt small amounts.
- Some exclusions to the definition.



Charge cards

- **Unauthorized purchases**
- **Ineligible purchases**
 - **Flowers,**
 - **Gift Cards,**
 - **Gifts,**
 - **Donations,**
 - **Parties,**
 - **Meals**
- **Unsupported purchases**
- **Inability to locate purchased items**



Vehicles

200.431 Compensation – fringe benefits

(f) *Automobiles.* That portion of automobile costs furnished by the entity that relates to **personal use** by employees (including transportation to and from work) **is unallowable** as fringe benefit or indirect (F&A) costs regardless of whether the cost is reported as taxable income to the employees.





**What are the best problem
deterrents?**

What are the best problem deterrents?

- **Culture of Ethics**
- **Management Controls**
- **Documentation Requirements**



Culture of Ethics

As representative of a grant recipient organization, you are responsible for promoting the integrity of the entire entity. Furthermore, *management* is responsible for setting the “**tone from the top**” by:

- Creating an environment in which employees understand that dishonest acts will be detected and promptly addressed.
- Sending a message that the organization will aggressively seek out possible fraudulent conduct, instead of waiting for instances to come to its attention.



Management Controls

- Management controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.
- Management is responsible for establishing a controlled environment that sets the tone of an organization.
- Effective internal controls are essential to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives.



Documentation Requirements

Source documentation is **vital** to **explain and support actions taken**, and the **reasonableness and allowability** of costs.





Other helpful tips.



[HOME](#) > [FRAUD PREVENTION](#) > [Industry Advisories](#)

INDUSTRY ADVISORIES

A+ A-  

Industry advisories are bulletins that provide information about the risky and illegal activities associated with certain products and services in the housing industry. These advisories are intended to ensure industry professionals (Mortgage Brokers, Real Estate Agents, Counselors, Appraisers, etc) are well informed of the perils associated with emergent frauds and other illegal activities that jeopardize the integrity of otherwise legitimate housing programs. If you would like to be notified when HUDOIG issues new Industry Advisories, [sign-up on our list](#), or follow-us on [Twitter](#) and [Facebook](#).

<https://www.hudoig.gov/fraud-prevention>

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FILTER BY PROGRAM AREA(S):

- Community Planning and Development (6) Multifamily Housing (1)
- Public and Indian Housing (6) Single Family Housing (1) Single Family Loan Programs (3)

<https://www.hudoig.gov/fraud-prevention>

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1. [Key Components of Financial Management for CPD Grants](#)
2. [Documenting the Life Cycle of a CPD Grant](#)
3. [Implementing the Five Key Internal Controls](#)
4. [Subrecipient Oversight and Monitoring – A Roadmap for Improved Results](#)
5. [7 Keys to Handling Conflicts of Interest](#)
6. [Procurement & Contracting: Five Ground Rules for Grantees and Subrecipients](#)

<https://www.hudoig.gov/fraud-prevention>





[HOME](#) > [FRAUD PREVENTION](#) > [Consumer Advisories](#)

CONSUMER ADVISORIES



Consumer advisories are alerts and bulletins that provide information about the risks of certain products and services in the housing industry. These advisories are intended to ensure consumers are informed of emergent frauds, schemes, and other illegal activities that may be associated with otherwise legitimate housing programs. If you would like to be notified when HUDOIG issues new Consumer Advisories, [sign-up on our list](#)[®]

SEPTEMBER 22, 2017

Harvey, Irma, and Maria Disaster Scams

Program Area(s): Single Family Loan Programs, Disaster

The U.S. Department of Housing and Urban Development (HUD) and HUD Office of Inspector General (OIG) warns everyone affected by Hurricanes Harvey, Irma, and Maria to be alert for fraud schemes that commonly occur following a disaster. You need to protect yourself from fraudsters who will take...

<https://www.hudoig.gov/fraud-prevention>





Fraud

What is Fraud?

- **Fraud** - A type of illegal act involving the obtaining of something of value through willful misrepresentation.
- **Abuse** - behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse also includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate.



Signs of Fraud or Theft

- Obsessive control
- Living beyond means
- Close relationship with contractors
- Rumors of impropriety
- Personal financial pressure
- Refusal to take vacation



The Golden Rule in Fraud Prevention

When in doubt...Don't do it!

Call your HUD PH agency representative for appropriate guidance.



Report Fraud to the OIG Hotline



WRITE

HUD Inspector General Hotline (GFI)
451 7th Street, SW
Washington, DC 20410

CALL

HUD OIG Hotline Phone:
1-800-347-3735 (Toll-Free)

E-MAIL

www.hudoig.gov/report-fraud

Office of Inspector General | U.S. Department of Housing and Urban Development





Civil and administrative sanctions

Program Fraud Civil Remedies Act of 1986 (PFCRA)

Administrative remedy for false claims and false statements

Unlike criminal cases, the Act provides that “**no proof of specific intent to defraud**” is required.

- Liability can be based on:
 - Actual knowledge of the information.
 - Acting in deliberate ignorance of the truth or falsity of the information.
 - Acting in reckless disregard of the truth or falsity of the matter.



PFCRA Remedies

1. Civil Penalty of up to \$10,781 for **each false claim**

Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

2. For false claims, an assessment of double the amount of paid claim.

3. Civil Penalty of up to \$10,781 for **each false statement.**

Each written representation, certification, or affirmation constitutes a separate statement.



Administrative Sanctions

1. Suspensions
2. Debarment
3. Settle – voluntary exclusion

2 CFR 180





Closing Thoughts

More Info on HUD OIG

- About us
- Latest issued reports
- Semiannual Report to Congress
- News room
- Locations and Field offices
- Hotline and report fraud

Office of Inspector General
U.S. Department of Housing and Urban Development

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The Honorable David A. Montoya, Inspector General

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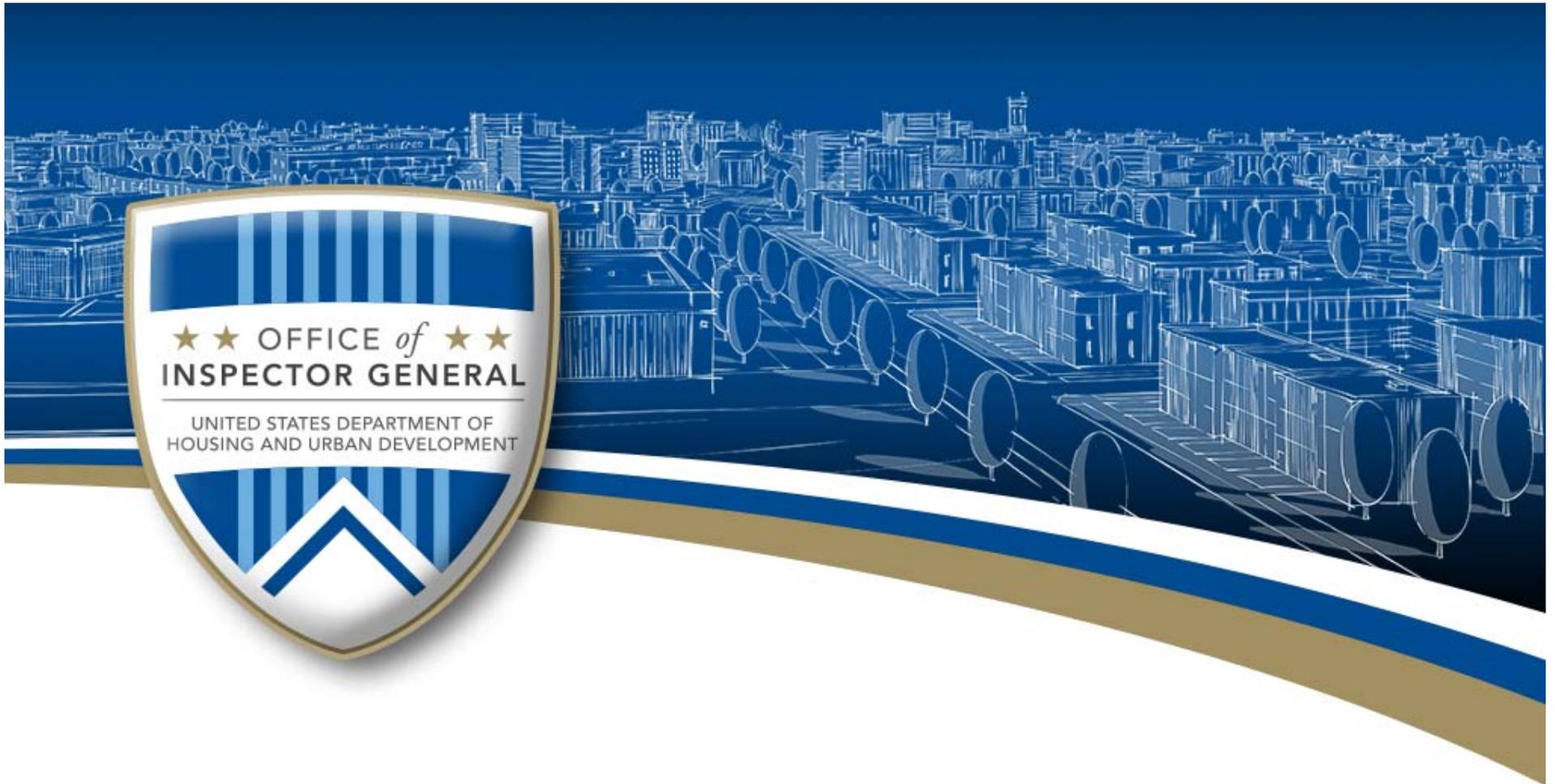
AUDIT REPORTS & MEMORANDUMS

A+ A-  

The following reports disclose conditions noted during the identified audit period. They do not necessarily reflect current conditions at the subject auditee. Any questions regarding the current status of corrective actions recommended in these reports should be directed to the report addressee.

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