

MEMORANDUM

To: Members of the Committee on Financial Services

From: Committee Staff

Date: June 21, 2024

Subject: Housing and Insurance Subcommittee Hearing entitled, “Housing Oversight: Testimony of the HUD and FHFA Inspectors General”

On Wednesday, June 26, at 10:00 am, the Subcommittee on Housing and Insurance of the Committee on Financial Services will hold a hearing in 2128 Rayburn House Office Building entitled, “Housing Oversight: Testimony of the HUD and FHFA Inspectors General.” Testifying at the hearing will be:

- **The Honorable Rae Oliver Davis**, Inspector General, Department of Housing and Urban Development (HUD)
- **The Honorable Brian M. Tomney**, Inspector General, Federal Housing Finance Agency (FHFA)

The hearing will focus on the findings issued by the Offices of Inspectors General (OIGs) overseeing the Department of Housing and Urban Development (HUD) and the Federal Housing Finance Agency (FHFA). These two OIGs are responsible for conducting meaningful oversight and preventing waste, fraud, and abuse at both HUD and FHFA. HUD is a sizable government agency, employing over 8,600 full-time employees, with numerous rental assistance programs and nearly \$80 billion in budget authority for Fiscal Year 2024.¹ FHFA is an independent regulatory agency with more than 700 employees. It is responsible for overseeing the operations of the housing government sponsored enterprises, Fannie Mae and Freddie Mac, as well as the Federal Home Loan Banks (FHLBs). Combined, the programs of HUD and Fannie Mae and Freddie Mac account for about two-thirds of all first lien mortgage originations each year.²

General Background

Federal Inspectors General are empowered by the Inspector General Act of 1978. Originally, the Act created 12 OIGs, including the HUD OIG. Over time, that number has expanded to the current number of 73 OIGs, all of whom oversee various parts of the federal government. The OIGs have a dual responsibility to report both to Congress and to the head of the agency (or other entity) that they

¹ Peter Lawrence, “President Biden Signs \$469 Billion FY 2024 Minibus Spending Bill, with \$81.4 Billion in Gross Appropriations for HUD, including \$8 Billion Designated as Emergency Funding,” Novogradac, March 13, 2024, available at: <https://www.novoco.com/notes-from-novogradac/president-biden-signs-469-billion-fy-2024-minibus-spending-bill-with-814-billion-in-gross-appropriations-for-hud-including-8-billion-designated-as-emergency-funding>.

² Urban Institute, “Housing Finance: At A Glance Monthly Chartbook, May 2024,” May 30, 2024, available at: <https://www.urban.org/research/publication/housing-finance-glance-monthly-chartbook-may-2024>.

oversee. Under the Inspector General Act, the duties and responsibilities of the OIGs can be summarized as follows:

- To provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of the agency;
- To review existing and proposed legislation and regulations and to report on their impact to the agency's programs and operations;
- To recommend policies for the agency, and to conduct, supervise, or coordinate other activities carried out or financed by the agency;
- To conduct, supervise, or coordinate relationships between the agency and other federal agencies, state and local governmental agencies, and nongovernmental entities in order to promote economy and efficiency and to prevent waste, fraud, and abuse, including identifying and prosecuting any participants in fraud or abuse;
- To keep the head of the agency and Congress fully and currently informed of efforts concerning fraud and other serious problems, abuses, and deficiencies; and
- To recommend corrective actions the agency can take as well as monitor the progress of these actions.

HUD Office of Inspector General Background

The current HUD Inspector General is Rae Oliver Davis. She was confirmed by the Senate and has served in this role since January 23, 2019. Prior to her current position, Ms. Oliver Davis served as Acting Assistant Inspector General for the HUD OIG. She has also worked in senior positions in both the Office of the Special Inspector General for the Troubled Asset Relief Program as well as the Office of the Inspector General for the U.S. Postal Service. She previously appeared before the Committee on June 21, 2023.

According to Ms. Oliver Davis's testimony in the 118th Congress, the HUD OIG's recent oversight initiatives can be summarized as follows:

- Preventing lead exposure and poisoning in HUD-assisted housing;
- Mitigating deficiencies in the physical condition of public housing and other HUD-assisted properties, including those that threaten life and safety; and
- Addressing financial fraud aimed at the vulnerable populations that HUD serves.

In May, the HUD OIG released its Semiannual Report to Congress.³ During this reporting period, HUD OIG audits found more than \$14 million in funds that could be put to better use and more than \$500,000 in questioned costs. It also recovered more than \$8 million in collections. In addition, HUD OIG investigations resulted in 61 criminal convictions, 16 civil actions, and 79 government-wide suspension and debarment actions, as well as more than \$17.6 million in restitution and judgments,

³ HUD OIG, "Semiannual Report to Congress," May 30 2024, available at: hudoig.gov/sites/default/files/documents/SAR71.pdf.

with more than \$4.6 million in total recoveries and receivables going to HUD programs.⁴ As of March 2024, HUD had 704 outstanding audit recommendations and 116 outstanding recommendations for evaluations, resulting in a total of 820 open recommendations for this reporting period.⁵

Major highlights in the Semiannual Report include HUD OIG's leadership and work that led to the [arrest of 70 current and former and New York City Housing Authority \(NYCHA\) employees](#) for a variety of offenses that were part of one of the largest pay-to-play schemes in history. The report also found serious issues with [HUD's noncompliance](#) with the Payment Integrity Act of 2019. As a result, HUD OIG issued a [management alert](#) to Department leadership that identified a critical gap in HUD's ability to estimate improper payments in its two largest rental assistance programs. These programs account for approximately 67 percent of HUD's expenditures and totaled \$45.3 billion in Fiscal Year 2023. According to the OIG, HUD has not produced estimates for these programs in more than 7 years, and it may not be able to produce estimates until Fiscal Year 2027.⁶

Additional key findings include:

- A report on the [physical conditions of multifamily housing developments](#), including HUD's inadequate monitoring of what should be serious flags indicating poor conditions.
- Serious issues with HUD's communication with borrowers during the 2019 COVID [foreclosure moratorium](#).
- An investigation into [life-threatening carbon monoxide in HUD-assisted housing](#) and PHA's delays in implementing the new National Standards for the Physical Inspection of Real Estate (NSPIRE), which incorporate the Act's requirements into its carbon monoxide standard.
- Serious concerns following [an audit](#) of HUD's efforts to prevent duplication of benefits when using Community Development Block Grant Disaster Recovery and Mitigation funds.
- Issues uncovered during an [audit of Puerto Rico Housing Finance Authority's \(PRHFA\) Homebuyer Assistance Program \(HBA\)](#) that showed unequitable distribution of funds.

FHFA Office of Inspector General Background

The current FHFA Inspector General is Brian M. Tomney. He was confirmed by the Senate and has served in this role since February 17, 2022. Prior to his appointment as Inspector General, Mr. Tomney served as the Head of the Office of Corporate Investigations at Capital One. Mr. Tomney has also held various legal roles within the Department of Justice, where he worked from 2006 to 2017. This will be Inspector General Tomney's first appearance before the Committee.

⁴ *Ibid.*

⁵ HUD OIG Recommendation Dashboard, available at: <https://www.hudoig.gov/library/recommendation-dashboard>.

⁶ HUD OIG, "HUD Lacked Adequate Oversight of Multifamily Housing Properties With Failing REAC Scores or Life-Threatening Deficiencies," February 13, 2024, available at: www.hudoig.gov/sites/default/files/2024-02/2024-CH-0001.pdf.

The FHFA OIG was created by statute in the Housing and Economic Recovery Act (HERA) of 2008 and began operations on October 12, 2010. Following the enactment of HERA, FHFA placed Fannie Mae and Freddie Mac in conservatorship and undertook the unique dual role of regulator and conservator. These two responsibilities put FHFA in a position different from other financial regulators, and OIG structures its oversight program to examine the Agency’s exercise of both. For example, while it primarily oversees FHFA as an agency, the OIG also conducts oversight of matters delegated by FHFA to the Enterprises.⁷ It also conducts investigations in partnership with law enforcement agencies, which have resulted in 52 sentences and nearly \$65 million in total monetary results.⁸

The FHFA OIG recently released its Semiannual Report to Congress, which covered the period from October 31, 2023 to March 31, 2024. The report shows that the OIG published 12 products during this period. According to the OIG, it focused resources on FHFA programs and operations that pose the greatest financial, governance, or reputational risk to FHFA.⁹ Specifically, the OIG issued reports related to nonbanks, appraisals, business resiliency, third-party providers, and fraud risk management. Some of the report’s key findings include:

- An analysis of recent actions taken by the Enterprises to promote [interest rate buydowns](#) to combat mortgage slowdowns due to the higher interest rate environment.
- A full inspection of FHFA’s oversight of [Enterprise fraud risk management](#).
- A report on efforts to address [deficiencies in Fannie Mae’s business resiliency programs](#).

While the 12 reports cover a wide range of issues under the OIG’s purview, there remain 44 significant, open recommendations.¹⁰ Some of these open recommendations include: reports on [FHFA’s conservatorship role and the decision documentation process](#), concerns with [executive compensation practices](#), and a report detailing improvements that could be made by FHFA’s Division of Federal Home Loan Bank Regulation, specifically improvement to the [examination process](#). Furthermore, there are 43 now closed recommendations that were rejected by Agency management, which had a total potential cost savings of more than \$893 million.¹¹

In addition, FHFA OIG also issues an Annual Plan to detail areas of focus for the next report. Key areas of focus for the coming year include oversight of FHLB market risk, additional supervisory oversight of credit risk management at the FHLBs, and additional oversight of Fannie Mae’s multifamily servicer and portfolio monitoring, among other issues. These topics will remain

⁷ FHFA OIG, “Annual Plan: Fiscal Year 2023,” October 6, 2023, available at: www.fhfaog.gov/sites/default/files/FY2023AnnualPlan.pdf.

⁸ FHFA OIG, “Semiannual Report to Congress,” March 31, 2024, available at: www.fhfaog.gov/Reports/Semiannual.

⁹ *Ibid.*

¹⁰ FHFA OIG, “Compendium of Unimplemented Recommendations,” March 1, 2024, available at: www.fhfaog.gov/sites/default/files/CompendiumMarch2024.pdf.

¹¹ “Semiannual Report to Congress.” FHFA, 31 Mar. 2024, www.fhfaog.gov/Reports/Semiannual.

important as the housing finance system faces continued stress from a difficult interest rate environment and inflationary challenges.

Legislative Proposals

- **H.J.Res. ____, providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Housing and Urban Development and the Department of Agriculture relating to the “adoption of energy efficiency standards for new construction of HUD and USDA-financed housing”.** (Rep. Davidson)

This joint resolution discussion draft would nullify HUD and USDA’s joint International Energy Conservation Code (IECC) energy efficiency mandate rule through the expedited disapproval process under the Congressional Review Act.

- **HR 7302, the Contracting Accountability and Transparency (CAT) Act** (Rep. Torres)

This bill would require the Secretary of Housing and Urban Development to mandate Public Housing Agencies to disclose information publicly regarding each contract they enter, as well as to ensure that these agreements are made available for public viewing online.

- **H.R. _____, the NeighborWorks Transparency and Accountability Act** DISCUSSION DRAFT

This bill would subject the activities and operations of the Neighborhood Reinvestment Corporation (NeighborWorks) to the oversight of the HUD Inspector General.

- **H.R. _____, an act to enhance the oversight authorities of certain Inspectors General** DISCUSSION DRAFT

This bill would provide both the HUD Inspector General and the FHFA Inspector General with testimonial subpoena authority, which will allow them to subpoena the attendance and testimony of non-government witnesses as necessary. This authority would mirror that of other Inspectors General, such as the Inspector General of the Department of Veterans Affairs and the Pandemic Response Accountability Committee.