



*Mailing Address*  
P.O. Box 763638  
Dallas, TX 75376

(972) 572-2262  
(800) 837-0645  
FAX (972) 572-2289

txtha@texas.net  
www.txtha.com

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Director*

Linda Bryant

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November 30, 2007

Elizabeth Hanson  
Deputy Assistant Secretary  
U.S. Department of Housing and Urban Development (HUD)  
Office of Public and Indian Housing  
Real Estate Assessment Center  
550 12th Street, SW Suite 100  
Washington, DC 20410

Dear Ms. Hanson:

Texas Housing Association (THA) is an organization dedicated to serving the needs of the 411 public housing authorities in the state of Texas. We have observed over the last few years increasing stress and distress among our agencies concerning REAC inspections. The system as it stands now has caused unnecessary management and financial issues for many, as well as staff health issues, especially for our small agencies—of the 353 agencies with Public Housing, 90%, or 317, have fewer than 250 units. We know of at least three instances where PHA staff are convinced that the stress resulting from REAC inspections was responsible for a case of stress-induced vertigo, a heart attack death and a major anxiety disorder.

As you know, a bad inspection score—which could be caused by deductions for items that do not realistically reflect the overall condition of the property—can throw an otherwise well-run PHA into troubled status, thereby increasing paperwork and reporting for already overburdened staff. PHAs with High Performing status one year are thrown into standard status or lower the following year because a different inspector assessed the property condition differently. It has become a roller coaster ride, at best, for all of our PHAs—regardless of size.

The stories about inspectors and inspections gone bad are on the rise. As we understand it, our issues and concerns are no different from those of other groups who have already been to your table. However, we believe it is time for THA, in its advocacy role, to step up to the plate and make known our particular concerns and recommendations about an inspection protocol system that surely has digressed from its original intent and caused the taxpayers additional dollars.

For your consideration, attached is our position paper regarding directions we would like to see REAC take with respect to the inspection process.

Respectfully submitted,

Linda Bryant  
Executive Director

**Texas Housing Association  
Position Paper on UPCS Inspection Process  
November 30, 2007**

First of all, we want to go on record as supporting the recommendations made by the ARI General Monitoring Focus Group, Issue Paper 1 (Exhibit A). We believe that many of the issues we have would be greatly improved or eliminated if HUD/REAC were to adopt these recommendations.

Based on feedback from our members Texas Housing Association would like to see HUD/REAC take the following directions.

1. More and better communication to PHAs with respect to what is expected from them and what inspectors will be checking.
  - The REAC/PASS website is not very user friendly for PHA staff.
  - All clarifications, protocol changes, administrative changes, top 10 deficiencies, and so on, should be emailed directly to PHAs so that they are "armed" and prepared for their next inspection. They should have the same information available to them that inspectors have.
  - The fear of not being prepared has caused our PHAs to spend thousands of dollars on PRE-REAC inspections. We believe the original intent of the law was for PHAs to be able to do adequate annual inspections themselves, fix what needs fixing and have their ducks lined up when the REAC inspector comes—without additional hits to their budget.
  - A guidebook with photos of the 3 levels of deficiency would be very helpful for PHA staff.
2. Improved protocol software that reduces the subjectivity of inspectors. Inconsistency among inspectors is huge and the biggest complaint we hear (see Exhibit B). Inspectors should answer specific questions about each inspectable item but not be asked to determine the deficiency level. The responses to the questions should lead to the level determination automatically, taking that judgment away from the inspector.
3. A system whereby PHAs select their own inspectors from a list of HUD-trained and certified inspectors. The advantages of this?
  - PHAs, as they do with auditors, would select their own inspectors from a HUD-approved list, closer to home. Surely this is more economical than having an inspector from across the country.

- Selecting inspectors closer to home will also ensure that the inspector understands the regional differences, e.g., we believe that most Texas public housing is in better condition overall than much of the housing in the North. We believe that some inspectors come to Texas with the intent of "looking for anything they can find to write up". This brings to mind years ago when HUD field staff doing management reviews would tell PHAs that they HAD to find something wrong or it would look like they weren't doing their job. This is part of the "gotcha" attitude that is all too prevalent among REAC inspectors AND QA inspectors.
  - PHAs would have more control over when inspections are conducted. With REAC inspectors driving the scheduling, we have had instances of inspections being done on the same units within a few months of each other because REAC was "running behind schedule" with their auctions. Why should residents have to endure more than two inspections a year because of REAC's inefficiencies?
  - This would more quickly weed out the bad inspectors and PHAs would not be subject to the "luck of the draw" as they are now. We have many examples of drastic changes in scores on the very same—unchanged— property because the inspectors interpreted things entirely differently.
  - QAs could still randomly do follow-up on inspections in order to prevent the possibility of inspectors "going easy on" a PHA to insure future business.
4. A standard comment card or evaluation form that every PHA MUST complete on the REAC inspector (and the QA inspectors, when applicable) and send in to REAC. This would be another way for REAC to see patterns of abuse and weed out bad inspectors. Knowing that he or she will be rated may temper an inspector's "gotcha" attitude. To someone who would say that a PHA staff person might not be fair ----we would say: it would be at least as reliable as RASS results.
  5. Allow PHAs 30 days to appeal, like Multifamily properties, instead of 15. In many instances, 15 days is not adequate time to prepare a decent appeal. In every other area of operation, HUD is trying to bring Public Housing and Multifamily Housing closer together. Why is there a discrepancy here?
  6. Allow PHAs 30 - 60 days to correct what they can within that time frame in order to recapture lost points. The HUD field office could inspect and verify that the repairs have been made. Once again, is not the original intent to insure that the property is in good shape, whatever it takes?
  7. Come up with a better system for reviewing appeals so that there is more consistency among reviewers. Perhaps more than one person could review an appeal so that there is a second opinion. We have seen situations in which two PHAs appealed the same issue--one won; one did not.

8. Insure that special items, certifications and situations that should be "databased", do indeed get entered. We hear of situations where a PHA has to appeal the same thing every year. This is another example of gross inefficiency.
9. Review the protocol scoring system to insure that the points deducted are proportional to the level of severity. In particular, please review the following:
  - Of particular contention is the change from making a unit with utilities off UNinspectable to making it INspectable. Utility companies do not always notify PHAs that they have cut off the utilities of a resident-paid-utility unit. It would be impossible for PHAs to monitor every unit constantly to make sure the utilities have not been cut off for nonpayment. If a PHA learns of such a situation, it will generally take action, including evicting the tenant, as many of them address utility cutoffs in their leases.

Where is there any fairness to penalizing the PHA for something out of its immediate control? Obviously, the true condition of the unit cannot be determined if the utilities are off. This is an extenuating circumstance and the unit should continue to be uninspectable--noted maybe--but uninspectable. An alternate unit should be selected for inspection. We fail to understand why this was changed.

- Items that are more aesthetic issues than function-related (e.g., graffiti, paint spatters on a sprinkler head, some instances of spalling) should be noted but NOT written up if they don't affect structural integrity, interfere with function or cause a health and safety threat. Common sense assessments for borderline situations need to be stressed in inspector training.
- PHAs should not be penalized for tenant-owned nonworking appliances that the PHA does not require them to have in the first place. This has nothing to do with the overall condition of "the government's asset."
- Blocked egress issues still abound. More clarification is needed because inspectors' interpretations are still all over the map.
- If a defect is easily and immediately fixable, the PHA should be permitted to fix it in the presence of the inspector and not be penalized. Again, is not the overall intent to see that the property is repaired?

While we certainly understand the need for the federal government to protect its investment in assisted housing by insuring that it is in the best possible condition, we believe the UPCS inspection process has overstepped the original intent of the statute. We can assure you that our housing authorities want to be the best that they can be within their budgetary limits and they want to receive high scores. However, the adversarial relationship that has developed between REAC and PHAs does not serve the best interest of the PHAs, the federal government or the residents.

## Exhibit A

### General Monitoring – Issue Paper 1:

1. **Issue Statement:** (What is the specific issue and related problem?)

**Make PHAS scoring similar to the one used in HUD’s Multifamily Programs.**

2. **Background:** (What is the history of the issue; has it always been an issue?)

**Unlike PHAs, Multifamily entities scoring between 31 and 60 get another opportunity for an inspection. REAC comes out to the property within 60 days. If the property has corrected its deficiencies, no further action is taken. To “level the playing field”, PHAs should be afforded the same opportunity. Also, Multifamily high performers get a three-year break on inspections. Again, to level the playing field, the same benefit should be provided to high performing PHA AMPs.**

3. **Proposal and Recommendations:**

- a. **Proposal:** LIPH should strive for a general consistency with the Department’s Multifamily regulations. PHAs should get the same opportunity to correct inspection flaws as HUD’s Multifamily Division. High performing AMPs should get a 3 year break on inspections. (See Beverly Miller’s Memo dated October 8, 2004).

- b. **Recommendations:**

- **Make conditions of the PHAS scoring the same as Multifamily.**
- **Give high-performing AMPs a three-year inspection interval.**
- **Improve the inspection protocol to eliminate point deductions for irrelevant items or things the Department should not be concerned with. Inspection standards should be based on an improved HQS and/or UPCS system. Additionally, we recommend the formation of a study group to review, analyze and develop an improved inspection system for public housing.**
- **"Annual inspections" of public housing units, systems and equipment should be considered timely if conducted at least once during each year (fiscal or calendar), but not more than eighteen months after the last annual inspection.**
- **Do not score VUTT (Vacant Unit Turnaround Time) if occupancy is high. If it is necessary to score VUTT, set the maximum at 95% (like Multi-Family) rather than the current 97% required for LIPH. (Please note – resident organizations have expressed disagreement with this.)**
- **Prevalence reports are not overly useful to PHAs. They are not timely and HUD’s limited resources may be better spent by refining the inspection reports that could be presented to the PHA immediately after the inspection. An immediate initial summary would be more beneficial.**

**It would be very helpful to have a preliminary listing of defects within 48 hours of the inspection – perhaps off the web.**

- **Bring more value to capital needs assessments so that they provide specific directions for improvement.**
- **Address all relevant discrepancies between monitoring Public Housing and Multifamily Housing. If the Department is going to an asset management model based on HUD's Multifamily Housing guidelines, then the considerations should be similar where appropriate.**
- **Overall scoring shall be limited to LIPH program only. If HUD does not fund it, HUD should not monitor/score it. Currently, PHAs are scored on initiatives that are locally funded or funded by another agency. HUD should not be involved in evaluating these initiatives and PHAs should not be penalized by HUD.**
- **No HUD intervention in respect to a specific AMP unless the entire PHA is troubled.**
- **Develop a working group of Headquarters, Field Office, industry representatives and tenant organizations to revise or create an appropriate inspection protocol that provides useful inspection data and measures the right things.**
- **Replicate the Multifamily inspection program to ensure consistency between HUD-subsidized programs.**

**4. Outcome/Results: (What are the advantages and disadvantages to this proposal)  
PHAs will be able to address their inspection flaws and problem areas more quickly.**

**5. Regulatory/Statutory Reference: (What regulations./statutes/handbooks/governance would need to be changed to implement this proposal?)**

**PHAS physical inspection requirements need to be reviewed and, where appropriate, changed to make them consistent with Beverly Miller's memo.**

**6. Stakeholder Impact: (Who is impacted +/- by the proposal?)**

- **This change would result in more fairness to PHAs and is consistent with the Department's Multifamily Program.**
- **Residents would benefit also because physical deficiencies would be addressed within 60 days.**

**7. Other Factors for Consideration: N/A**

## Exhibit B

A sampling of comments we've received from our members demonstrating inconsistencies, inequities and inefficiencies in the UPCS inspection system.

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"I ... also need relief from Southwest Housing who is doing the exact same inspections as REAC. They do it annually no matter what you score. No one gets any higher than a "standard" rating even if they have only 1 or 2 minor items that are not health and safety. The government is paying twice for the same thing. I do two inspections a year. I had a grant from the state that requires them to inspect also. With 2 inspections from me, 1 from the TDHCA, 1 from SWHCC, and 1 from REAC...those 30 apartments will have had 5 inspections this year. All I can do is apologize for the inconvenience to the residents."

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"... we at DHA have had two properties inspected this year, Forrest Green Manor and Lakeland Manor. On our previous inspections these properties scored an 80 and a 95. On the inspections performed this year the properties now scored a 47 and a 55. This disparity between scores from one inspection to the next is not unique to these two properties, it has happened at our other properties several times in the past. It is our opinion that the REAC protocol allows for too much subjective interpretation on the part of the REAC inspector."

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"... we did not win our appeal. Evidently the mail (certified, return receipt requested) takes over 10 days from Wortham to Washington so I did not meet the time schedule. I would like to know if anyone has won an appeal with them, because it seems to me they make it as difficult as possible to do so."

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"What about getting a level 3 for 1/2 of a seal missing on a maintenance shop door? Unbelievable. Thank goodness it's only every two years."

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"There also seems to be no consistency between QA reps. One will tell an inspector one thing and another will tell another inspector something totally different. It seems many of the QAs have put fear into the inspectors of being de-certified, and this is a major cause of many inspectors feeling that they can not use their professional common sense, but must record defects even if that defect does not quite reach the level of the definition."

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"...we've found that every inspector we've had has a specific thing they concentrate on and they may ignore the things a previous inspector concentrated on. I don't know if it is the company or individual inspector that puts emphasis on certain things, but I think if anyone did an experiment where they sent 4 REAC inspectors through the

same unit, one after the other, at the end they would have four totally different inspection results. In the past, we've had one inspector write us up for "missing/inoperable light fixtures" when the tenant's light bulbs were burned out and the next inspector told us we should have been given an opportunity to put a light bulb in. We've had one inspector tell us that weather stripping is not a finding unless you can see day light around the door and another write us up if it was nicked or cracked, even though there was no day light visible."

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"I was talking with (*an executive director*) and he said that they wrote him up for health and safety at one apartment where the tenant had put up no smoking signs because he was on oxygen but the tenant himself was smoking in the unit and they also wrote him up on a resident's dresser that had a broken mirror. Just doesn't seem fair."

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"I had an inspector who wrote me up for having an air conditioner in the living room window. There were four other windows in the room. He said I should cut a hole in the wall and install the a/c. So I got written up for blocked egress."

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"...He'd just stand and stare at every window to see if it moved a tiny bit. He wrote me up for erosion, when it was really a tractor tire mark on fresh dirt. He also wrote me up for a level 3 hole in the wall - it was a dryer vent."

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"There were two inspectors at the Multifamily property and it took them ten hours to inspect the property with a fifteen minute lunch break. It normally takes about five hours. The property made an 86 on the last inspection and made a 17c on the present inspection."

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"All of our units are individually metered for water, electricity, and gas utilities. ...We have no immediate control over whether or not a tenant has one of their utilities disconnected for non-payment. As soon as we are notified, a five day notice is given, and then a termination notice is given. We feel as though due to this circumstance this is a non-existent deficiency error as well as an adverse condition beyond our control..."

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"we have plumbing coming into our kitchen from the attic into a cabinet above the washing machines. There is foam insulation around the pipes and gaps around the insulation, and (this) has been (the situation) since the architect designed it that way. The pipes have frozen in the past, so the design was made to allow the hot air that rises seep into the attic to prevent freezing. We got written up for level 3 holes in the wall for every apartment although they have been this way for years and have passed several other REAC inspections and architect specifications. One resident had added some duct tape to the cabinet and this passed and was acceptable."

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"I have been a director of public housing for less than 2 years. During that time I have been through 2 REAC Inspections--because they are behind. I had an inspection in August of 2006. The report I received was OK. Maintenance corrected all the problems noted by the REAC inspector. Since REAC was behind, I had another inspection in January 2007. I have 3 complexes--The building inspector services set 3 dates for the inspection with two different inspectors. I have a total of 128 units. The first inspector did a good job. The second inspector went over everything with a magnifying glass--deducted points everywhere he could--We had been inspected only 5 months earlier and received a good score!! On top of deducting "a bunch of points" he lost information in his computer from the senior complex and had to come back in March for a reinspection."

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"At the time of inspection, our county had been in drought condition for an extended length of time. We were also in a burn ban by county order. There was extensive cracking in the ground (black gumbo) and a pile of debris (a fallen tree that we had cut and stacked neatly) that the inspector noted. I obtained from our local weather bureau...copies of three months of verified weather reports documenting no precipitation during that time. I also asked for and received a copy of the order of the County Judge defining the burn ban. The city was not able to receive any more debris as their area was full....Nonetheless, (the inspector) felt it was our fault and designated the deficiencies."

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"We were written up because the City had not done any street repairs on a City street. They said since we have units on both sides of the street, they had to write up the City street. I showed them where it belongs to the City, but they said they had to write it up and then I have to appeal it. They said it was an automatic 5 points off my score. I just wanted you to know about this because I didn't think it was fair that the HA is written up because the City does not take care of the streets."

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"In August 2005, we were inspected and because we have 2 different projects, received scores of 95 and 96. We were inspected in January 2007 and received scores of 60 and 68. I can assure you that our housing authority did not change appreciably between the two inspections....we are now looking at hiring a consultant to inspect all of the units even though our maintenance supervisor went through the inspector training...We have not hired someone out of house to do our inspections because we always had high scores on the inspections....This is the first year since the evaluation process started that we did not receive the High Achievers certification. I realize that the whole system is supposed to be rated the same but the inspectors all have a certain amount of judgment in the scoring process. This is the only way that I can account for the difference in the scoring between August 2005 and January 2007."

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"We had a resident "move in", sign a lease and we submitted 50058 to HUD a few days before the inspection, so technically the unit was occupied. There was clearly no furniture in the unit, and gas and electricity had not been connected. The resident was

finishing a job out of town and had not started to physically move in. Resident was not present to refuse the inspection. We requested that the unit be skipped, however were told it had to be inspected and I could appeal later....the entire unit was inspected according to the "list" knowing gas and electricity was required."

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AND THIS IS WHAT WE'D LIKE TO HEAR FROM EVERYONE

"... I want you to hear about the true professional inspectors.

On April 10th we had Mr. Bruce McNatt inspect our two projects. We have 40 units in one project and 10 in the other. Mr. McNatt called the day before to confirm that he would be here and he was! We were prepared for the worst, but found him to be professional in every way. He was more thorough than any inspector we have had in the last five years. The items that he found wrong were more than legitimate and he explained why the infractions were important. He was very courteous to the tenants that were home during his inspection. To sum it all up...we know we have been inspected, but we feel good about the outcome."

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