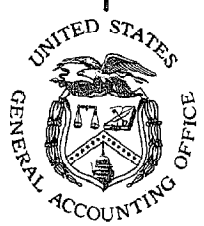


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Review Of Certain Aspects Of The
Federally Assisted
Code Enforcement Program
In Denver, Colorado B-118754

Department of Housing and Urban Development

**BY THE COMPTROLLER GENERAL
OF THE UNITED STATES**

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MAY 7, 1974



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-118754

The Honorable Patricia Schroeder
House of Representatives

Dear Ms. Schroeder:

By letters dated May 21 and June 20, 1973, you asked GAO to review certain aspects of the Department of Housing and Urban Development's (HUD's) Federally Assisted Code Enforcement (FACE) program in Denver, Colorado. The program is administered by the city's Community Development Agency (CDA). The aspects you were interested in were

- HUD and CDA procedures for handling homeowner complaints;
- HUD, CDA, and homeowner controls over contractor performance and quality of work; and
- program expenditures for public improvements, including the widening of South Lincoln Street.

You also asked for information on HUD and CDA responses to previous audits of the Denver FACE program.

As agreed with your office, we did not review and evaluate CDA's administration of the entire Denver FACE program but concentrated on the above areas of interest.

We made our review at HUD headquarters, Washington, D.C.; HUD's regional office in Denver; and CDA and other local agencies involved in the FACE program. We interviewed representatives of local citizen groups and accompanied a HUD official on inspections of houses rehabilitated under the program.

BACKGROUND

The FACE program was established by the Housing Act of 1965 (42 U.S.C. 1468) and provides Federal financial assistance to help communities enforce housing codes in areas where blighted houses and business establishments can be salvaged.

HUD gives communities funds to cover up to three-fourths of the eligible project costs, including planning and administrative expenses and costs of inspecting structures, demolishing unsound structures, and improving public facilities. In addition, HUD makes rehabilitation loans and grants to property owners to help finance repairs necessary to comply with local housing codes. HUD also makes relocation grants to property owners displaced by demolition of unsound structures.

On June 30, 1969, HUD approved an application for a FACE program in three neighborhoods in Denver. The Denver program began in September 1969; Federal participation ended on December 31, 1973 because of HUD's proposal to combine its community development programs, including the FACE program, into a single, federally assisted program of special revenue sharing for urban community development under the proposed Better Communities Act (S. 1743 and H.R. 7277) which is being considered by the Congress. As of June 30, 1973, HUD had provided \$2.7 million for project costs and \$5.6 million in rehabilitation loans and grants and relocation grants for the Denver FACE program.

PROCEDURES FOR HANDLING HOMEOWNER COMPLAINTS

CDA and city officials said that, in the program's early stages, little attention was given to establishing a system for recording, analyzing, and following up on homeowner's complaints. Many complaints were dealt with immediately by the CDA area offices and were not recorded. However, in September 1972, CDA established procedures for handling such complaints. Under these procedures, homeowner complaint records were kept at the three CDA area offices; program inspectors at these offices were responsible for investigating and disposing of the complaints.

Before September 1973, documentation of complaints was inadequate to determine (1) how complaints were resolved, (2) the current status of the complaints, or (3) whether homeowners were satisfied with the disposition of their complaints.

In September 1973, CDA revised its procedures to establish a centralized system of recording incoming complaints at the CDA central office. Under this system, complaint information is recorded, the homeowner is advised that the problem will be reviewed, and the disposition of the complaint is noted.

HUD regional office officials told us they did not keep data on homeowner complaints and had not provided CDA with formal procedures for handling such complaints. They said that it was not HUD's role to provide these formal procedures and that CDA should have taken the initiative in developing its own procedures and in taking the necessary corrective actions.

CONTROLS OVER CONTRACTOR WORK PERFORMANCE

Both CDA and homeowners had available and used certain controls to insure adequate contractor performance. CDA exercised control through its contractor selection process and inspection of contractors' work. Homeowners exercised control by terminating contracts and refusing to sign off on work done. However, homeowners did not exercise their right to assess liquidated damages as provided for in their contracts.

Despite HUD regional office officials' statement that it was not their role to direct local agency operations, HUD's Denver regional office, in August 1973, issued procedures for monitoring community development projects (including FACE) which provided for inspections of some completed projects by HUD community development representatives.

FACE EXPENDITURES FOR PUBLIC IMPROVEMENTS

Expenditures made for public improvements, including the widening of South Lincoln Street, were within the HUD criteria applicable at the time the projects were approved. Also, planned expenditures met HUD's revised criteria for spending program funds for public improvements.

PRIOR HUD AUDITS OF DENVER FACE PROGRAM

HUD's Denver Regional Audit Office issued two reports to the Regional Administrator on the Denver FACE program. The reports, dated January 28, 1971, and July 28, 1972, included findings on management problems in the program and CDA's responses to these findings. CDA took certain corrective actions, which HUD considered sufficient to insure that the problems would not reoccur.

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A more detailed discussion of the above matters is presented in the appendix.

As requested by your office, we did not give HUD or CDA officials an opportunity to formally comment on the matters discussed in this report. We have, however, discussed these matters with the officials and have included their comments where appropriate. We do not plan to distribute this report further unless you agree or publicly announce its contents.

Sincerely yours,



Comptroller General
of the United States

REVIEW OF FEDERALLY ASSISTED CODE ENFORCEMENT PROGRAM
IN DENVER, COLORADO

BACKGROUND

In 1949 the Congress established a goal to provide a decent home and suitable living environment for every American family. The Congress recognized that an important way to reach this goal was by using the preventive approach--saving houses before they deteriorate into a slum condition and promote neighborhood blight. Thus, under the Housing Act of 1954, the Congress directed that Federal housing programs include not only slum clearance and redevelopment but also conservation and rehabilitation of blighted but salvageable areas. The act called for communities to develop local action plans to stop blight.

To further emphasize the preventive approach, the Congress approved two programs under the Housing Acts of 1964 and 1965. The 1964 act provided that, to be eligible for participation in certain Department of Housing and Urban Development (HUD) programs, communities must adopt and enforce housing codes to reduce the rate of deterioration. These local code enforcement programs are financed entirely by the local communities. Under the 1965 act, Federal financial assistance was authorized for communities to help them intensively enforce housing codes in selected areas--the Federally Assisted Code Enforcement (FACE) program.

Under the FACE program, which is administered by HUD, eligible communities over 50,000 population receive two-thirds of their project costs in Federal funds; communities of 50,000 or less population receive three-fourths in Federal funds. The communities are responsible for planning and administering the projects, inspecting structures in the project area, insuring that structures are brought into compliance with local housing codes, demolishing unsound structures, and improving certain public facilities. As of June 30, 1973, HUD had approved about \$231 million as the Federal Government's share of the cost of 260 FACE projects.

In addition, the residents of approved code enforcement areas can apply for low-interest (3 percent) rehabilitation loans and grants to help them finance repairs needed to bring

properties into compliance with local housing codes. Loans and grants are authorized by section 312 of the Housing Act of 1964 (42 U.S.C. 1452b) and section 115 of the Housing Act of 1949, as amended (42 U.S.C. 1466), respectively. Relocation grants are also available to property owners displaced as a result of the demolition of unsound structures.

As of June 30, 1973, HUD had approved 18,969 rehabilitation loans totaling about \$112.5 million. The following table shows the amount of the grants approved and disbursed as of June 30, 1973.

<u>Type of assistance</u>	<u>Approved</u>	<u>Disbursed</u>
	(millions)	
Rehabilitation grants	\$ 99.7	\$66.6
Relocation grants	<u>20.5</u>	<u>5.2</u>
Total	<u>\$120.2</u>	<u>\$71.8</u>

Denver FACE program

On June 30, 1969, HUD approved an application for a FACE program in three neighborhoods in Denver. The Denver program began in September 1969; Federal participation ended on December 31, 1973 because of HUD's proposal to combine its community development programs, including the FACE program, into a single, federally assisted program of special revenue sharing for urban community development under the proposed Better Communities Act, which is being considered by the Congress. As of June 30, 1973, HUD had provided \$2.7 million for project costs and \$5.6 million in rehabilitation loans and grants and relocation grants for the Denver FACE program. The Denver program is directed by the city's Urban Resources Development Agency (URDA) through the Community Development Agency (CDA).

In 1964, Denver, under its Community Renewal Program, identified seven neighborhoods of moderately priced housing outside of the more severely deteriorated inner-city neighborhoods. Denver officials believed that public improvements and housing code enforcement could help prevent the further deterioration of these neighborhoods. Denver selected three of these neighborhoods and in February 1967 submitted an application for participation in the FACE program to HUD. HUD approved the application on June 30, 1969.

The three Denver FACE areas contained 6,465 structures; as of July 1973, program inspectors had inspected 5,906 of these structures. Owners of structures which are determined to be substandard have the option of rehabilitating the property themselves or of contracting with a CDA-approved rehabilitation contractor to do the work.

A breakdown showing the status of rehabilitation work in the three areas as of July 1973 follows.

	FACE areas			<u>Total</u>
	<u>I</u>	<u>II</u>	<u>III</u>	
Structures:				
Number inspected	3,515	1,235	1,156	5,906
Number to be inspected	<u>527</u>	<u>19</u>	<u>13</u>	<u>559</u>
Total	<u>4,042</u>	<u>1,254</u>	<u>1,169</u>	<u>6,465</u>
Results of inspections:				
Standard structures	1,094	265	312	1,671
Substandard structures	<u>2,373</u>	<u>970</u>	<u>844</u>	<u>4,187</u>
Total	^a <u>3,467</u>	<u>1,235</u>	<u>1,156</u>	^a <u>5,858</u>
Status of substandard structures:				
Rehabilitation completed	1,296	694	459	2,449
Being rehabilitated	599	198	194	991
Awaiting processing	<u>478</u>	<u>78</u>	<u>191</u>	<u>747</u>
Total	<u>2,373</u>	<u>970</u>	<u>844</u>	<u>4,187</u>
Rehabilitation completed by:				
Owner	774	434	246	1,454
FACE program	<u>522</u>	<u>260</u>	<u>213</u>	<u>995</u>
Total	<u>1,296</u>	<u>694</u>	<u>459</u>	<u>2,449</u>
Being rehabilitated by:				
Owner	584	190	174	948
FACE program	<u>15</u>	<u>8</u>	<u>20</u>	<u>43</u>
Total	<u>599</u>	<u>198</u>	<u>194</u>	<u>991</u>

a

48 inspection reports had not yet been received.

PROCEDURES FOR HANDLING HOMEOWNER COMPLAINTS

CDA and city officials said that, in the programs early stages, little attention had been given to establishing a system for recording, analyzing, and following-up on homeowner's complaints. They said that many complaints were dealt with immediately by the CDA area offices and were not recorded. In September 1972, CDA established procedures for handling homeowner complaints. Under these procedures, homeowner complaint records were kept at the three CDA area offices, and program inspectors at these offices were responsible for investigating and disposing of complaints.

Before September 1973 documentation of complaints was inadequate to determine (1) how complaints were resolved, (2) the current status of the complaints, or (3) whether homeowners were satisfied with the disposition of their complaints. Furthermore, due to the condition of the complaint records, we could not determine whether the complaints indicated any recurring administrative or management problems in the Denver FACE program.

In September 1973, CDA revised its procedures to establish a centralized system of recording incoming complaints at the CDA central office. Under this system complaint information is recorded, the homeowner is advised that the problem will be reviewed, and the disposition of the complaint is noted. CDA also developed a list based on information from the records of each of the three area offices which showed that CDA had received 190 complaints from 166 homeowners between June 1971 and October 1973. When our review work ended in November 1973, CDA was using this list to follow up on unresolved complaints. As of November 7, 1973, 104 complaints from 89 of the 166 homeowners had been resolved.

The centralized system of recording and following up on complaints should help CDA determine which complaints are significant and indicate recurring problems and should be adequate to identify areas needing management attention.

Other groups receiving homeowner complaints concerning the program were (1) the Office of the Mayor of Denver, (2) the North Denver Legal Aid Office, (3) the Denver League of Women Voters, and (4) the South Central Improvement Association.

Only the Mayor's office, however, kept a record of the complaints. All complaints submitted to the Mayor's office were turned over to URDA. As of September 1973, URDA records showed that 56 homeowners who participated in the Denver FACE program made 57 complaints through the Mayor's office.

Most of the complaints were against rehabilitation contractors and primarily concerned the quality of work and materials used. They ranged from minor complaints about missing floor tile to more serious complaints that work had to be done over. CDA and URDA had recorded a total of 247 complaints, of which 241 concerned work done by 62 contractors. The remaining six related to such matters as CDA's administration of the program. We noted that the contractor receiving the most contracts (73) also received the most complaints (28). In compiling the data on complaints, we considered as a complaint each homeowner communication recorded, without regard for the number of items cited in the complaint.

CDA and HUD comments

CDA and City officials said that, because of a HUD internal audit of the program dated July 28, 1972, and because of the increase in complaints reaching the Mayor's office in early 1972, they took corrective action in September 1972 by establishing quality control offices and recordkeeping systems at the CDA offices in the three FACE areas. During our review CDA centralized its recording of incoming complaints and began a followup procedure to insure that problems were resolved.

HUD regional office officials stated that they did not keep data on homeowner complaints and had not provided CDA with formal procedures for handling such complaints. They stated that it was not HUD's role to provide these formal procedures and that CDA should have taken the initiative in developing its own procedures and in taking the necessary corrective actions.

CONTROLS OVER CONTRACTOR WORK PERFORMANCE

Both CDA and homeowners had available and used certain controls to insure adequate contractor performance. CDA exercised control over contractors' performance through its contractor selection process and inspection of contractors'

work. Homeowners exercised control by terminating contracts and refusing to sign off on work done. However, homeowners did not exercise their right to assess liquidated damages as provided for in their contracts.

As of July 27, 1973, 1,076 contracts had been awarded to 128 contractors participating in the Denver FACE program. Final payments totaling about \$4 million had been made to 122 of these contractors for 1,056 of the contracts. Of all contractors receiving payments for completed FACE work, 91 percent received payments of less than \$100,000. The number of contracts awarded to individual contractors ranged from 1 to 73. Payments to the three contractors awarded the most contracts were \$344,655, \$267,633, and \$247,616. These contractors had been awarded 73, 69, and 67 contracts, respectively.

CDA controls over contractors

CDA officials had established a list of contractors who were interested in participating in the Denver FACE program. Each contractor was required to have a general contractor's license from the city, general liability and automobile liability insurance, job and bank references, and workmen's compensation coverage for employees. Also, CDA gathered information on prospective contractors from the Small Business Administration, the Better Business Bureau, and HUD. CDA then established a "priority list" of contractors based on the contractors' prior performance. Contractors with records of good job performance were given higher priority ratings and were selected by CDA for bidding on FACE jobs more often.

In addition, CDA kept a "hold list" of contractors and did not solicit bids from these firms. Contractors were placed on the hold list because of slow work, heavy workloads, and homeowner complaints, or because they did not want to bid on jobs during a particular period of time. These contractors were allowed to bid on jobs when such problems were resolved. As of August 15, 1973, CDA had removed 18 contractors from the priority list and had placed them on the hold list. Seven of the contractors had been removed from the priority list for slow work or late starts, two because of financial difficulties, two for poor work, one for starting work without a proceed order, one because of illness, one due to an owner termination and complaints,

and four at the contractors' requests because they did not want to do additional FACE work.

CDA and city procedures for insuring that FACE contractors are doing work in accordance with their contracts are outlined below.

1. CDA officials and inspectors make interim inspections of the work, including verification of building permits.
2. The City Building Department inspects special items (e.g., heating, plumbing, and electrical work).
3. CDA inspectors, city Department of Health and Hospitals inspectors, and city Building Department inspectors make final inspections. (Department of Health and Hospitals inspectors are responsible for determining whether properties comply with local health standards.)
4. If final inspections show no deficiencies, CDA prepares a Statement of Completion to be signed by the contractor and the homeowner. This document combines a request for final payment from the city--which holds the homeowner's loan and grant funds in escrow--with certifications that all required warranties, general and subcontractor lien waivers, and completion certificates are attached.
5. These documents are forwarded to the city auditor who satisfies himself as to the legality of the payment and draws a check in favor of both the homeowner and the contractor.

CDA and city officials generally were following these procedures.

Homeowner controls over contractors

The homeowner could exercise control over contractor performance by

- terminating his contract,
- assessing liquidated damages, and

APPENDIX

--refusing to sign the Statement of Completion and endorse the check to pay the contractor.

As of August 15, 1973, 40 homeowners had terminated contracts for various reasons, as shown below.

<u>Reason for termination</u>	<u>Number</u>
Late starts, slow work, or work not completed satisfactorily and on time	18
Financial difficulties of contractor	8
Poor work	5
Contractor illness	5
Work started without order to proceed, owner decided to do the work himself, or owner disliked contractor	4
	—
	<u>40</u>

A liquidated damages clause providing a \$10-a-day assessment by the homeowner against the contractor for not meeting established completion dates was included in each rehabilitation contract awarded under the Denver program. Because the contracts are between the homeowner and the contractor, CDA cannot assess liquidated damages but can encourage the owner to do so. However, homeowners had not assessed such damages.

A CDA official advised us that homeowners do not actually receive any money from the liquidated damages because, if a grant is involved, liquidated damages are applied to reduce the amount of the grant. If a loan is involved, the liquidated damages are applied to reduce the loan value but are not deducted until the last payments on the loan are made (usually 20 years later). The official stated that, for this reason and because homeowners fear that the contractors may not complete the job and may seek restitution through the courts, further delaying completion of the job, they do not attempt to assess liquidated damages.

CDA officials believe that the most effective homeowner control is the refusal to sign the Statement of Completion or endorse the check to pay the contractor. These officials estimated that homeowners had exercised this control in about 10 percent of the completed contracts.

Other controls

The Denver program, as of September 1970, required contractors to obtain building permits from the city for all work to be done. We looked at the files relating to 39 CDA contracts and found that a permit had been obtained for every contract except one.

HUD comments

HUD regional office personnel informed us that it was not their role to direct local agency operations and that the local agency should take the initiative in developing and using its own operational procedures. In August 1973, however, HUD's Denver regional office issued procedures for monitoring community development projects (including FACE) which provided for inspections of some completed projects by HUD community development representatives.

FACE EXPENDITURES FOR PUBLIC IMPROVEMENTS

We obtained information on CDA's expenditures and planned expenditures of Denver FACE program funds for public improvements. We also inquired as to HUD's position on the widening of South Lincoln Street which was being paid for with FACE funds. Expenditures for public improvements were within the HUD criteria applicable at the time the projects were approved. Also, planned expenditures met HUD's revised criteria for spending program funds for public improvements.

HUD approved the program's public improvement projects (including the widening of South Lincoln Street) on July 11, 1969. These projects complied with HUD procedures which stated that public improvements should be consistent with the objectives for community improvement. Public streets, except expressways, freeways, and other limited-access streets, were eligible for improvement under the FACE program in 1969.

On December 29, 1971, HUD revised its criteria for public improvements and excluded street-widening projects. On April 24, 1972, HUD again revised its criteria for public improvements to include street widening but limited the costs allowable for new construction and reconstruction of streets and related property acquisition. The revised criteria provided that public improvement costs not exceed the local share of total project costs (33-1/3 percent in Denver).

As of June 30, 1973, CDA had spent about \$1,066,000, or 26 percent of total project costs of \$4.1 million, for public improvements, including the widening of South Lincoln Street. CDA's latest approved budget, dated August 29, 1973, provided that \$1,480,000, or 27 percent of total project costs, be spent for public improvements. In September 1973, the Acting Administrator of the Denver FACE program said that he doubted that all budgeted project costs would be incurred but that no estimates had been made of how much would be incurred because of uncertainties in the FACE program and staff.

PRIOR HUD AUDITS OF THE PROGRAM

HUD 's Denver Regional Audit Office issued two reports to the Regional Administrator on the Denver FACE program. The reports, dated January 28, 1971, and July 28, 1972, included findings on management problems in the program and CDA's responses to these findings.

The 1971 report dealt with CDA problems in meeting production goals, inappropriate costs for public improvements and equipment, award of ineligible grants, and failure of inspection reports to cite code violations. CDA replied that it would revise production schedules, correct accounts to which inappropriate charges had been made, and provide new documentation on inspections of homes.

The second HUD audit report stated that a review of a sample of homes on which FACE rehabilitation work had been completed showed instances when (1) code violations had not been corrected because they were not cited during initial inspections, (2) contractors had failed to complete jobs according to their contracts, and (3) contractors had been paid for work that was unnecessary to correct cited code violations. Other findings were that CDA was continuing to lag in meeting approved production goals, had established inadequate procedures to control cash, and lacked documentation

for relocation payments and expenditures of FACE funds by Denver for work done outside the program areas.

In response, CDA, as of May 1973, had (1) established new procedures for inspections, (2) standardized work statements (the part of the rehabilitation contracts defining the work to be done), (3) established new procedures for handling cash receipts, and (4) documented CDA files to support relocation payments and FACE expenditures outside of Denver FACE program areas. HUD regional office officials stated that their primary concern with audit findings was to take action to correct the problem and to insure that it did not reoccur.

In September 1973, a GAO representative accompanied HUD regional office officials as they reinspected three homes that had been rehabilitated in the Denver FACE program areas during 1973. The reinspections were required under new HUD regional office procedures for monitoring community development projects and were for the purpose of assuring that all code violations had been cited, comparing cited violations to work statements, and checking to see that all work on the statements had been completed. The only deficiency noted by the HUD officials was that one code violation had not been cited on the original inspection report. HUD officials stated that they did not follow up on the other corrective actions cited by CDA officials in response to these audit reports.

PRIOR GAO AUDIT OF THE CODE ENFORCEMENT PROGRAM

A GAO report entitled "Enforcement of Housing Codes: How It Can Help to Achieve Nation's Housing Goal" (B-118754, June 26, 1972), resulted in several changes in HUD procedures. The report pointed out that (1) communities had not enforced housing codes effectively and HUD had given low priority to code enforcement, (2) HUD's criteria for selecting code enforcement areas were inadequate, (3) completion of projects was delayed because they were not adequately staffed and were not adequately monitored by HUD, and (4) public improvements had been overemphasized. (The Denver FACE program was not included in this review.)

In an August 1972 letter, addressed to the House Committee on Government Operations in response to our report, the Secretary of HUD commented on the accomplishments of the