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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

June 23, 2020

Ms. Louise Carroll
Commissioner
New York City Department of Housing Preservation and Development
100 Gold Street
New York, NY 10038

Re: Purchasing Practices at the Linden
Plaza Mitchell-Lama Housing
Development
Report 2019-F-50

Dear Ms. Carroll:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article III of the General Municipal Law, we have followed up on the actions taken by officials of the New York City Department of Housing Preservation and Development to implement the recommendations contained in our audit report *Purchasing Practices at the Linden Plaza Mitchell-Lama Housing Development* (Report [2017-N-5](#)).

Background, Scope, and Objective

The Mitchell-Lama Housing Program was created in 1955 to provide affordable rental and cooperative housing to middle-income families. The New York City Department of Housing Preservation and Development (HPD) is the nation's largest municipal housing preservation and development agency. Its mission is to promote the quality and affordability of New York City's housing and the strength and diversity of its many neighborhoods. HPD works to achieve this mission by preserving affordable housing and protecting tenants, developing new affordable housing, enforcing the Housing Maintenance Code, and engaging neighborhoods in planning. In New York City, there are 93 HPD-supervised Mitchell-Lama rental and limited-equity cooperative developments with approximately 47,000 total units (apartments).

Linden Plaza, a Mitchell-Lama rental development in Brooklyn, is owned by Linden Plaza Preservation, LP and managed by RY Management. It was built in 1971 and has 1,525 apartments. On June 29, 2018, management informed tenants of its intent to request HPD approval for an increase in the development's maximum permissible rents. The proposed rent increase, which would be phased in over a three-year period, is reportedly needed due to increases in payroll costs and related union benefits, insurance, security costs, and general operating and maintenance expenses, including utilities and legal fees. As of May 21, 2020, HPD had yet to approve or deny the rent increase.

Our initial audit report, issued on September 6, 2018, examined whether Linden Plaza was procuring goods, supplies, and services at competitive prices and in accordance with

applicable requirements. Our audit focused on the period January 1, 2016 through August 31, 2017.

During the initial audit, we found that the Rules of the City of New York (Rules) were limited in scope and did not encourage Linden Plaza officials to make purchases at competitive prices. The Rules did not require competitive bidding for contracts less than \$100,000 or for purchases made without a contract, regardless of dollar amount. None of the \$10.7 million in purchases made by Linden Plaza were subject to the Rules requiring competitive bidding. With limited exception, there was no documentation indicating that Linden Plaza had conducted price analyses or taken other steps to determine the reasonableness of the prices related to sampled non-contract purchases. Consequently, there is no assurance that these goods and services were procured at competitive prices.

Further, while the Rules required HPD approval for contract renewals, this approval was only obtained for one of the three contracts reviewed during our scope period. Moreover, Linden Plaza did not have sufficient documentation to support payments made to one of the vendors, as some purchase and work orders did not match the invoices and/or there was no evidence the work was completed. Finally, we found that Linden Plaza needed to strengthen its inventory system. We judgmentally selected two invoices, one for ten refrigerators and another for eight stoves, to determine whether Linden Plaza could account for these items; however, Linden Plaza officials were unable to account for any of the requested items due to poor record keeping.

The objective of our follow-up review was to assess the extent of implementation, as of May 20, 2020, of the six recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

HPD officials made some progress in addressing the problems we identified in the initial audit report; however, additional improvements are needed. Of the initial audit report's six recommendations, four were partially implemented and two were not implemented.

Follow-Up Observations

Recommendation 1

Expand requirements for bidding and/or HPD approval and ensure that the Rules are enforced.

Status – Not Implemented

Agency Action – HPD has not expanded the requirements for bidding and/or HPD approval and, in fact, has reduced its oversight. The Rules were slightly modified in September 2019, and while there was no change to bidding requirements (only contracts over \$100,000 require bidding), the Rules no longer require that contract renewals be reviewed by HPD unless the contract renewal is for an increased amount.

HPD officials stated that, going forward, they will analyze housing industry standards for competitive bidding thresholds as well as have continuing conversations with the Division of Housing and Community Renewal (DHCR), which oversees a separate portfolio of Mitchell-Lama developments, and other housing professionals. HPD officials indicated they are trying to determine how they can best balance the challenges of the day-to-day operations of large-scale affordable housing with the need to ensure the most

economical operations and, within that context, the optimum oversight controls.

We continue to recommend that HPD expand the requirements for bidding so that Linden Plaza, and all other Mitchell-Lama developments, are required to make purchases of goods and services at competitive prices.

Recommendation 2

Establish dollar thresholds above which a purchase for goods or services requires a contract.

Status – Not Implemented

Agency Action – HPD has not established dollar thresholds above which a purchase for goods or services requires a contract. Similar to Recommendation 1, HPD officials explained they plan to have conversations with DHCR and other housing management professionals to determine optimum oversight controls.

We continue to recommend that HPD establish dollar thresholds for contracts so that housing companies are unable to circumvent the Rules, which require that contracts over \$100,000 include at least three bids.

Recommendation 3

Ensure that Linden Plaza and all other HPD-supervised Mitchell-Lama developments maintain a log of contracts.

Status – Partially Implemented

Agency Action – HPD issued a directive to Mitchell-Lama managing agents in January 2019 reiterating that the Rules require managing agents to maintain a log of contracts and requiring managing agents submit a copy of the contract log for all contracts of \$40,000 or more every March and September. However, managing agents are not submitting contract logs to HPD as required. In 2019, only 8 of the 93 developments submitted contract logs for March and September. As of May 19, 2020, 22 of the 93 developments had submitted the contract log for March 2020. HPD officials indicated there was some confusion as the managing agents thought they did not have to submit a log if they did not have any changes in contracts.

According to HPD officials, they plan to provide updated guidance to managing agents to reinforce the level of record keeping they expect from managing agents to properly document the purchasing of services and materials, and will also prepare a new template for managing agents to use that captures this guidance.

In addition, HPD added a section on its administrative audit form for staff to review the log of contracts. However, staff only used this updated form and reviewed the contract log for 1 of the 13 reviews conducted between January 2019 and February 2020. HPD's administrative audits are essential in determining whether Mitchell-Lama developments are adhering to requirements.

Recommendation 4

Enhance HPD oversight so that issues similar to those identified in this audit are identified during HPD administrative audits.

Status – Partially Implemented

Agency Action – HPD has made minimal improvements in its oversight. It has not significantly enhanced its oversight so that all issues similar to those in the original audit are identified during HPD administrative audits. The only change made to the administrative audit template was adding a section to review contracts; however, it does not provide HPD staff with any information on what to review.

HPD conducted 13 administrative audits between January 2019 and February 2020. We reviewed these audits and found the following:

- The updated audit template was only used for 1 of the 13 audits.
- A sample of invoices was reviewed in only 5 of the 13 audits. At three of the five developments, the audit found invoices being paid without adequate support.
- The inventory system was reviewed in 11 of the 13 audits. At 9 of the 11 developments, the audits found the development did not have an inventory system.

HPD officials indicated they are planning to clearly define the means and methods of their administrative audits, standardize the language used in the audit materials, and document the audit steps when audits are conducted. Further, they plan to reinforce and retrain audit staff as well as management who review the audits.

Recommendation 5

Require that invoices only be paid when supported by adequate documentation.

Status – Partially Implemented

Agency Action – While HPD officials stated they retrained staff at Linden Plaza to make sure invoices have proper documentation prior to payment, they have not taken steps to address this issue at other Mitchell-Lama developments. Additionally, as discussed in Recommendation 4, at three of the five developments where HPD reviewed invoices during its administrative audit, officials found invoices being paid without adequate support. This highlights the need to prioritize issuing updated guidance and following up to ensure that invoices are only paid when supported by accurate documentation.

As discussed in Recommendation 3, HPD plans to provide updated guidance to managing agents reinforcing the level of expected record keeping.

Recommendation 6

Require Linden Plaza to establish and maintain an inventory control system to properly account for assets.

Status – Partially Implemented

Agency Action – HPD did not formally require Linden Plaza to establish and maintain an inventory control system to properly account for assets. Instead, according to HPD officials, in October 2018 they verbally directed Linden Plaza officials to improve inventory control. They also added that Linden Plaza has a new inventory system that tracks the serial numbers of refrigerators and stoves. However, HPD has not conducted

an administrative audit or any other formal review to determine if, in fact, Linden Plaza has an inventory control system that properly accounts for assets. HPD officials indicated they plan to conduct a follow-up audit following the COVID-19 pandemic, when it is safe and feasible to do so.

Major contributors to this report were Nicholas Angel, Dana Bitterman, and Urszula Boczon.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We thank the management and staff of HPD for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Aida Solomon
Audit Manager

cc: Steve Fodera, NYC HPD
Brady Hamed, Mayor's Office of Operations
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