

GAO Highlights

Highlights of [GAO-14-327](#), a report to congressional committees

Why GAO Did This Study

In 1996, Congress enacted the MHPI, which provided the Department of Defense with a variety of authorities that may be used to obtain private-sector financing and management to repair, renovate, construct, and operate military family housing. The Army has invested \$1.97 billion and the private sector has invested \$12.6 billion in the initial development of MHPI projects at 44 installations.

The Senate report accompanying a proposed version of the National Defense Authorization Act for Fiscal Year 2014 mandated GAO to examine the Army's litigation costs related to MHPI, specifically any litigation costs not accounted for during the MHPI's annual budget process. This report examines the extent to which the Army has implemented its process to manage funds for litigation not accounted for in the budget and identifies any effects that the litigation and audit costs have had on managing the MHPI projects.

To conduct its work, GAO examined the Army's process for managing litigation, interviewed Army officials, and analyzed documents to determine whether litigation and audit costs have had any effects on managing the MHPI projects.

GAO is not making recommendations in this report. DOD provided technical comments on a draft of this report, which were incorporated as appropriate.

View [GAO-14-327](#). For more information, contact Brian Lepore at (202) 512-4523 or leporeb@gao.gov.

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DEFENSE INFRASTRUCTURE

Army Has a Process to Manage Litigation Costs for the Military Housing Privatization Initiative

What GAO Found

The Army has a standard process to manage litigation costs of its Military Housing Privatization Initiative (MHPI) projects that are not accounted for in the annual budget process. Army officials indicated that there is one case between four Army MHPI projects and Pinnacle Property Management (Pinnacle) that met the dollar threshold criteria and that would have been approved through this process. However, Army officials did not use the standard process because the Army determined that it needed to limit access to Pinnacle litigation information to avoid disclosing any information material to the litigation strategy. As a result, the Army used an alternative process to review and approve litigation costs for Pinnacle that is consistent with MHPI operating agreements. Had the standard process been followed, litigation and litigation cost information would have been shared with the MHPI projects construction company, Clark Realty Capital (Clark), and four different offices within the Army. Army and Clark officials decided to use the alternative process allowed by the MHPI's operating agreements so that fewer personnel would be aware of ongoing litigation information involving Pinnacle. The alternative process allows the Army and Clark to directly approve specific actions on behalf of the MHPI project, such as approving litigation and audit expenses, and allows sharing information with only Clark and one Army office.

According to Army officials and our analysis of these four MHPI projects' accounts, Pinnacle litigation expenses have not prevented the projects from meeting their normal operating requirements, such as conducting maintenance or paying for utilities. Rents collected from these four MHPI projects funded the normal operating requirements for these projects as well as the Pinnacle litigation and audit expenses. Rents collected in excess of operating expenses normally are available for other purposes such as construction; capital, repair, and replacement of buildings; and future reinvestment. However, because litigation expenses were also paid from the rents collected at the four MHPI projects involved in the litigation, some funds have not been available for these purposes. Nevertheless, Army officials said that the Pinnacle litigation and audit costs have had no effects on the four projects' ability to move forward with construction as planned so far or to meet any scheduled capital repair projects because these projects were developed within anticipated funding levels.

The Army property-management agreements provide that the party that substantially prevails in a legal action may recoup their legal expenses. Army officials stated that they expect the MHPI projects to prevail in the litigation and recoup most, or even all, the costs of conducting the litigation.