GAO Highlights

Highlights of GAO-16-360, a report to the Chairman, Committee on the Judiciary, U.S. Senate

Why GAO Did This Study

LIHTC encourages private-equity investment in low-income housing through tax credits. The program is administered by IRS and allocating agencies, which are typically state or local housing finance agencies established to meet affordable housing needs of their jurisdictions. Allocating agency responsibilities (in Section 42 of the Internal Revenue Code and regulations of the Department of the Treasury) encompass awarding credits, assessing reasonableness of project costs, and monitoring projects. GAO was asked to review allocating agencies' oversight of LIHTC. This report reviews how allocating agencies administer the LIHTC program and identifies any oversight issues. GAO reviewed regulations and guidance for allocating agencies; analyzed 58 allocation plans (from 50 states, the District of Columbia, U.S. territories, New York City, and Chicago); performed site visits and file reviews at nine selected allocating agencies; and interviewed IRS and HUD officials.

This is a public version of a sensitive report that GAO issued in May 2016 and does not include details that IRS deemed tax law enforcement sensitive.

What GAO Recommends

GAO recommends that IRS clarify when agencies should report noncompliance and participate in the Rental Policy Working Group to assess the use of HUD's database to strengthen IRS oversight. IRS agreed it should improve its noncompliance data, but also stated that it had to consider resource constraints. HUD supported using its expertise and experience administering housing programs to improve LIHTC.

View GAO-16-360. For more information, contact Daniel Garcia-Diaz at (202) 512-8678 or garciadiazd@gao.gov.

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LOW-INCOME HOUSING TAX CREDIT

Some Agency Practices Raise Concerns and IRS Could Improve Noncompliance Reporting and Data Collection

What GAO Found

Allocating agencies that administer the Low-Income Housing Tax Credit (LIHTC) program have certain flexibilities for implementing program requirements and the agencies have done so in various ways. Although GAO found that allocating agencies generally have processes to meet requirements for allocating credits, reviewing costs, and monitoring projects, some of these practices raised concerns:

- More than half of the qualified allocation plans (developed by 58 allocating agencies) that GAO analyzed did not explicitly mention all selection criteria and preferences that Section 42 of the Internal Revenue Code requires.
- Allocating agencies notified local governments about proposed projects as required, but some also required letters of support from local governments. The Department of Housing and Urban Development (HUD) has raised fair housing concerns about this practice, saying that local support requirements (such as letters) could have a discriminatory influence on the location of affordable housing.
- Allocating agencies can increase (boost) the eligible basis used to determine allocation amounts for certain buildings at their discretion. However, they are not required to document the justification for the increases. The criteria used to award boosts varied, with some allocating agencies allowing boosts for specific types of projects and one allowing boosts for all projects in its state.

In a July 2015 report, GAO found that Internal Revenue Service (IRS) oversight of allocating agencies was minimal and recommended joint administration with HUD to more efficiently address oversight challenges. GAO's work for this review continues to show that IRS oversight remains minimal (particularly in reviewing allocation plans and practices for awarding discretionary basis boosts) and that action is still warranted to address GAO's prior recommendation. In this report, GAO also identified the following issues related to managing noncompliance information from allocating agencies:

- IRS provides discretion to allocating agencies for reporting noncompliance data, and has not provided feedback about data submissions. Consequently, allocating agencies have been inconsistently reporting these data to IRS.
- IRS has not used the information that it receives from allocating agencies to identify trends in noncompliance. GAO's analysis shows that IRS had recorded only about 2 percent of the noncompliance information it received since 2009 in its database.
- IRS has not used key information when determining whether to initiate an audit, potentially missing opportunities to initiate LIHTC-related audits.

In contrast, HUD collects and analyzes housing data, and through a Rental Policy Working Group initiative, now adds LIHTC inspection results to its database. The IRS division responsible for LIHTC was unaware of this effort and is not involved with the working group. By participating in the working group, IRS could leverage HUD data to better understand the prevalence of noncompliance in LIHTC properties and determine whether to initiate audits.