



# Housing Authority of Plainfield, Plainfield, NJ

## Public Housing Programs

**Office of Audit  
New York, NY**

**Audit Report Number: 2022-NY-1002  
March 30, 2022**



**OFFICE OF INSPECTOR GENERAL**  
U.S. Department of Housing and Urban Development

**To:** Theresa Arce, Director, Office of Public Housing, Newark Field Office, 2 FPH

**From:** //SIGNED//  
Kilah S. White  
Assistant Inspector General for Audit, GA

**Subject:** The Housing Authority of Plainfield, NJ, Did Not Always Comply With Requirements When Administering Its Public Housing Programs

Attached are the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the Housing Authority of Plainfield's administration of its public housing programs.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, appendix 8M, requires that OIG post its reports on the OIG website. Accordingly, this report will be posted at <https://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call Kimberly S. Dahl, Audit Director, at (212) 264-4174.

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## Highlights

### What We Audited and Why

We audited the Housing Authority of Plainfield, NJ's administration of its public housing programs. We selected the Authority based on a risk analysis of public housing agencies in New Jersey that considered the size of the agency, the amount of operating and capital funds received, and previous work conducted by the Office of Inspector General.

The objective of the audit was to determine whether the Authority administered its Public Housing Operating Fund and Capital Fund programs in accordance with U.S. Department of Housing and Urban Development (HUD), Federal, and Authority requirements.

## The Housing Authority of Plainfield, NJ, Did Not Always Comply With Requirements When Administering Its Public Housing Programs

### What We Found

The Authority did not always comply with Federal, HUD, State, and Authority requirements when administering its public housing programs. Specifically, the Authority (1) made an unauthorized disposition of property by entering into a long-term rooftop lease and did not properly handle nearly \$1.3 million in related proceeds and (2) did not comply with procurement requirements when purchasing \$4.1 million in goods and services. These conditions occurred because the Authority did not fully understand its relationship with HUD and requirements for property disposition, related proceeds, and procurement and because it did not have adequate controls in place. As a result, (1) HUD did not have assurance that its interest and investment were adequately protected and that \$1.3 million in rooftop lease proceeds was properly accounted for and used for planned, approved purposes, and (2) the Authority paid nearly \$2.9 million in unsupported costs and may pay an additional \$1.2 million for procurements not adequately performed and documented.

### What We Recommend

We recommend that HUD require the Authority to (1) terminate the current rooftop lease; (2) remedy the reporting and use of proceeds issues related to the nearly \$1.3 million in proceeds received under the lease; (3) repay from non-Federal funds any proceeds used for unallowable expenses; (4) obtain HUD approval of any new lease agreement; and (5) implement controls to ensure compliance with requirements for third-party agreements and that disposition proceeds are properly accounted for and used. Further, we recommend that HUD require the Authority to (1) support that nearly \$2.9 million paid for goods and services was reasonable in accordance with applicable requirements or repay from non-Federal funds any amount that it cannot support; (2) support that \$1.2 million in funds not yet spent on the contracts reviewed, along with any new procurements, would be reasonable or reallocate the funds; (3) ensure that its staff receives training on applicable requirements; and (4) improve its controls to ensure that future procurement actions comply with requirements and that prices paid for goods and services are reasonable.

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# Background and Objective

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## **Public Housing**

Public housing was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. The U.S. Department of Housing and Urban Development (HUD) administers Federal aid to local public housing agencies that manage the housing, including operating funds and capital funds. Operating funds provide annual subsidies to assist in funding operating and maintenance expenses. Capital funds provide annual formula grants for the development, financing, and modernization of public housing developments and for management improvements.

The consolidated annual contributions contract, which establishes the basic terms and conditions agencies must follow, requires that public housing agencies follow applicable requirements in the United States Housing Act of 1937 as well as regulations at Title 2 and Title 24 of the Code of Federal Regulations (CFR) and HUD-issued guidance. For example, public housing agencies must comply with property disposition requirements laid out in Section 18 of the Act, which is codified at 42 United States Code 1437p and regulations in 24 CFR part 970. They also must follow Federal cost principle and procurement requirements laid out in 2 CFR part 200. Further, public housing agencies that receive HUD assistance must maintain a declaration of trust<sup>1</sup> against all property in each development or project that benefits from the assistance.

The declaration of trust establishes that the property is to be operated as public housing in accordance with the terms and covenants of the consolidated annual contributions contract and restricts the public housing agency from transferring, conveying, assigning, leasing, mortgaging, pledging, or otherwise encumbering the property without the expressed permission of HUD. This instrument serves as a protection mechanism for HUD's interests and investments in that it allows HUD to invalidate the illegitimate conveyance or encumbrance of a property and grants HUD the authority to seize and reassign a property in the event of a substantial default.

## **Housing Authority of Plainfield, NJ**

The Housing Authority of Plainfield was established in 1950 as a governmental public corporation created under Federal and State housing laws for engaging in the development, acquisition, and administrative activities of the low-income housing program and other programs with similar objectives for low- and moderate-income families residing in Plainfield, NJ. The Authority is governed by a board of commissioners, which appoints an executive director to manage the day-to-day operations of the Authority.

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<sup>1</sup> According to Office of Public and Indian Housing (PIH) Notice 2009-28, which was indefinitely extended by PIH Notice 2011-61, the requirement for public housing agencies to ensure that a current declaration of trust is recorded against all property that has been acquired, developed, maintained, or assisted with funds from the U.S. Housing Act of 1937 is longstanding and well established by the Act, HUD regulations, and the annual contributions contract.

The Authority owns and manages two developments consisting of 353 low-income public housing units, along with a 120-unit property that was demolished in 2016 for redevelopment. Between fiscal years 2016 and 2020, it received an average of \$1.7 million in annual operating funds and nearly \$930,000 in capital funds.

Our objective was to determine whether the Authority administered its public housing programs in accordance with HUD, Federal, and Authority requirements.

# Results of Audit

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## **Finding 1: The Authority Did Not Adequately Protect HUD’s Interest and Investment in Its Property**

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The Authority did not adequately protect HUD’s interest and investment in its property. Specifically, the Authority (1) made an unauthorized disposition of property by entering into a long-term rooftop lease and (2) did not properly handle nearly \$1.3 million in related proceeds received under the lease. These conditions occurred because the Authority did not understand its legal relationship with HUD, was focused on the funds it would receive under the agreement, and did not fully understand requirements for property disposition and related proceeds. As a result, HUD did not have assurance that its interest and investment were adequately protected, property disposition requirements were followed, and nearly \$1.3 million in proceeds was properly accounted for and used for planned, approved purposes.

### **The Authority Made an Unauthorized Disposition**

The Authority made an unauthorized disposition of property by entering into a long-term rooftop lease. In November 2014, the Authority executed a 50-year rooftop lease agreement with a cell site management company without HUD’s approval and then recorded the agreement against the Authority’s project.



Pictures showing the use of a project rooftop for cell phone towers

Section 7 of the annual contributions contract prohibits public housing agencies from disposing of or encumbering public housing properties through third-party agreements without prior written approval from HUD, except for dwelling leases with eligible families for units covered by the contract and normal uses associated with the operation of the project. Regulations at 24 CFR part 970 further explain the definition of disposition of property, and Section 18 of the Act explains how the HUD Secretary can approve a request to dispose of public housing property,

other than dwelling units, if the property exceeds the needs of the project or the disposition is incidental to or does not interfere with continued operation of the project. Whether the Authority's lease required HUD approval depended on whether it was associated with the normal operation of the project for public housing purposes. In this case, the rooftop lease for cell towers was not associated with normal operations.<sup>2</sup> Accordingly, in addition to following standard requirements for all third-party agreements, the Authority needed to obtain HUD approval through the property disposition process to ensure compliance with requirements at 24 CFR Part 970. This process includes steps related to planning, resident consultation, civil rights certification, local government consultation, environmental review, valuation, and use of proceeds.

While the Authority initially requested HUD's approval in March 2014, it proceeded with the agreement after HUD rejected its request in May 2014 and September 2014 for various reasons, including that the Authority did not follow property disposition requirements and because the agreement violated sections 5 and 7 of the annual contributions contract; violated declaration of trust requirements; and did not contain a termination clause, through which the Authority can terminate the agreement. Since then, the Authority had received notice that the rooftop lease had been transferred from the original lessee to a new company. Additionally, while HUD's September 2014 rejection letter notified the Authority that its declaration of trust protecting HUD's interest had expired in 2011 and requested that the Authority submit a current declaration of trust covering all of its public housing holdings, the Authority did not record a declaration of trust for this project until May 2018 after we notified them of the issue. Therefore, the declaration of trust was not recorded in a first lien position as required before the Authority entered into the rooftop lease or when the lease was sold to a new company.

These conditions occurred because the Authority did not fully understand its legal relationship with HUD and requirements related to third-party agreements and property disposition. The Authority improperly believed that HUD's consent for the rooftop lease agreement was not necessary because HUD was not the lien holder and that it only needed to notify HUD of the transaction. Further, the Authority was focused on the nearly \$1.3 million lump-sum payment it would receive under the 50-year agreement compared to the smaller monthly payments it previously received for cell towers placed on the property's rooftop.

As a result, HUD did not have assurance that its interest and investment in the property were adequately protected, property disposition requirements were followed, and the rooftop lease was sold in compliance with requirements.

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<sup>2</sup> Notice PIH 2017-24 (HA) provides examples of third-party agreements that are related to normal uses associated with the operation of public housing and those that are not. Examples of those normal uses include agreements related to resident amenities, such as laundry rooms, resident support services, and utilities. The notice specifically cites cell tower agreements as an example of an agreement that is not related to normal uses. While this notice was issued after the Authority entered into the 50-year rooftop lease agreement, the underlying principle was included in the annual contributions contract.

### **Disposition Proceeds Were Not Properly Handled**

The Authority did not properly handle the nearly \$1.3 million lump-sum payment<sup>3</sup> received under the rooftop lease. According to regulations at 24 CFR 970.19(e) and the July 2014 Financial Data Schedule Line Definition Guide, proceeds received from the disposition of property should be reported as restricted cash and used only for planned, approved purposes. However, the Authority did not obtain approval for the use of the proceeds and deposited the funds into its general bank account, maintaining the funds as unrestricted cash. Further, instead of recognizing the income all at once, which is standard for disposition proceeds, the Authority reported the nearly \$1.3 million as unearned revenue and amortized it over 20 years. It then reported the yearly amortized funds as other income for the project and used them as operating funds.

In addition, while the Authority indicated that \$600,000 of the proceeds was used for demolition of another project for redevelopment, which HUD advised might be an eligible use of funds, and noted that it had created an intercompany loan between its projects for this purpose, it did not provide support showing these transactions and documenting all of the sources of funds used for the demolition as required by regulations at 2 CFR 200.302(b).

This condition occurred because the Authority did not fully understand requirements for property disposition and related proceeds. As a result, HUD did not have assurance that the nearly \$1.3 million was properly accounted for and used for planned, approved purposes.

### **Conclusion**

The Authority made an unauthorized disposition and did not properly handle related proceeds because it did not fully understand its legal relationship with HUD and requirements for property dispositions and related proceeds. As a result, HUD did not have assurance that its interest and investment were adequately protected, property disposition requirements were followed, and nearly \$1.3 million in proceeds was properly accounted for and used for planned, approved purposes. If the Authority terminates its current lease, restores the declaration of trust to the first priority position, and ensures that future leases are properly approved and handled, HUD will have more assurance that its interest and investment are protected.

### **Recommendations**

We recommend that the Director of HUD's Newark Office of Public Housing require the Authority to

- 1A. Terminate the current lease and pay for any fees needed to terminate the lease from non-Federal funds.
- 1B. Execute and record the release of the current lease with the third party and ensure that the declaration of trust is returned to the first priority position.

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<sup>3</sup> While the base price was \$1.3 million, it was reduced based on the monthly rent payments it received before the agreement was executed. The final amount received was \$1,278,260.

- 1C. Correct the reporting and use of proceeds received from the current lease, thereby putting \$1,278,260 to better use. This requirement includes properly recording the proceeds as restricted nonrental program income on its financial data schedule, placing any unspent funds into an account subject to a general depository agreement until spent, providing a detailed accounting of the use of the proceeds, reporting the use of any proceeds used for demolition or other expenses in a revised 5-year annual plan, and making any other updates needed to ensure that funds are properly recorded and used.
- 1D. Repay from non-Federal funds any proceeds used for unallowable expenses identified in recommendation 1C.
- 1E. Submit a Section 18 application to obtain HUD approval of any proposed new lease agreement prior to its execution, in compliance with the United States Housing Act of 1937 and 24 CFR Part 970.
- 1F. Improve controls over the proper execution and recording of all declaration of trust documents.
- 1G. Implement controls to ensure that it does not enter into future third-party agreements unless the Authority follows applicable requirements in Notice PIH 2017-24 (HA), the annual contributions contract, 24 CFR Part 970, and the United States Housing Act of 1937.
- 1H. Implement controls to ensure that future disposition proceeds are properly accounted for and used only for planned, approved purposes.

Further, we recommend that the Director of HUD's Newark Office of Public Housing

- 1I. Place the Authority onto a zero threshold review process, requiring that all draws for funds go through field office review until the Authority completes all actions needed to close recommendations 1A through 1H.
- 1J. Consider and take additional action if the Authority does not complete recommendations 1A and 1B before submitting its next annual plan, including withholding further awards for its program, conditioning future grant funds, and other remedies that may be legally available until the Authority completes recommendations 1A and 1B.
- 1K. Provide technical assistance to the Authority regarding the deficiencies identified with the rooftop lease and related proceeds, and Federal requirements for property disposition.

## **Finding 2: The Authority Did Not Comply With Applicable Procurement Requirements**

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The Authority did not always comply with Federal, State, and Authority procurement requirements when purchasing goods and services. Specifically, it did not always (1) maintain documentation detailing the significant history of procurements; (2) obtain adequate support documenting cost reasonableness; (3) obtain an adequate number of bids, proposals, or quotations; (4) properly use the time-and-materials contract type; (5) include required provisions; and (6) follow State requirements related to advertisement. These issues occurred because the Authority did not have adequate controls in place, had inexperienced staff due to staff turnover, and was not familiar with all requirements. As a result, it paid nearly \$2.9 million in unsupported costs and may pay an additional \$1.2 million for procurements not adequately performed and documented.

### **Procurements Were Not Always Adequately Performed and Documented**

The Authority did not always meet applicable requirements when procuring goods and services. We identified the following deficiencies for the 43 contracts reviewed.

<b>Deficiency</b>	<b>Number of procurements</b>
Procurement documentation not maintained	12
Inadequate support for cost reasonableness	43
Inadequate number of bids or proposals	26
Improper use of time-and-materials contract type	5
Required provisions not included	35

#### Procurement Documentation Not Maintained

The Authority did not always maintain adequate records detailing the significant history of its procurements as required by 2 CFR 200.318(i). Specifically, it did not maintain and provide procurement documentation for 12 contracts, such as documentation showing the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and basis for the contract price. For example, the files did not always contain local advertisements, all original bid or proposal submissions, letters of award recommendation, adequate insurance documentation, and a review to ensure that the vendor was not suspended or debarred.

#### Inadequate Support for Cost Reasonableness

The Authority did not support cost reasonableness in accordance with 2 CFR 200.404. Specifically, the Authority did not follow Federal and Authority procurement requirements<sup>4</sup> related to cost estimates and cost or price analyses. It did not perform a cost or price analysis for

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<sup>4</sup> Regulations at 2 CFR 200.324(a) required the Authority to perform a cost or price analysis in connection with every procurement action in excess of the Federal simplified acquisition threshold, including contract modifications, and make independent estimates before receiving bids or proposals. Further, section II.B.5 of the Authority's procurement policy required it to conduct a cost or price analysis of the responses received for all procurements. Section II.F.1 also stated that a cost or price analysis should be performed for all procurement actions, including contract modifications and change orders.

any of the 43 contracts reviewed, including its two largest contracts, which were valued at more than \$445,000 and \$698,000. Further, it obtained an independent estimate for only one contract and did not perform a cost or price analysis on the responses received, despite the final award amount's being more than 10 percent higher than the independent estimate. Authority officials indicated that they had not prepared the independent cost estimates for other contracts due to the additional cost that would be incurred.

#### Inadequate Number of Bids or Proposals

The Authority did not obtain an adequate number of bids or proposals for 26 procurements. Regulations at 2 CFR 200.320(b) state that if small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. Also, section III.D.2 of the Authority's procurement policy stated that solicitation for competitive proposals should be from an adequate number of sources but not fewer than three. However, for 26 of the contracts reviewed, the Authority received only one or two bids or proposals. For example, the Authority awarded a \$445,220 contract to a construction company to renovate kitchens after receiving only one bid in response to its advertisement. The contract amount also exceeded the "not to exceed" amount approved by the Authority's board.

#### Improper Use of Time-and-Materials Contract Type

The Authority did not properly use the time-and-materials contract type for five contracts. Regulations at 2 CFR 200.318(j) state that this contract type should be used only after a determination is made that no other contract is suitable. Further, there must be a ceiling price that the contractor exceeds at its own risk as there is no positive profit incentive for contractors to control costs or ensure labor efficiency because they are paid for the actual cost of materials and direct labor hours charged at fixed hourly rates including profit. The Authority used time-and-materials contracts for five contracts with three vendors providing electrical, plumbing, and fire protection services without documenting its justification and ensuring that the contracts contained a ceiling price.

#### Required Provisions Not Always Included

The Authority did not include all Federal provisions required by 2 CFR 200.326 and HUD for 35 contracts reviewed. According to 2 CFR 200.318(b), the Authority should maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Therefore, the Authority should include all mandatory clauses prescribed by HUD on all contracts.

#### **Other Goods and Services Were Not Properly Procured**

The Authority did not comply with State and Authority requirements when obtaining goods and services from 11 vendors through multiple purchase orders.

#### Adequate Number of Quotations Not Always Documented

Although the Authority's policy requires at least three written quotes for all small purchases over \$2,000, the Authority did not have procurement documentation for the 11 vendors. Therefore, the Authority could not support that it received an adequate number of quotations for purchases totaling \$222,785.

### State Procurement Requirements Not Always Followed

Contrary to State requirements for public advertisement to promote open and fair contract policy, the Authority obtained goods or services, for which the combined cost exceeded the bid threshold of \$17,500, for four vendors without public advertisement for bids or proposals. For example, the Authority used a vendor to replace six boilers in January 2020 and three additional boilers in March 2020. In total, the Authority paid \$30,000 without properly soliciting for this service.

### **The Authority Did Not Have Adequate Controls**

The deficiencies described above occurred because the Authority did not have controls in place to ensure that it followed all procurement requirements, including obtaining and retaining required documentation. Further, the Authority had inexperienced staff due to staff turnover, and staff members temporarily responsible for procurement were not familiar with all requirements. As a result, it paid nearly \$2.9 million in unsupported costs and may pay an additional \$1.2 million in funds not yet spent on the contracts reviewed.

### **Conclusion**

The Authority did not follow applicable procurement requirements because it did not have adequate controls in place, had inexperienced staff due to staff turnover, and was not familiar with all requirements. As a result, it paid nearly \$2.9 million in unsupported costs and may pay an additional \$1.2 million in funds not yet spent on the contracts reviewed. If the Authority improves its controls over purchases and ensures that its staff receives training on applicable requirements, it will help to ensure that future procurement actions comply with requirements and that prices paid for goods and services are reasonable.

### **Recommendations**

We recommend that the Director of HUD's Newark Office of Public Housing require the Authority to

- 2A. Support that \$2,870,374 paid for goods and services was reasonable in accordance with applicable requirements or repay its Public Housing Operating Fund or Capital Fund programs from non-Federal funds for any amount that it cannot support or that is not considered reasonable.
- 2B. Support that \$1,236,210 in funds not yet spent on the contracts reviewed, along with any new procurements, would be reasonable or reallocate the funds to ensure that they will be put to their intended use.
- 2C. Review any ongoing time-and-materials contracts and if requirements were not followed, remedy the noncompliance or reprocure the contracts to ensure compliance with HUD requirements.
- 2D. Ensure that all Authority staff members working with procurements and contract administration receive procurement training on applicable requirements, including

the requirements related to cost reasonableness, contract types, the number of bids or quotations, contract provisions, and maintaining documentation to show the history of procurements.

- 2E. Establish and implement adequate record-keeping procedures to comply with applicable procurement requirements, including a register of all contracts with key information and a checklist for each procurement action, to ensure that it completes required steps and receives all required documentation.

# Scope and Methodology

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We conducted the audit from March 2018 through June 2021, which included work performed at the Authority's office located at 510 East Front Street, Plainfield, NJ. The audit initially covered the period January 1, 2016, through December 31, 2017, but was extended to December 31, 2020, to allow us to review additional procurement actions and update our findings.

To accomplish our audit objective, we interviewed applicable HUD and Authority officials. We also reviewed

- Relevant background information;
- Applicable laws, regulations, and HUD guidance;
- The Authority's policies and procedures, 5-year and annual plans, and annual contributions contract and amendments;
- Audited financial statements and other financial reports provided by the Authority;
- The Authority's account ledger, trial balance, check registers, invoices, receipts, vouchers, bank statements, and bank reconciliations;
- Contracts, agreements, purchase orders, and related procurement files; and
- Relevant data contained in HUD's Line of Credit Control System, Financial Assessment Submission – Public Housing System, and Public and Indian Housing Information Center system.

To determine whether the Authority adequately protected HUD's interest and investment in the property, we reviewed declarations of trust recorded for the Authority as well as a 50-year rooftop lease agreement identified during our review of the Authority's financial records.

To review the Authority's procurement process, we initially requested all contracts covering the 2-year period 2016-2017. We later expanded our request to include contracts in effect in 2018, 2019, and 2020. In total, we identified 43 contracts for goods and services with 29 vendors during this 5-year period. We reviewed 100 percent of the contracts to determine whether the Authority complied with applicable procurement requirements.

Due to the extensiveness of procurement issues identified, we also reviewed the Authority's 2020 general ledger to identify vendors with which it had purchase orders totaling more than \$10,000 during the year, excluding tax, insurance, and utilities. We identified 12 vendors, with which the Authority did not have a contract in place, that had purchase orders totaling more than \$10,000 in 2020. We reviewed documentation for 100 percent of the 2020 purchase orders related to these 12 vendors to determine whether the Authority complied with applicable requirements when obtaining the goods and services. The results of our review of purchase

orders applies only to those selected for review and must not be projected to the entire population of purchase orders.

To achieve our objective, we relied in part on the Authority's computer-processed data. Although we did not perform a detailed assessment of the reliability of the data, we performed a minimal level of testing, such as comparing purchase orders and related documentation to the data for selected transactions, and found the data to be adequate for our purposes.

We determined that internal controls over compliance with laws and regulations, validity and reliability of data, and safeguarding resources were relevant to our audit objective. We assessed the relevant controls. Based on our review, we believe that the Authority did not have adequate controls to ensure that it followed applicable HUD, Federal, and Authority requirements.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

# Appendixes

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## Appendix A

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**Schedule of Questioned Costs and Funds To Be Put to Better Use**

<b>Recommendation number</b>	<b>Unsupported 1/</b>	<b>Funds to be put to better use 2/</b>
1C		\$1,278,260
2A	\$2,870,374	
2B		1,236,210
<b>Totals</b>	<b>2,870,374</b>	<b>2,514,470</b>

- 1/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.
- 2/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an OIG recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. For recommendation 1C, if the Authority corrects the reporting and use of proceeds previously received from its current lease, it will put \$1,278,260 to better use. For recommendation 2B, if the Authority can support that \$1,236,210 in funds not yet spent on the contracts reviewed, along with any new procurements, would be reasonable or reallocates the funds, it can ensure that these funds will be put to their intended use.

## Appendix B

### Auditee Comments and OIG's Evaluation

#### Ref to OIG Evaluation

#### Auditee Comments

**HOUSING AUTHORITY OF PLAINFIELD**

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March 17, 2022

**VIA E-MAIL ONLY**

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**RE: Discussion Draft Memorandum Report  
Housing Authority of Plainfield, Plainfield, NJ  
Public Housing Programs**

Dear Ms. White:

I am in receipt of the Discussion Draft Memorandum Report (the "Report") generated by the HUD Office of Inspector General ("OIG") and sent to me by Mr. Michael Zaccaria on March 4, 2022, with respect to the Public Housing Program of the Housing Authority of Plainfield (the "Authority"). I appreciate your patience as the Authority prepared this response while dealing with COVID-related staff shortages and related issues.

At the outset, let me say how grateful the Authority is for the input and guidance the HUD OIG staff has given to the Authority. We intend to use the Report and other input to improve the operations of the Authority going forward. These comments reflect our first steps in addressing the Report, showing steps already taken and to be taken in the immediate future

**Ref to OIG  
Evaluation**

**Auditee Comments**

Ms. Kilah S. White  
March 17, 2022  
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to remediate past practices shown by the Report to be deficient. We view this as a learning experience that will contribute significantly to the future of the Authority.

The Authority has reviewed the Report and has the following comments and proposed action to address the Recommendations detailed therein:

Finding 1 (Rooftop Lease)

The approach used by the Authority with respect to obtaining approvals and accounting for receipt and use of funds related to a long-term lease for use of the Richmond Towers rooftop by a third-party cell site management company was consistent with the approach used previously by the Authority with respect to the receipt of smaller monthly payments for the use of cell towers on the rooftop. The Authority now understands and acknowledges that it did not follow the required processes and procedures to obtain approval for and enter into the long-term lease. However, the Authority maintains that its' actions were taken in good faith and that any omission or error by the Authority with respect to procedure was not intentional.

As the Report itself notes, this area has been developing, with HUD guidance of this issue only available after we engaged in our transaction. Numerous of our peer authorities have struggled with this rooftop lease issue. The counter-parties for these transactions have been lax in attending to HUD requirements. Nevertheless, the obligations of the Authority were not met, and we will correct that. We very much appreciate that you will provide HUD Special Applications Center ("SAC") guidance through this process.

The Authority is prepared to take immediate action to accomplish the following:

- Terminate existing lease and execute and record the release of the same.
- Ensure that the two declarations of trust, one each for Richmond Towers and Joanne Hollis Gardens, are recorded in first priority position;
- Enter into a new agreement with the third-party entity, while obtaining all necessary HUD approvals and conforming with all applicable HUD requirements. Our understanding is that the Newark Field Office will provide the Authority with an assigned representative from the SAC to assist the Authority with obtaining retroactive Section 18 and Section 30 approvals.
- If necessary, reduce the duration of any agreement from the original 50-year term to a shorter term acceptable to HUD.

Comment 1

Comment 1

Comment 2

Comment 3

**Ref to OIG  
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**Auditee Comments**

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Comment 3

Comment 4

Comment 3

- Correct the reporting and use of proceeds from the current lease. As to the disposition of the funds received, the Authority has previously provided the amortization calculations of our fee accountant for the yearly use of a portion of these funds for AMP 3 (Richmond Towers) Operating Expenses. We can account for these expenditures if required. We have also previously provided the October 25, 2015, letter from the Newark Field Office Director at the time, which we have regarded as authorization to transfer \$600,000.00 of the funds from AMP 3 to AMP 2 (Elmwood Gardens) for the demolition of Elmwood Gardens for new development.
- Upon receipt of preliminary communications from the OIG in December 2021, the remaining funds from the lease not yet amortized, in the amount of \$230,869.29, were deposited into a restricted account pending satisfaction of all HUD requirements. It is our understanding that, if Section 18 approval had been obtained, the entire proceeds of the lease could have been expended for approved expenses immediately. Once we undertake the necessary Section 18 corrections, we are prepared to account for the use and future use of all funds from the rooftop lease.
- Improve controls over the proper execution and recording of all declaration of trust documents.
- Implement controls to ensure that future disposition proceeds are properly accounted for and used only for planned approved purposes.

Finding 2 (Procurement Remediation)

Comment 5

The Authority believes that the vast bulk of the findings concerning procurement, while significant from a procedural and policy standpoint, have not resulted in any actual negative financial impact. We believe our procurement expenditures were reasonable and, we are prepared to document that. However, the Authority understands that the solution is to take immediate steps to correct all procedures going forward.

Comment 6

The Authority requests until October 1, 2022, to prepare, get approved, and implement a completely new Procurement Policy. At the same time, the Authority will obtain the services of a Special Counsel to advise on all procurement matters. The Authority will also contract for procurement training of staff.

I believe that the steps outlined herein will address the serious concerns raised by the OIG. Pending approval by your office, the Authority is prepared to work diligently and expeditiously to implement them and to ensure that the proper systems and controls are in place going forward.

Auditee Comments

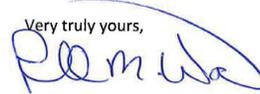
Comment 7

Ms. Kilah S. White  
March 17, 2022  
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It is the intention of the Authority to take all steps necessary to address the findings in the Report. We would respectfully request that HUD defer the imposition of a Zero Threshold so that the Authority can demonstrate that its future conduct would not require such action.

Thank you for your consideration of this proposal and I look forward to hearing from you. Please contact me at (908) 769-6335 ext. 612 if you have any questions or require any further information.

Very truly yours,



Randall M. Wood,  
Executive Director

cc: Mr. Michael Zaccaria,  
Assistant Audit Director  
- NY/NJ Region  
Office of Inspector General  
United States Department of  
Housing and Urban Development

Ms. Theresa Arce,  
Director, Office of Public Housing,  
Newark Field Office  
United States Department of  
Housing and Urban Development

Mr. Khoa Nguyen,  
General Engineer,  
United States Department of  
Housing and Urban Development

## OIG Evaluation of Auditee Comments

- Comment 1 The Authority stated that it now understands and acknowledges that it did not follow the required processes and procedures to obtain approval for and enter into the long term lease. This is responsive to our audit report and recommendations. The Authority noted that this area is developing and HUD guidance on this issue was available only after it entered into the lease. While footnote 2 acknowledged that a 2017 PIH notice discussing cell tower agreements as an example was issued after the Authority entered into the 50-year rooftop lease agreement, the underlying principle was in effect at the time the Authority entered into the lease and was included in the annual contributions contract. Additionally, the Authority received clarifying guidance in two denial letters from the HUD Newark Field Office in May and September 2014.
- Comment 2 The Authority noted that it appreciated that we would provide HUD's Special Applications Center guidance as it works to resolve our report. As discussed at the exit conference, we added recommendation 1K for HUD to provide technical assistance regarding the deficiencies identified with the rooftop lease and related proceeds, and Federal requirements for property disposition. Note that the Authority will receive this technical assistance from HUD, rather than from OIG.
- Comment 3 The Authority stated that it is prepared to take various immediate actions related to the rooftop lease, reporting and use of proceeds, and declaration of trust documents, and noted that it had placed the remaining \$230,869 not yet amortized into a restricted account pending satisfaction of all HUD requirements. The actions outlined are responsive to recommendations 1A, 1B, 1C, 1D, 1E, 1F, 1G, and 1H. As part of the normal audit resolution process, the Authority will need to work with HUD to resolve our recommendations.
- Comment 4 The Authority stated that it provided amortization calculations and an October 25, 2015, letter from the Newark Field Office Director as support for its reporting and use of proceeds. As discussed in the finding, the documentation provided showed the Authority did not comply with relevant requirements for the reporting and use of disposition proceeds.
- Comment 5 The Authority stated that while it considered the procurement findings significant from a procedural and policy standpoint, it believed it ultimately did not have a financial impact. It further stated that it believed procurement expenditures were ultimately reasonable and that it is prepared to document that. This is responsive to our audit report and recommendations, including recommendation 2A and 2B, which require the Authority to provide support for cost reasonableness. As part of the normal audit resolution process, the Authority will need to work with HUD to resolve our recommendations.

- Comment 6 The Authority stated that it will prepare and implement a new approved procurement policy while utilizing the services of a special counsel to advise on procurement matters. The Authority will also contract for procurement training for their staff. This is responsive to our recommendations. As part of the normal audit resolution process, the Authority will need to work with HUD to resolve our recommendations.
- Comment 7 The Authority requested that HUD defer the imposition of the zero threshold. As part of the audit resolution process, the Authority will need to work with HUD regarding the determination of a zero threshold.