



Chelsea, MA, Housing Authority

Review of Cost Allocation and Reasonableness of Salaries



Issue Date: April 30, 2014

Audit Report Number: 2014-BO-1002

TO: Robert P. Cwieka,
Acting Director, Office of Public and Indian Housing, 1APH

FROM: //SIGNED//
Edgar Moore
Regional Inspector General for Audit, Boston Region, 1AGA

SUBJECT: Chelsea, MA, Housing Authority, Review of Cost Allocations and Reasonableness of Salaries

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), final results of our review of the Chelsea Housing Authority regarding its cost allocations, and reasonableness of salaries.

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, section 8M, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 212-264-4174.



April 30, 2014

Chelsea, MA, Housing Authority, Review of Cost Allocations and Reasonableness of Salaries.

Highlights

Audit Report 2014-BO-1002

What We Audited and Why

We audited the Chelsea, MA, Housing Authority based on a request from the U.S. Department of Housing and Urban Development (HUD), Boston Office of Public and Indian Housing, which was concerned about financial controls at the Authority. Our audit objectives were to determine whether Authority officials properly implemented financial controls over the allocation of costs, and reasonableness of salaries.

What We Recommend

We recommend that the Director of HUD's Boston Office of Public and Indian Housing instruct Authority officials to develop an acceptable methodology to correctly allocate the 2010, 2011 and 2012 expenditures; allocate the more than \$9.4 million in expenses to the benefiting programs; repay any ineligible, unsupported, and unreasonable expenses to the appropriate Federal programs; and implement a policy to annually review the cost allocation plan with the Authority's board of commissioners. In addition, reimburse its programs \$697,471 for unreasonable salary expenditures; examine its job descriptions to ensure that each job description reflects all of the work that each employee performs; define a pay scale for each job; ensure that each employee has a signed and dated job description; and update these job descriptions regularly.

What We Found

Authority officials did not design their cost allocation plans appropriately and did not assign expenses properly. This condition occurred because former Authority officials used inappropriate cost categories, made the plans unnecessarily complex, and did not consistently apply expenses in accordance with the plans. As a result, the improper allocations obscured the true cost of the Authority's programs, and decision makers did not have proper financial information. Additionally, Authority officials could not assure HUD and other regulatory agencies that \$6.7 million in salaries and \$2.7 million in expenses were appropriately assigned to the programs that benefited from those expenses.

The Authority also paid unreasonable wages of \$697,471. These higher wages stemmed from the absence of wage rate ceilings, officials' misunderstanding of State wage rate requirements, and the former board of commissioners' approving the former executive director's high salary. Therefore, these funds were not available to further the objectives of the Authority's programs.

TABLE OF CONTENTS

Background and Objectives	3
Results of Audit	
Finding 1: Authority Officials Did Not Properly Allocate Expenses to the Programs Benefiting From Those Expenses	5
Finding 2: The Authority Paid Unreasonable Wages	8
Scope and Methodology	13
Internal Controls	15
Appendixes	
A. Schedule of Questioned Costs and Funds To Be Put to Better Use	17
B. Salaries at the Authority Compared With the Mean Average Salary for That Position in the Boston Metropolitan Area	18
C. Auditee Comments and OIG's Evaluation	19

BACKGROUND AND OBJECTIVES

The United States Housing Act of 1937 established the Federal framework for local government-owned affordable housing. The United States Congress established public housing to promote the general welfare of the United States by assisting cities, such as Chelsea, MA, in providing decent and safe dwellings for low-income families. The U.S. Department of Housing and Urban Development (HUD) disperses operating subsidies and capital funds to public housing agencies under annual contributions contracts to provide funding for housing assistance for eligible low-income families. The Act was amended by the Quality Housing and Work Responsibility Act of 1998 to create the Housing Choice Voucher program. HUD provides funding to the Chelsea Housing Authority, which, in turn, pays subsidies directly to housing owners on behalf of assisted families.

Under the American Recovery and Reinvestment Act of 2009¹, Congress made available additional funding to carry out capital and management activities for public housing agencies such as the Authority. This law included formula grants awarded by the HUD Secretary and competitive grants for priority investments. It specifically stated that funding provided under this heading could not be used for operating or rental assistance activities. HUD provided the Authority with both formula and competitive grants under the Public Housing Capital Fund provisions of the Recovery Act. HUD provided \$1.1 million through a 2009 ARRA Capital Fund Formula Grant and \$445 thousand through a 2009 ARRA Capital Fund Competitive Grant.

Between 2010 and 2012, HUD provided more than \$25.3 million in funding to the Authority through five programs.

	Program	2010	2011	2012	Total
1	Housing Choice Voucher program	\$5,717,519	\$5,921,427	\$5,562,993	\$17,201,939
2	Low-income operating subsidies	\$1,880,732	\$1,793,617	\$1,819,491	\$5,493,840
3	Public Housing Capital Fund	\$861,837	\$716,082	\$659,677	\$2,237,596
4	Resident Opportunities and Self-Sufficiency grants	\$240,000	\$ -	\$69,000	\$309,000
5	Family Self-Sufficiency Service Coordinator	\$32,779	\$32,779	\$64,909	\$130,467
	Totals	\$8,732,867	\$8,463,905	\$8,176,070	\$25,372,842

¹ Public Law 111-5, the American Recovery and Reinvestment Act of 2009

The Authority is an autonomous local government subdivision, which owns, manages, and maintains subsidized public housing developments and subsidized leased housing programs within Chelsea, MA. In addition to the Federal funding from HUD, the Authority received funding from the Commonwealth of Massachusetts (State). It administers Federal public housing, State public housing, the Federal Housing Choice Voucher program, the Massachusetts Rental Voucher Program, a Federal Public Housing Capital Fund program, a State modernization grant, and four Federal grants. The Authority is overseen by a five-member board of commissioners and an executive director, who is responsible for the Authority's day-to-day operations.

The prior executive director announced his retirement in September 2011, stating that his ending date would be February 10, 2012. The former board of commissioners immediately began a search for a new executive director. The board hired a new executive director in November 2011; however, he was to start on January 1, 2012. The former executive director abruptly retired in November 2011, concurrent with a media outcry about his excessive salary. The entire board of commissioners also resigned in November and December 2011. The State forced the Authority into receivership in November 2011. The receiver began working at the Authority in November 2011. New commissioners were brought on board in March 2012, with the first meeting of the new board of commissioners in March 2012. In July 2012 the Authority hired a new fee accountant and along with the new board began implementing new policies and controls.

On February 19, 2013, the former executive director pled guilty to four counts of falsifying a record within the jurisdiction of a Federal agency. On July 18, 2013, the former executive director was sentenced to 36 months in prison, followed by 2 years of supervised release. He was also fined \$4,000. On October 30, 2013, the former executive director was indicted² on different charges for allegedly impeding Federal inspections to ensure that public housing units at the Chelsea Housing Authority would pass.

The objectives of the audit were to determine whether Authority officials properly implemented financial controls over the allocation of costs, and reasonableness of salaries.

² The court case for this indictment is working through the court system and the final outcome of this has not been determined at the date of this report.

RESULTS OF AUDIT

Finding 1: Authority Officials Did Not Properly Allocate Expenses to the Programs Benefiting From Those Expenses

Authority officials did not properly assign expenses to the benefiting programs. These deficiencies occurred because the Authority's cost allocation plans were not designed appropriately, cost allocation plans were not updated when the Authority accepted new grants or when existing grants ended, and the Authority did not allocate expenses in accordance with its plans. As a result, the improper allocation of expenses obscured the true cost of the Authority's programs, and HUD and Authority officials did not have proper information to make informed decisions. Additionally, Authority officials could not assure HUD that more than \$9.4 million³ in expenses was appropriately assigned to the programs that benefited from those expenses on a reasonable and consistent basis.

Centralized Expenses Should Be Assigned to the Benefiting Programs

Cost allocation is a process whereby centralized expenses can be identified and assigned to the activities that benefit from these expenses on a reasonable and consistent basis. All data used to distribute the costs included in the cost allocation plan should be backed by records that support the propriety of the costs assigned to Federal awards. Housing authority activities include programs and grants. During the 3-year audit period, the Authority operated a federally funded low-income housing program, a Federal Public Housing Capital Fund program, a Housing Choice Voucher program, a State low-income program, a Massachusetts Rental Voucher Program, a State modernization program, and five grants⁴.

Each year, Authority officials developed a different cost allocation plan at the beginning of that fiscal year to assign expenses to the programs and grants. Each of these allocation plans for the Authority's 11 programs and grants included 18 separate methodologies. Each methodology had a basis. Different methodologies used different bases including the number of units, time, or bedroom size. Different methodologies for the same fiscal year using bedrooms as a basis would list different quantities of bedrooms. These methodologies were overly complex and not appropriate. Authority officials allocated approximately \$9.4 million in

³ This \$9.4 million consists of \$6.7 million in salaries and \$2.7 million in administrative expenses that the Authority reported to HUD through financial statements.

⁴ The Authority received four types of Federal grants and one type of State grant.

expenses and salaries during the audit period. We reviewed a sample of 188 expenses totaling \$886,572 of more than \$6.5 million⁵ in expenses. In 75 percent of the sample (141 expenses), the actual allocation did not match the planned allocation. For 55 of the 188 expenses, the invoices did not provide sufficient information to determine whether the allocation was proper. Additionally, the Authority could not support how it allocated more than \$6.7 million in salaries for 2010, 2011, and 2012.

Allocation Plans Were Not Properly Designed, Updated, Used, or Supported

Each year, Authority officials developed an allocation plan that did not adequately allocate costs to all programs impacted. For example, Authority officials did not allocate certain types of expenses to a State program, the Massachusetts Rental Voucher program, although this program benefited from these expenses. Additionally, the Authority treated the accounts of Federal security or payments in lieu of taxes (PILOT) as separate programs and allocated expenses to these accounts. It also inappropriately treated portability, which it called mobility, as a separate program. Portability is a part of the Housing Choice Voucher program. In addition, as new grants were accepted or removed from the Authority's portfolio, the Authority did not adjust its allocation plans for these changes. We also were not able to trace the allocation of expenses to the methodologies listed in the allocation plans. Therefore, the plans were not consistently used. Creating these artificial cost centers for security, PILOT, and mobility artificially lowered the amount of expenses allocated to the Authority's remaining programs and obscured the true cost of all of the Authority's programs.

Conclusion

Authority officials could not assure HUD that the approximately \$9.4 million in expenses was appropriately assigned to the programs that benefited from those expenses on a reasonable and consistent basis. We attribute this deficiency to Authority officials' improper development of allocation plans and not properly updating, using, or supporting their allocations.

⁵ This \$6.5 million is the total of the categories labeled as administrative expenses on the Authority's cost allocation plans. The cost allocation plans mislabeled some expenses as administrative expenses.

Recommendations

We recommend that the Director of HUD's Boston Office of Public and Indian Housing instruct Authority officials to

- 1A. Develop an acceptable methodology to correctly allocate the 2010, 2011, and 2012 expenditures to ensure that expenses are properly assigned to the appropriate programs benefiting from those expenditures.
- 1B. Using the allocation method approved by HUD, allocate the \$8,770,274⁶ in expenses to the benefiting programs
- 1C. After implementing the HUD-approved allocation method, repay any ineligible, unsupported, and unreasonable expenditure to the appropriate Federal programs from non-Federal funds.
- 1D. Implement a policy to annually review the cost allocation with the Authority's board of commissioners and have the board certify that the plan is in accordance with HUD regulations. A resolution should also be filed when the board approves the cost allocation plan.

⁶ The total of expenses paid in 2010, 2011, and 2012 was \$9,467,745, but the salary amount in finding 2 includes \$697,471 of this amount in unreasonable salaries. Therefore, we reduced the amount cited in this recommendation.

Finding 2: The Authority Paid Unreasonable Wages

The Authority paid unreasonable wages to its employees. Specifically, Authority officials paid wages that were higher than the mean wages for similar positions in the Boston metropolitan area. This condition occurred because retroactive increases to employee contracts were allowed and job titles and pay did not correlate to the job duties for those positions. We also attribute these higher wages to several factors, including the absence of wage rate ceilings and Authority officials' misunderstanding of State wage rate requirements. As a result, \$697,471 in Authority funds was not available to further the Authority's programs.

Authority Officials Paid Wages That Were Higher Than Local Area Wages

The wages in question were provided to the Authority's employees during 2010, 2011, and 2012. Federal regulations require compensation to be reasonable⁷. Compensation for employees engaged in work on Federal programs is reasonable when that compensation is consistent with the wage rates paid in the local labor market. To identify reasonable wage rates in the local labor market, we obtained the mean annual wage rates compiled by the Bureau of Labor Statistics⁸ for the Boston-Cambridge-Quincy metropolitan statistical area for each job description at the Authority. These data showed the wages paid in the Authority's local labor market by job title. We compared the wages paid by the Authority with the mean annual wages, and found that the Authority paid select employees' wages that were more than \$10,000 per year higher than the mean annual wages paid that year for the same type of work. Appendix B details the differences.

We considered unreasonable wages to be the amount that the Authority paid to its employees that exceeded the mean annual wage for that same type of position in the Boston metropolitan area. In this case, we calculated that \$697,471 in wages paid was unreasonable. In addition to being unreasonable, some of these salaries were questioned further as discussed in the following sections.

⁷ Office of Management and Budget (OMB) Circular A-87, codified at 2 CFR (Code of Federal Regulations) Part 225, Cost Principles for State, Local, and Indian Tribal Governments; Attachment B, Selected Items of Costs; paragraph 8, Compensation for personnel services.

⁸ The Bureau of Labor Statistics of the U.S. Department of Labor is the principal Federal agency responsible for measuring labor market activity, working conditions, and price changes in the economy. This agency produces employment and wage estimates annually for more than 800 occupations. This information is publicly available. The Bureau of Labor statistics updated its data each May in 2010, 2011, and 2012.

The Board of Commissioners Approved High Wages for the Executive Director

A majority of the unreasonable wages identified were paid to the former executive director. He received \$546,154 in wages, which exceeded the mean annual wages for all chief executives in the Boston metropolitan area.

Wages	2010	2011	Total
Former executive director	\$337,276	\$424,938	\$762,214
Mean annual	\$106,620	\$109,440	\$216,060
Unreasonable	\$230,656	\$315,498	\$546,154

Authority officials signed a new contract with the former executive director in 2006. On June 10, 2009, the former chairman of the board, with buy-in from the former executive director, retroactively amended this contract to change the term from a term ending January 1, 2013, to a term ending January 31, 2014; increase the salary beginning January 1, 2009, by 3 percent over the 2008 salary; and increase the salary beginning January 1, 2010, by 3 percent over the 2009 salary. The 2009 contractual salary was \$267,199 before the 2009 amendment. With the retroactive 3 percent increase, the 2009 salary became \$275,215. That amendment provided another 3 percent increase for 2010, which increased the contractual salary to \$283,471. Each of these contracts and each retroactive amendment to the contracts were signed by at least one member of the board of commissioners, usually the chairman.

The Authority reported to the Internal Revenue Service that the former executive director received \$337,276 in 2010 and \$424,938 in 2011. The paychecks did not differentiate payments for the retroactive increases from the payments for the current year's salary. Thus, not only did the former executive director receive payments that exceeded the mean annual wages for all chief executives in the Boston metropolitan area, his wages also exceeded the salary amounts under his contracts. As a result, we considered this salary to be unreasonable.

It should be noted that the former executive director retired from the Authority abruptly in November 2011. In addition, the former chairman and entire board of commissioners resigned in November and December 2011.

Job Titles Did Not Correlate to Job Duties

The Authority had job descriptions for each employee that identified the job's title and the duties associated with that job. The Bureau of Labor Statistics classifies each job into a specific classification, which includes a description of that job's

duties. When we compared the Authority's job descriptions with the Bureau of Labor Statistics classifications, we found that the Authority's job titles did not correlate to the duties that the employees performed. For example, one position was titled assistant executive director of public housing; however, the job description better matched the duties of a property real estate manager than those of the executive categories. The Authority had 7 assistant executive directors and 1 executive director for 41 employees in 2010 and 43 employees in 2011. Another position was titled senior accountant, while the associated job description better matched the duties of bookkeeper than those of accountant. As part of their 2012 reorganization, Authority officials reexamined and updated job descriptions and eliminated a number of higher level positions. However, this issue persisted after the Authority updated its job descriptions. To avoid a recurrence of this issue, Authority officials should have each supervisor and employee go through each employee's job description periodically to ensure that it is complete and up to date.

Other Factors Contributed to the Higher Wages

Other factors contributed to the higher wages, including the absence of wage ceilings for individual jobs and a misunderstanding of State requirements that established minimum wage rates. The Authority had two unions: Firemen & Oilers and Service Employees International Union, a division of Teamsters. Each union had a separate contract with the Authority. Neither of these union contracts had wage ceilings on individual jobs; therefore, incremental increases to union members' salaries contributed to raising the Authority's total salaries. The contract between the Authority and Service Employees International Union provided for 2.5 percent increases each year over the wages from appendix A of the contract. However, Authority officials were not able to provide appendix A for review.

The State published minimum wage rates for specific types of jobs, including carpenters, custodians, electricians, groundskeepers, mechanics, painters, and plumbers. All of the Authority employees enrolled in the Firemen & Oilers Union were in one of these positions. As required by their contract with the Firemen & Oilers union, Authority officials used these State wage rates to determine compensation for all employees in these positions. The 2011 State wage rates for some positions were lower than the 2010 rates that the Authority paid for the same positions; however the contract between Firemen & Oilers and the Authority also included a provision that an employee's compensation will not be reduced if the current year's State wage rate is lower than the previous year's rate.

These State wage rates also exceeded the mean annual wages published by the Bureau of Labor Statistics. Authority officials believed that these State wage

rates were the minimum wages required by law⁹. However, State law provides that the rates apply to State-funded projects but do not apply to federally funded projects. The Authority paid all of its employees in these classifications using the State wage rates. The Authority then allocated these employees' salaries to both the Federal projects and the State projects.

These State laws also required that payments by employers to health and welfare plans, pension plans, and supplementary unemployment benefit plans under collective bargaining agreements or understandings between organized labor and employers be included in the total wage amount for the purpose of establishing the minimum wage rates¹⁰. However, the Authority compensated its employees at the State wage rate and provided employee benefits separately, further increasing the compensation paid. Authority officials stated that they were not aware that the wage rate schedule did not apply to federally aided projects or that the State rates included benefits.

The Authority Experienced Staffing Changes

In November and December 2011, the former executive director abruptly retired from the Authority, and the entire former board of commissioners resigned after selecting a new executive director. The departure of the former executive director reduced the amount of unreasonable salaries paid by the Authority. In November 2011, the State appointed a receiver, who began work at the Authority in January 2012 and oversaw operations until a new board was put in place. The new board of commissioners was in place in March 2012. In the spring of 2012, the Authority was reorganized, and a number of personnel were dismissed. Some of these personnel received salaries that were higher than the mean annual wages for their job descriptions. This process reduced but did not eliminate the quantity of unreasonable salaries paid by the Authority. Appendix B identifies instances in which the Authority paid wages that were more than \$10,000 per year higher than the mean annual wages paid that year for the same type of work.

Conclusion

The Authority paid unreasonable wages of \$697,471 to employees in 2010, 2011, and 2012. Several factors contributed to the higher wages, including the absence of wage rate ceilings, a misunderstanding of State wage rate requirements, a mismatch between job titles and job duties, and the former board of commissioners' inappropriate approval of high wages for the former executive director. As a result, these funds were not available to further the Authority's programs.

⁹ This provision is in Massachusetts General Law, chapter 121B, section 29.

¹⁰ This provision is in Massachusetts General Law, chapter 149, section 26. Massachusetts General Law, chapter 121B, section 29, states that chapter 149, section 26, also applies to these wage rates.

Recommendations

We recommend that the Director of HUD's Boston Office of Public and Indian Housing require Authority officials to

- 2A. Reimburse the Authority's programs from non-Federal funds for more than \$697,471 in unreasonable salary expenditures¹¹.
- 2B. Examine and update, when necessary, job descriptions to ensure that they reflect all of the work that each employee performs and any specialty licenses required or recommended for an employee.
- 2C. Define a pay scale for each job description that includes a defined upper limit or wage ceiling.
- 2D. Ensure that each employee has a job description signed and dated by the employee and his or her direct supervisor. These job descriptions and signatures should be updated periodically as duties and responsibilities change.

¹¹ Recommendation 1B and 2A are linked.

SCOPE AND METHODOLOGY

We conducted the audit between January and September 2013. Our fieldwork was completed at the Authority's main office located at 54 Locke Street, Chelsea, MA. The audit generally covered the period January 1, 2010, to December 31, 2012, and was extended when necessary to meet our objectives. To accomplish our audit objectives, we

- Reviewed applicable laws, regulations, HUD handbooks and guidebooks, HUD public housing notices, annual contributions contracts, and the Authority's policies and procedures.
- Conducted discussions with Authority officials to gain an understanding of the Authority's operations, financial structure, cost allocation, internal controls, and job descriptions.
- Reviewed independent public auditors' reports as part of our testing for control weaknesses.
- Reviewed recent Real Estate Assessment Center inspections and walked through the projects on February 19, 2013, to determine the general physical condition of the Federal properties.
- Evaluated internal controls and conducted sufficient tests to determine whether the controls functioned as intended. This process included obtaining an understanding of the computer systems used at the Authority and the controls used to ensure the accuracy of the data. Our assessment of the reliability of the computer system was limited to the data sampled; therefore, we did not rely solely on the computerized data; instead, we performed a minimal level of testing and found the data to be adequate for our purposes.
- Reviewed Authority board minutes and media articles about the Authority to identify information relevant to the Authority's programs and personnel.
- Selected and reviewed a sample of expenditures to determine whether they were properly allocated to programs. We selected a sample of 188 expenses for review. The 188 expenses totaled \$886,572 of more than \$6.5 million in expenses paid by the Authority between January 1, 2010, and December 31, 2012.
- Reviewed job descriptions, employment contracts, Bureau of Labor Statistics mean annual wages for the Boston metropolitan area, employee timesheets, overtime requests, and weekly time reports to determine the reasonableness of salaries.
- Examined bank statements and general depository agreements to determine the propriety of banking fees.

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 objectives.

INTERNAL CONTROLS

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations, as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objectives:

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Reliability of data – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.
- Laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.
- Safeguarding of resources – Policies and procedures that management has implemented to reasonably ensure that resources are safeguarded against waste, loss, and misuse.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiencies

Based on our review, we believe that the following items are significant deficiencies:

- The Authority did not have adequate controls over program operations, relevance of information, and compliance with laws and regulations as officials did not design cost allocation plans to only include appropriate categories that would ensure that expenses were properly allocated to the programs benefiting from the expenses (see finding 1).
- The Authority did not have adequate controls to safeguard assets and resources as officials did not properly allocate administrative expenses and paid unreasonable wages (see findings 1 and 2).

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS AND FUNDS TO BE PUT TO BETTER USE

Recommendation number	Unsupported <u>1/</u>	Unreasonable or unnecessary <u>2/</u>
1B	\$8,770,274 ¹²	
2A		\$697,471

- 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/ Unreasonable or unnecessary costs are those costs not generally recognized as ordinary, prudent, relevant, or necessary within established practices. Unreasonable costs exceed the costs that would be incurred by a prudent person in conducting a competitive business.

¹² This figure is net of the \$9,467,745 in expenses minus the \$697,471 in unreasonable salaries in recommendation 2A.

Appendix B

SALARIES AT THE AUTHORITY COMPARED WITH THE MEAN AVERAGE SALARY FOR THAT POSITION IN THE BOSTON METROPOLITAN AREA

Employee	2010 wages	2010 mean annual - reasonable wage for that type of job	Unreasonable difference
24	\$ 337,276	\$106,620	\$230,656
35	\$ 90,524	\$ 62,540	\$ 27,984
25	\$ 56,107	\$ 36,470	\$ 19,637
26	\$ 58,698	\$ 44,860	\$ 13,838
3	\$ 82,707	\$ 72,200	\$ 10,507
17	\$ 65,614	\$ 55,480	\$ 10,134
Subtotal	\$ 690,926	\$378,170	\$312,756

Employee	2011 wages	2011 mean annual - reasonable wage for that type of job	Unreasonable
24	\$424,938	\$109,440	\$315,498
35	\$ 91,588	\$ 64,570	\$ 27,018
25	\$ 57,000	\$ 36,120	\$ 20,880
3	\$ 84,755	\$ 74,270	\$ 10,485
Subtotal	\$ 658,281	\$284,400	\$373,881


Employee	2012 wages	2012 mean annual - reasonable wage for that type of job	Unreasonable
6	\$ 48,034	\$37,200	\$ 10,834
Subtotal	\$ 48,034	\$37,200	\$ 10,834
		Grand total	\$697,471

Appendix C

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments


54 LOCKE STREET CHELSEA, MASSACHUSETTS 02150
PHONE: (617) 884-5617 FAX: (617) 889-8158 TDD: (617) 884-0586

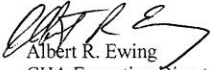
March 27, 2014

Mr. Edgar Moore
Regional Inspector General for Audit
U.S. Department of HUD –Office of Inspector General for Audit
26 Federal Plaza, Room 3430
New York, NY, 10278-0068

Dear Mr. Moore:

Attached please find the Chelsea Housing Authority's written comments regarding the HUD OIG draft report.

We appreciate the opportunity to provide you additional information on the three findings and look forward to working with you and the HUD Boston Field Office in resolving any outstanding issues.

Sincerely,

Albert R. Ewing
CHA Executive Director

Ref to OIG Evaluation

Auditee Comments

APPENDIX C

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

Comment 1

Comment 1:

1A. The CHA agrees to work with the Boston Office of Public and Indian Housing (Boston Field Office) and the State Department of Housing and Community Development (DHCD) to review allocations of the prior administration and, if necessary, develop a methodology to allocate the 2010, 2011, and 2012 expenditures acceptable to HUD, DHCD and CHA.

Comment 2

1A. The CHA has developed with the agreement of the Boston Field Office and DHCD an acceptable methodology to allocate 2013 and 2014 expenditures. Therefore, any reference to future expenditures should be removed from the recommendations.

Comment 3

1B. The CHA agrees, once a mutually acceptable methodology is agreed to by HUD, DHCD and the CHA, to allocate at a macro-level the 2010, 2011, and 2012 expenditures to the benefiting programs. However, OIG first needs to identify to the CHA what the composition of the \$2.7 million administrative expenses are by category.

Comment 4

1C. Once the mutually agreeable methodology is established, the CHA agrees to discuss with the Boston Office an action plan for the equitable treatment of any ineligible, unsupported and unreasonable expenditures to the appropriate CHA programs.

1D. The CHA Board of Commissioners has approved and certified the cost allocation plans for 2013 and 2014 in accordance with HUD regulations. Resolutions have been approved by the Board of Commissioners for 2013 and 2014. Therefore, the recommendation was completed prior to the OIG Audit process and should be removed from the report as a recommendation.

Comment 5

Comment 2:

2A. Former Executive Director Salary

The CHA agrees that the former Executive Director was grossly overpaid for most years of his tenure. Of the \$697,471 that the OIG found to be unreasonable salary expenditures,

Ref to OIG Evaluation

Auditee Comments

Comment 5

\$441,384 was paid to the former Executive Director in excess of the amount (\$160,415) included in the approved budgets submitted to DHCD. The \$424,938 paid in 2011 also includes \$136,114 payment owed under the Law for accrued vacation. The vacation payment was also inflated by \$70,869 because it was based on the grossly inflated hourly wage (\$171.61 vs. \$82.26). While the CHA Board does not agree that the \$160,415 was an appropriate amount of compensation for its former Executive Director, it is the amount that was approved by DHCD and has been used as the basis for calculating the amount of misappropriation in the pending litigation and request for reimbursement from the Chelsea Retirement Board from the former Executive Director's retirement accounts. (See attached CHA Chart of Unreasonable Salaries). Further, the reasonable mean salary used by OIG is lower than the mean annual salaries approved for similar sized Housing Authorities by DHCD. (See Attached DHCD Salary Survey). Again, while the CHA does not agree with nor condone the grossly excessive salary paid to its former Executive Director, if the calculus used in determining the 'unreasonable difference' is also inflated by using a lower amount than approved (the mean annual wages for chief executives in the Boston Metropolitan area) then the CHA is being penalized by having to pay twice for the same gross misappropriation (i.e. first in the excessive payment to the former Executive Director and again in a greater repayment to HUD).

State Wage Rates Requirements

The CHA disagrees with the OIG finding that the part of the unreasonable wages paid stemmed from the absence of wage rate ceilings or from any misunderstanding of State wage rate requirements for CHA positions included in M.G.L. c. 121B, section 29. The OIG analysis of the State wage rates required by M.G.L. c.149, section 26 does not take into consideration that when the State Department of Labor Standards (DLS) establishes the minimum base hourly rate for positions covered that DLS does not include the payment for fringe benefits (i.e. health and welfare, and pension payments) in the wage rate. (See attached March 20, 2014 Letter from DLS General Counsel Jean Zeiler). General Counsel Zeiler states that "since the wage rates provided [by DLS] do **not** include 'payments by employers to health and welfare plans, pension plans, and supplementary unemployment benefit plans,' **no** deductions are permitted to the minimum wage rates provided on the schedule." (emphasis added). In 2010 the CHA paid employees in the positions covered by the Firemen and Oilers, Local 3 contract in accordance with the minimum wage rates required by the State. (See attached 2010 State Department of Labor Standards rates for Housing Authorities). Further, Section 12 the Labor Standards and Community Service Requirement under QHWRA states that , "any contract for loans, contributions,...shall contain a provision requiring not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law)...shall be paid to all maintenance laborers and mechanics employed in the operation, of the low-income housing project involved..." 42 U.S.C. 1437j.

Comment 6

Ref to OIG Evaluation

Auditee Comments

Comment 6

Maintenance workers are assigned to work in both State and Federal developments. Even if it was permitted by law, it is impractical to require differing rates of pay to the same employee based on which development the employee is working at. All wages, hours and terms and conditions of employment of the maintenance workers are subject to the requirements of the Massachusetts Public Employee Collective Bargaining Law, M.G.L. c. 150E. The collective bargaining agreement with the Firemen and Oilers, Local 3 was approved by DHCD as required by 760 CMR 4.11 . Therefore, any payment of wages pursuant to the contract was appropriate and should not be included in the calculation of excessive wages. \$24,345 should be deducted from the unreasonable costs. (See attached CHA Chart of Unreasonable Salaries).

Comment 7

Employee 35: DHCD approved the 2010 and 2011 salary amounts. Through the 2012 reorganization the CHA eliminated this position and the duties were redistributed to existing staff.

Comment 8

Employee 25: The CHA disagrees with the finding that the former Senior Accountant/Purchasing Agent's salary in 2010 and 2011 was unreasonable. The CHA asserts that Employee 25 was not only the Senior Accountant as reviewed by OIG but also the Purchasing Agent for the Authority. Employee 25 obtained the requisite state certifications and applied for and was given the additional duties of Purchasing Agent in 2008 resulting in the additional compensation. (See attached Certifications and application for Purchasing Agent position). Employee 25 also performed Accounts Receivable, Accounts Payable, payroll and Human Resources functions for the CHA. With the above responsibilities as well as those of Purchasing Agent added to the Senior Accountant position, the compensation was reasonable.

Comment 7

Employee 3: The state approved the 2010 and 2011 salaries. The position was eliminated in the 2012 reorganization and the duties were redistributed among remaining staff as well as contracted out.

Comment 9

Employee 6: The CHA disagrees that the 2012 wages for Employee 6 were unreasonable. Employee 6 has been an employee with the CHA for 16 years. The position of Senior Accountant has always been in the SEIU, Local 888 bargaining unit. Each pay increase has been negotiated and approved by DHCD in its annual budgets. After the departure of Employee 25, Employee 6 assumed all of Employee 25's accounting and payroll duties. Further, it is not unreasonable for an employee to receive cost of living increases (COLA) as a result of collective bargaining. Any change to the position title, duties and responsibilities and/or compensation is subject to collective bargaining and cannot be unilaterally changed by the CHA. Therefore, the compensation for Employee 6 is reasonable.

Ref to OIG Evaluation

Auditee Comments

Comment 8

2B. Job Descriptions:

The CHA agrees that job descriptions should be periodically reviewed and updated where necessary. Should there be substantive changes in duties or responsibilities, job descriptions will be revised; and if it is a unionized position will be submitted, if so required, for comment and possible collective bargaining. However, from an operations management viewpoint, it is not feasible nor is it advisable to have job descriptions that detail every job duty. Job descriptions should have permissive flexibility to enhance the efficiency of CHA operations. Accordingly, all CHA job descriptions contain language that permits employees to be assigned "other related duties as required."

Comment 10

2C. Pay Scales and Wage Ceilings:

The OIG's emphasis on the absence of wage ceilings as a reason for higher wages is inappropriate. Wages for employees in positions covered by the SEIU, Local 888 and Firemen and Oilers, Local 3 collective bargaining agreements are subject to collective bargaining. Even if there is a wage ceiling in place the CHA is obligated under the Law to bargain in good faith and not have a predetermined or artificial bar to negotiating a mandatory subject of bargaining, i.e. wages. However, wage ranges are helpful to establishing parameters for new hires and budgeting; therefore, the CHA will propose wage ranges in the next round of collective bargaining for unionized positions and implement them as soon as possible for non-union positions. Under M.G.L. c. 150E, the CHA is unable to unilaterally implement wage ranges or ceilings for any unionized position.

Comment 11

2D. The OIG's recommendation that employee's sign and agree to their individual job description is not permitted for unionized employees under M.G.L. c. 150E. To do so may be considered "direct dealing" with a represented employee and could possibly subject the CHA to sanctions by the state Department of Labor Relations (DLR). As it did during the 2012 reorganization, the CHA will consult with its labor counsel prior to making any further organizational changes that may impact its obligations under the Law. As detailed in 2B above, the CHA will periodically review and revise all job descriptions as necessary.

Comment 3:

Comment 12

3A. The CHA objects to Finding 3 in its entirety. It should be stricken from the report in its entirety since it was not the result of the audit review or findings. The CHA was successful in having the fees removed in May 2013 prior to any monies having been paid. Of its own initiative, the CHA found and immediately began the process of challenging and removing the unreasonable bank fees *prior* to any inquiry or audit by OIG. (See attached email correspondence detailing the CHA's actions).

Ref to OIG Evaluation

Auditee Comments

Comment 12

The CHA did not "allow" the Authority's banks to charge unreasonable, extraneous fees for its bank accounts as found by OIG. The fees imposed by the CHA's bank in 2012 were unilateral, new and without consultation with the CHA. As soon as the CHA learned of the new fees on the first bank statement where it appeared, it immediately notified the bank and challenged the new fees. At no time was there any connection by the bank to the depository agreement with the CHA. Upon inquiry by the CHA the bank gave several different explanations, including that they believed that HUD had placed a "block" on the CHA's accounts. While the bank was initially unresponsive to the CHA's challenges to the new fees, the bank ultimately rescinded the fees after meeting with the CHA's Executive Director and Chair of the Board. Further, since the fees were assessed in advance of payment being due, they were never paid.

Internal Controls:

Comment:

The CHA agrees with the OIG finding that under the former administration [REDACTED] and the former Board of Commissioners (who resigned *en masse* in November 2011) that there were inadequate internal controls over program operations, relevance of information and compliance with laws and regulations. Nor did the [REDACTED] Administration with the former Board of Commissioners have proper controls to safeguard assets and resources.

Comment 13

The CHA requests that the OIG, in its report, clearly differentiate that its findings for 2010 and 2011 were due to the lack of internal controls by the [REDACTED] administration and former Board of Commissioners. The current CHA administration and Board of Commissioners has implemented stringent internal control procedures to the satisfaction of HUD. (See attached CHA Internal Controls Policy).

OIG Evaluation of Auditee Comments

- Comment 1** Authority officials' plan to work with the Boston Office of Public and Indian Housing to develop an acceptable methodology is responsive to our recommendation.
- Comment 2** Authority officials stated that they have developed an acceptable allocation methodology with the Department of Housing and Community Development (DHCD), which is part of the Commonwealth of Massachusetts (State). During the exit conference, HUD agreed that Authority officials had developed an acceptable methodology to allocate the 2013 and 2014 expenditures. However; during the audit resolution process, this plan should be provided to HUD-OIG for concurrence.
- Comment 3** Authority officials' plan to allocate the 2010, 2011, and 2012 expenditures to the benefitting programs is responsive to our recommendation. The composition of the \$2.7 million in administrative expenses came from the Authority's audited financial statements and we will provide a table showing the \$2.7 million in administrative expenses by category to HUD for use during the audit resolution process with the Authority.
- Comment 4** Authority officials' plan to discuss with the Boston Office of Public and Indian Housing how to properly and equitably treat ineligible, unsupported and unreasonable expenditures is partially responsive to our recommendation. Authority officials also need to implement a policy to annually review the cost allocation with the Authority's board of commissioners and have the board certify that the plan is in accordance with HUD regulations.
- Comment 5** Officials believe that the HUD-OIG computed reasonable mean salary for the former executive director is less than the salary in the budget that they submitted to DHCD. DHCD approved this budget. Officials are using the salary approved by DHCD in their litigation to obtain reimbursement from the former executive director. As such, they believe that HUD-OIG's use of a lower average salary penalizes them twice, once from paying the executive director and once for repaying HUD. Note that HUD did not previously require the Authority to submit a budget identifying all salaries for approval. Also, DHCD and State rules do not supersede HUD regulations. When an Authority accepts funding from multiple government sources, the Authority must abide by the rules of the government sources. In this instance, the Authority's absence of adequate internal controls allowed the excessive payments to the former executive director. While these payments occurred in a former administration, the current administration has inherited all the benefits and problems of the former administration. Further, enforcement of HUD regulations to repay the HUD programs for the unreasonable expenses is not a penalty for the Authority's absence of internal controls; instead, this is a requirement of the Authority's annual contributions

contracts with HUD. Nevertheless, officials can negotiate with HUD during the audit resolution process as to what they consider to be reasonable.

Comment 6 Authority officials disagree that the unreasonable wages occurred because of officials misunderstanding of State wage regulations. They also state that HUD-OIG did not consider that the State wages do not include fringe benefits. Therefore, they believe that the wages they paid to union employees were within the state wage rates and should not be questioned. Further, they believe it is impractical to require different rates for maintenance employees who work on both state and federal projects. However, HUD-OIG's review of Massachusetts General Law¹³ found that payments by employers (such as the Authority) to health and welfare, pension, and supplementary unemployment benefit plans under collective bargaining agreements shall be included for the purpose of establishing minimum wage rates. Since the Authority provided a letter from the State Agency that contradicts OIG's review of Massachusetts General Law, HUD may wish to have its attorneys evaluate the cited Massachusetts General Law and the State Agency's letter during the audit resolution process. Additionally, the existence of collective bargaining does not eliminate the requirement on the Authority that the salaries paid must be reasonable in price for the duties performed. As such, Authority officials cannot charge the Federal programs for compensation that is not reasonable in price. Thus, this is another issue that needs to be negotiated during the audit resolution process with HUD.

Comment 7 Authority officials advise that DHCD approved the 2010 and 2011 salary amounts. Although DHCD approved the 2010 and 2011 salary amount for this employee, if the approved amount is not reasonable in price, it should not have been charged (See above comment 6). In addition, the Authority's elimination of the position and the departure of the employee may prevent recurrence; but it does not address the unreasonable salary paid during 2010 and 2011.

Comment 8 The Authority disagrees that Employee 25's salary in 2010 and 2011 was unreasonable because the employee was performing the functions of two separate positions. Each employee needs to have a job description that describes the duties and responsibilities of the position, not two separate job descriptions, in this case, Senior Accountant and Purchasing Agent. Each of these job descriptions describes a full time position, yet according to our review of timecards for this employee, this employee was not working two full time positions. When a person is fulfilling multiple tasks within a single full time position, the Authority needs to develop a single job description that addresses those multiple tasks. Without such, it is difficult to determine whether the salary charges are reasonable.

Comment 9 The Authority disagrees that the 2012 wages for Employee 6 were unreasonable because Employee 6 assumed additional responsibilities after the departure of another employee and Employee 6 is a union member whose pay increases were approved by DHCD. The employee's job description should be updated to reflect

¹³ This provision is in Massachusetts General law Chapter 149, Section 26.

all of the duties performed by the employee. Also, as mentioned in comment 2, DHCD and State rules do not supersede HUD regulations. When an Authority accepts funding from multiple government sources, the Authority must abide by the rules of the government sources.

Comment 10 Authority officials contend that the HUD-OIG's emphasis on a wage rate ceiling is inappropriate. While the Authority needs to adhere to its union contracts, we believe that wage rate ceilings are appropriate, and the Authority should implement wage rates and a wage ceiling concurrent with a union contract cycle. Nevertheless, the authority's planned actions to implement wage rates with nonunion employees are partially responsive to our recommendation.

Comment 11 Authority officials believe that unionized employees are not permitted to sign and agree to their individual job description because that is a conflict with State law¹⁴. Our review of the cited law does not confirm this belief. While we do not agree that a signed job description would interfere with unionized employees being represented by their union; we agree that Authority officials should consult with their labor counsel and determine the legality of this issue during the audit resolution process with HUD.

Comment 12 Authority officials objected to the finding on bank fees because the Authority began the process of challenging and removing the unreasonable bank fees prior to any inquiry by HUD-OIG. Based on the information provided by Authority officials and their written comments, we eliminated the finding on bank fees and have revised the report accordingly.

Comment 13 This audit report clearly mentions (in the scope section) that the audit period was from January 1, 2010 to December 31, 2012. In addition, the report background section gives a chronology of how the former executive director and board left the Authority and when the new executive director and board started their term and began implementing new procedures and controls. As such, the report delineates the two administrations at the Authority and needs no clarification.

¹⁴ The Authority cited Massachusetts General Law Chapter 150E