



York Housing Authority, York, NE

Public Housing and Housing Choice Voucher Programs



To: Denise Gipson, Director, Office of Public Housing, 7DPH
//signed//
From: Ronald J. Hosking, Regional Inspector General for Audit, 7AGA
Subject: The York Housing Authority Did Not Fully Comply With Procurement Requirements and Spent \$21,047 for Ineligible and Unsupported Costs

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the York Housing Authority.

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 913-551-5870.



Audit Report Number: 2015-KC-1006

Date: August 20, 2015

The York Housing Authority Did Not Fully Comply With Procurement Requirements and Spent \$21,047 for Ineligible and Unsupported Costs

Highlights

What We Audited and Why

We audited the York Housing Authority in York, NE, regarding its procurement and expenditures for its U.S. Department of Housing and Urban Development (HUD), Office of Public and Indian Housing (PIH), programs. We selected the Authority for review based on data analysis showing that the Authority's executive director was listed as the executive director of two additional housing authorities and as the fee accountant for all three. Our audit objective was to determine whether the Authority followed HUD rules and regulations and its own policies and procedures for procurement and expenditures.

What We Found

The Authority did not properly procure its fee accounting services, adopt a procurement policy for its Housing Choice Voucher program, or require contractors to comply with contract provisions. This condition occurred because the Authority lacked detailed operating procedures that included steps for implementation, such as checklists, and it was not aware that its procurement policy excluded the Housing Choice Voucher program. As a result, HUD could not be assured that the Authority received the best value for the \$21,248 spent on fee accounting services. Furthermore, HUD and the Authority lacked assurance that the contractors would comply with all program requirements, including prevailing wage requirements.

Additionally, the Authority spent \$21,047 of its operating funds for ineligible and unsupported costs. This condition occurred because the Authority did not understand that the applicable program rules covered the Authority's use of funds for meals and social activities, the Authority lacked detailed operating policies and procedures for the review and approval of expenditures, and it used the incorrect budget form for its Housing Choice Voucher program. As a result, it did not have \$21,047 available for other operating expenses.

What We Recommend

We recommend that HUD require the Authority to (1) reprocure its fee accounting services using the appropriate policies and procedures to justify the amount spent on these services during our audit period, (2) repay from non-Federal funds or provide adequate support for the \$21,047 spent for ineligible and unsupported items, and (3) develop and implement policies and procedures to address the deficiencies noted.

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Background and Objective

Built in 1969, the York Housing Authority in York, NE, manages three significant U.S. Department of Housing and Urban Development (HUD), Office of Public and Indian Housing (PIH), programs. These programs include the Public Housing Operating Fund program, the Housing Choice Voucher program, and the Public Housing Capital Fund program. A six-member board of commissioners governs the Authority, and an executive director manages its daily operations. The Authority's central office is located at 215 North Lincoln Avenue, York, NE.

HUD PIH oversees the Authority's public and Indian housing programs. HUD's Public Housing Operating Fund program provides operating subsidies to housing authorities to assist in funding the operating and maintenance expenses of their own dwellings. In 2014, HUD provided the Authority more than \$128,000 in operating subsidies to assist with operating and maintenance expenses for its 75 public housing units.

HUD's Housing Choice Voucher program allows very low-income families to choose affordable, privately owned rental housing. The Authority administers 99 housing choice vouchers to assist very low-income families, the elderly, and the disabled in affording decent, safe, and sanitary housing in the private market. In 2014, HUD provided the Authority more than \$220,000 in voucher assistance.

HUD's Capital Fund program provides funds annually to the Authority for the development, financing, and modernization of public housing developments and for management improvements. In 2014, HUD provided the Authority more than \$62,000 in Capital Fund grants.

The Authority used a cost allocation method to allocate funds between its programs and did not convert to asset management for accounting purposes.

Our objective was to determine whether the Authority followed HUD rules and regulations and its own policies and procedures for procurement and expenditures.

Results of Audit

Finding 1: The Authority Did Not Fully Comply With Federal and Local Procurement Requirements

The Authority did not properly procure its fee accounting services, adopt a procurement policy for its Housing Choice Voucher program, or require contractors to comply with contract provisions. This condition occurred because the Authority lacked detailed operating procedures that included steps for implementation, such as checklists, and it was not aware that its procurement policy excluded the Housing Choice Voucher program. As a result, HUD could not be assured that the Authority received the best value for the \$21,248 spent on fee accounting services. Additionally, HUD and the Authority lacked assurance that the contractors would comply with all program requirements, including prevailing wage requirements.

The Authority Did Not Properly Procure Its Fee Accounting Services

The Authority did not properly procure its fee accounting services as required by HUD's Public Housing and Housing Choice Voucher program rules.

According to HUD's Public Housing program rules (Handbook 7460.8, REV-2, section 5.2 and 5.4) and the Authority's procurement policy, the Authority should have used its small purchase procedures for the procurement of its fee accounting services. These procedures require that the Authority obtain a reasonable number of quotes to establish cost reasonableness for purchases between \$2,000 and \$100,000. Between October 2011 and December 2014, it spent \$12,873 of Public Housing Operating Funds on fee accounting services but did not obtain quotes for those services .

According to HUD's Housing Choice Voucher program rules (Regulations at 24 CFR 982.161), the Authority may not enter into any contract or arrangement in connection with the Housing Choice Voucher program in which any present officer or employee of the Authority has any interest, direct or indirect, during tenure or for one year thereafter. However, the Authority signed its employment agreement with its executive director in October 2011 and signed its agreement for fee accounting services with a company owned by the executive director in November of the same year. Between October 2011 and December 2014, the Authority spent \$8,375 on fee accounting services for its Housing Choice Voucher program. Although the conflict of interest prohibition can be waived by the HUD field office, the Authority did not attempt to obtain a waiver.

The Authority Did Not Adopt a Procurement Policy For Its Housing Choice Voucher Program

The Authority did not have a procurement policy for its Housing Choice Voucher program. HUD's Housing Choice Voucher program rules (HUD Handbook 7460.8, REV-2, section 1.2), require that the Authority follow state and local law. The Nebraska Housing Agency Act requires the Authority to adopt policies, rules, and procedures governing the procurement of

goods and services. Additionally, HUD's Housing Choice Voucher program requirements (Regulations at 24 CFR 982.54) require the Authority to establish local policies for administration in its administrative plan for the Housing Choice Voucher program. The Authority does not have a separate procurement policy for the Housing Choice Voucher program, and it did not include procurement requirements in its administrative plan.

The Authority Did Not Require Contractors To Comply With Contract Provisions

The Authority did not include in its Public Housing fee accounting contract provisions required by HUD Handbook 7460.8, REV-2, section 5.10, or table 5.1. The contract did not specify the required 3-year period for record retention found in the Handbook. It was also missing provisions for ownership and proprietary interest, as well as energy efficiency.

Additionally, the Authority did not execute contracts for two Capital Fund projects reviewed. The projects were to replace the fire panel and refrigerators in the public housing units. HUD Handbook 7460.8, REV-2, section 5.10, states that the Authority must incorporate the clauses contained in form HUD-5370-EZ, General Conditions for Small Construction/Development Contracts, into its construction contracts greater than \$2,000 but not more than \$100,000. Without a contract in place, the Authority did not require contractors to comply with these provisions. Authority staff told us that the Authority did not always execute contracts with contractors. It based the decision on the type of work and its familiarity with the contractor.

The Authority Lacked Policies and Detailed Procedures

The Authority's procurement policy lacked detailed operating procedures that included steps for implementation, such as checklists. The Authority's procedures did not ensure that it followed its procurement policy, along with HUD Handbook 7460.8, REV-2, and requirements at 24 CFR 85.36 for its Public Housing Operating Fund program.

In addition, the Authority did not realize its procurement policy excluded the Housing Choice Voucher program. The Authority stated that the items it procured for the Housing Choice Voucher program were generally included in the procurements for its Public Housing Operating Fund program using the Authority's procurement policy.

HUD Lacked Assurance

HUD could not be assured that the Authority received the best value for the \$21,248 spent for fee accounting services. Furthermore, without a procurement policy for the Housing Choice Voucher program, HUD lacked assurance that the Authority's Housing Choice Voucher procurement process was fair and equitable and that any monies spent represented the most favorable prices it could have obtained. Additionally, HUD and the Authority lacked assurance that the contractors would comply with all program requirements, and the Authority put itself at risk by not always executing contracts that included all required contract provisions, including prevailing wage requirements.

Recommendations

We recommend that the Director of HUD's Omaha, NE, Office of Public Housing require the Authority to

- 1A. Develop and implement detailed operating procedures, including checklists, which fully implement its procurement policy and HUD requirements.
- 1B. Develop and implement a procurement policy for its Housing Choice Voucher program and update its administrative plan to include procurement.
- 1C. Reprocure its fee accounting services using the appropriate policies and procedures to ensure properly procured services going forward and to use the quotes from that procurement to justify the \$12,873 spent from the Public Housing Operating Fund program and the \$8,375 spent from the Housing Choice Voucher program funds for fee accounting services from October 2011 through December 2014. The Authority should repay any unsupported portion to the appropriate program fund from non-Federal funds.
- 1D. Request a conflict of interest waiver for its fee accounting services contract for its Housing Choice Voucher program if a conflict exists following the reprocurement.
- 1E. Submit all contracting actions to HUD, including solicitation and contracts, for the public housing programs it administers, including but not limited to the Operating Fund and Capital Fund programs, for review and approval prior to executing contracts until the Authority demonstrates compliance and HUD determines based on the information available that prior review is no longer necessary.

Finding 2: The Authority Spent \$21,047 for Ineligible and Unsupported Costs

The Authority spent \$21,047 of its operating funds for meals, social activities, donations, and other ineligible and unsupported costs. This condition occurred because the Authority did not understand that the applicable program rules covered the Authority's use of funds for meals and social activities, complete the correct budget form for its Housing Choice Voucher program, and lacked detailed operating policies and procedures for the review and approval of expenditures. As a result, the Authority did not have \$21,047 available for other operating expenses.

The Authority Spent Operating Funds for Ineligible and Unsupported Costs

The Authority spent its operating funds for its public housing and Housing Choice Voucher programs on items that were not reasonable or necessary for the operation of the project. It spent funds for social activities, meals, grocery items, donations, and floral arrangements for board members.

The Authority provided holiday meals to the tenants of its public housing units for the Fourth of July, Thanksgiving, and Christmas holidays. It also provided meals to its board members during its monthly board meeting. The executive director and board chair stated that the Authority stopped providing meals to tenants and board members after HUD told it to do so in 2014. These purchases significantly decreased during the Authority's 2015 fiscal year.

The Authority also hosted a bingo game on Monday afternoons for tenants of its public housing units. It provided small prizes and grocery items to tenants during these games.

According to 2 CFR Part 225, appendix A, part C, for a cost to be allowable under a Federal award, it must be necessary and reasonable for the proper and efficient performance and administration of the project. Appendix B to Part 225 provides principles to be applied in establishing the allowability of certain items. It states that meals, donations, gifts, and social activities are not allowable costs. Additionally, section 9(C) of the Authority's annual contributions contract states that the Authority may withdraw funds from its general fund only for the payment of costs for development and operation of the property. The costs noted were not for the development or operation of the property. The table below details the ineligible expenditures.

Expenditure	Public Housing Operating Fund program	Housing Choice Voucher program
Catered holiday meals for tenants	\$855	-
Gift cards for tenants	756	-
Bingo cage	179	-
Grocery items	93	-

Coffee makers	64	-
Donation	41	\$34
Floral arrangements for board members	39	24
Meals for board meetings	37	23
Splenda packets	3	-
Totals	\$2,067	\$81

Further, the Authority did not have receipts for \$53 spent at a grocery store. Therefore, we could not determine whether the Authority spent the funds on eligible items.

The Authority's general ledger included expenditures similar to those of the vendors reviewed that appeared to be ineligible based on discussions with the Authority. The table below outlines the items we did not review but that we identified as potentially ineligible costs. The table in appendix C includes a more detailed breakdown.

Expenditure	Public Housing Operating Fund program	Housing Choice Voucher program
Grocery store	\$5,244	-
Restaurants	3,914	\$386
Floral shop	81	7
Totals	\$9,239	\$393

Additionally, the Authority spent \$9,214 on Housing Quality Standards inspections for its Housing Choice Voucher program between October 2011 and December 2014 without including the inspections in the Authority's operating budget. Section 11(d) of the Authority's annual contributions contract states that the Authority shall not incur any operating expenditures except pursuant to an approved operating budget. Further, the Authority's employment contract with its executive director includes Housing Choice Voucher program inspections in the list of executive director employment duties. The Authority paid its fee accountant for these services, which are not included in the fee accounting service contract.

The Authority Did Not Understand Program Rules

The Authority did not understand that the applicable program rules applied to its use of the funds. Specifically, it considered the holiday meals it provided to tenants as an amenity and used the meals as a promotional tool for bringing in new tenants. Additionally, it did not view the bingo game as a social activity but, rather, as an activity to help its elderly tenants be more active.

The Authority Completed the Incorrect Budget Form for Its Voucher Program

The Authority used HUD Form 52571 to complete its annual operating budget. The Authority recognized that this form did not have a line item for the Housing Quality Standards inspections, but the Authority did not attempt to add this expense to its operating budget. According to HUD's Housing Choice Voucher Guidebook 7420.10G, Chapter 20.3, the budgeting process should include preparation of HUD Form 52672. This form includes a line item for maintenance and operation.

The Authority Lacked Detailed Operating Policies and Procedures

The Authority lacked detailed policies and procedures for the review and approval of expenditures. It did not have policies and procedures in place to determine cost eligibility based on requirements found at 2 CFR Part 225 and its consolidated annual contributions contract before board approval and payment.

The Money Was Not Available for Other Operating Expenses

As a result of the deficiency noted above, the Authority did not have \$21,047 available for other operating expenses.

Recommendations

We recommend that the Director of HUD's Omaha, NE, Office of Public Housing require the Authority to

- 2A. Repay the affected programs the \$2,148 spent for meals, social activities, donations, gifts, and floral arrangements from non-Federal funds.
- 2B. Provide adequate support for the \$53 spent at the grocery store or repay the affected program from non-Federal funds.
- 2C. Provide adequate support for the \$9,632 not reviewed to show that funds were spent for eligible items or repay the affected program from non-Federal funds.
- 2D. Repay the Housing Choice Voucher program for the \$9,214 spent for Housing Quality Standards voucher inspections from non-Federal funds.
- 2E. Ensure that its board of commissioners and staff attend HUD-approved training on the program rules and regulations and the proper use of Federal funds.
- 2F. Develop and implement policies and procedures for the review and approval of expenditures to ensure that the Authority fully implements HUD requirements.

- 2G. Review its employment contract with its executive director to ensure it properly reflects the executive director duties. If the Authority determines the executive director should not be responsible for Housing Quality Standards inspections as currently provided for in the employment contract, it should provide for an Authority employee to complete the inspections as part of an approved budget, or it should procure those services using appropriate policies and procedures and request a conflict of interest waiver if a conflict exists following the procurement.
- 2H. Update its budget for the Housing Choice Voucher program utilizing HUD Form 52672.

Scope and Methodology

Our audit period generally covered October 1, 2011, through December 31, 2014. We performed our fieldwork from February through April 2015 at the York Housing Authority located at 215 North Lincoln Avenue, York, NE.

To accomplish our objective, we

- Interviewed the Authority's staff and board chair;
- Interviewed HUD's Office of Public Housing staff in Omaha, NE;
- Reviewed the Authority's policies and procedures, procurement files, contracts, and financial records; and
- Reviewed Federal and State regulations and HUD requirements.

To select our samples, we reviewed the Authority's Public Housing Operating Fund program and Housing Choice Voucher program general ledgers for expenditures exceeding the \$2,000 micro purchase threshold, including recurring payments to the same vendor that exceeded this amount, potentially ineligible payments, payments to the Authority's fee accountant, and travel and training expenditures. We identified expenditures as potentially ineligible based on the transaction description in the general ledger. We identified several items with descriptions attributed to restaurants, floral shops, and a grocery store. We also included items for which we were unsure of the service being provided to the Authority. We entered the amounts on tabs of an Excel worksheet according to the general ledger expenditure description and used the worksheet to select our samples.

For our procurement sample, we reviewed the procurement of the two contractors that received the largest capital fund expenditures during the audit period and the procurement of the Authority's fee accountant.

For the expenditure sample, we reviewed two capital fund expenditures, representing \$43,554 (16 percent) of the population of \$264,695; one training expenditure, representing \$1,161 (19 percent) of the population of \$6,018; one travel expenditure, representing \$2,481 (10 percent) of the population of \$24,733; three expenditures paid to the Authority's fee accountant, representing \$4,143 (8 percent) of the population of \$49,529; and seven potentially ineligible expenditures from different vendors that were identified for being potentially ineligible, representing \$2,182 (14 percent) of the population of \$15,808. A portion of the travel expenditures was also included in the fee accountant category due to the accountant being the payee of the travel reimbursements. Therefore, the total unique universe of expenditures for our audit period was \$342,469.

Each expenditure reviewed represented the largest expenditure in the respective category, with the exception of the expenses paid to the Authority's fee accountant and the ineligible expenses.

For the expenses paid to the fee accountant, we reviewed the second largest expenditure, the largest expenditure from the end of the Authority's fiscal year during the audit period, and the largest expenditure charged to the Authority's maintenance and operations account for its Housing Choice Voucher program. For the ineligible expenditures, we reviewed the largest expenditures for six of the vendors and the second largest expenditure for another vendor because it was charged to the Authority's office expense account.

Our results apply to the items reviewed, and we cannot project to the portion of the population that we did not test.

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.

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 objective:

- Controls over the Authority's procurement.
- Controls over the Authority's expenditures.

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 Deficiency

Based on our review, we believe that the following item is a significant deficiency:

- The Authority lacked detailed processes and procedures for implementing HUD procurement (see finding 1) and expenditure (see finding 2) regulations.

Separate Communication of Minor Deficiencies

We reported minor deficiencies to the auditee in a separate management memorandum.

Appendixes

Appendix A

Schedule of Questioned Costs

Recommendation number	Ineligible 1/	Unsupported 2/
1C		\$21,248
2A	\$2,148	
2B		53
2C		9,632
2D	9,214	
Totals	\$11,362	\$30,933


- 1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations.
- 2/ 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.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

HOUSING AUTHORITY OF THE CITY OF YORK	
215 N. LINCOLN AVE., YORK, NEBRASKA 68467	
T.S. NORTH, CHAIRMAN A.R. TRUPP, VICE-CHAIRMAN CINDY NABER, EXECUTIVE DIRECTOR	M.H. MINDERMAN, COMMISSIONER P.R. VINCENT, COMMISSIONER S.M. BURK, COMMISSIONER C.A. COFFMAN, COMMISSIONER
August 3, 2015	
Mr. Ronald J. Hosking, Regional Inspector General for Audit Office of Inspector General 400 State Avenue, Suite 501 Kansas City, KS 66101	
Dear Mr. Hosking:	
On July 28, 2015, the York Housing Authority received an email sent jointly by our HUD leader, Principal Deputy Assistant Secretary Lourdes Castro Ramirez, and your boss, HUD Inspector General David A. Montoya, that began with the following:	
"Public Trust and Integrity is Our Collective Responsibility. Public Housing Agencies (PHAs) are managed by dedicated public servants that often go above and beyond to provide residents with safe, decent and affordable housing that strengthens communities. Similarly, the vast majority of families living in these communities, like so many Americans, are working towards improving their quality of life.	
Efficient operations and effective accountability are essential to ensuring that the limited public housing resources are protected and used prudently, to better the lives of those we are charged with serving."	
We TOTALLY concur in this statement and appreciate the efforts of your office to assist us in achieving this standard. We also appreciate the professionalism and courtesy exhibited by your agents. While we are mystified at the amount of time your agents spent with three housing authorities containing only 75, 35, and 18 public housing units out of the approximately 1,129,416 that remain in America's public housing inventory, we are proud of the fact that your agents found only alleged minor non-compliance issues in our operations. We hereby pledge to work closely with the Omaha HUD Office to explain in detail each of the technical non-compliance issues you found and regain our reputation as an outstanding high performing housing authority that we deserve. Let us now look at both of your two findings.	
Finding One: The Authority did not fully comply with federal and local procurement requirements.	
We do not question that the York Housing Authority did not "fully" comply with procurement requirements. We question if ANY housing authority can withstand the scrutiny we have undergone and come out with no procurement findings. That stated, we do not claim infallibility	
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PHONE: 402-362-5900 • TDD: 402-362-5900 • FAX: 402-362-1557 • E-MAIL: yha@windstream.net	
	

Ref to OIG Evaluation

Auditee Comments

Comment 1

and certainly have room to learn and appreciate the efforts of your staff to better educate us. This stated, let's look at each element of this finding.

The first element was the statement that we did not properly procure executive director and fee accounting services. We agree with this observation. We innocently and improperly sole-sourced these services and, when this was brought to our attention, immediately took action. Once the Board of Commissioners became aware of this issue, a consultant was retained using small purchase procedures and he agreed that we handled this improperly when procured years ago. Based on advice we received, we used an independent third-party consultant who has no relationship with current staff to assist us in properly procuring an executive director and fee accountant. This has been accomplished and, after going through the proper process and interviewing potential replacement for executive director and fee accountants, we chose the best candidate at our June Board meeting and resolved this deficiency. We will fully discuss this with the Field Office and are confident this can be immediately closed. Based upon the cost element of these procurement submissions, we are confident that we received the best price possible for accounting services between 2011 and 2014, the period covered by the audit.

Comment 2

The second element is that we have not adopted a separate procurement policy for our Housing Choice Voucher program. We concur that there is no separate HCV procurement policy and were unaware of this state requirement prior to your staff educating us on this interpretation. In February 2007, HUD clarified that 24 CFR Part 85.36 did not apply to the HCV program with the publication of the current public housing procurement handbook. The sample policy in this current handbook states, "This policy does not govern administrative fees earned under the Section 8 voucher program, the award of vouchers under the Section 8 program, the execution of landlord Housing Assistance Payments contracts under that program..."

Furthermore, we are unaware of any Nebraska housing authority with such an independent procurement policy. We will work with the Nebraska NAHRO and the Omaha Field Office to resolve this situation. We will seek examples of what other Nebraska authorities have as their HCV procurement policy and adapt one of them to fit the York situation. We certainly want to be fully compliant and will be seeking Omaha's assistance in assuring that we accomplish this worthy objective.

Comment 3

The third element involves contracting technicalities that your agents allege. We agree that, as a small housing authority with limited staffing capacity, we do not do everything exactly the same as if we were a large organization. Depending on the situation, we may have been more informal that you seek using implied as well as express contracts to procure items and services for the housing authority. In the ideal world we totally agree with you, but in the real world we have chosen to comply with HUD requirements in the least bureaucratic manner possible in order to devote the maximum time possible to direct resident services. While we certainly respect our obligation to the taxpaying investor in our operations, we take our responsibilities to the residents extremely seriously, as we believe HUD has instructed us to do. When one has limited resources, one must make choices. We will work with Omaha to resolve this inherent conflict.

Ref to OIG Evaluation

Auditee Comments

Comment 1

Comment 4

The fourth element is that we lack policies and detailed procedures. We believe our procurement policy is fully compliant with the sample policy in the HUD Procurement Handbook but plead guilty to not having detailed written operating procedures and checklists. Please see the immediate preceding paragraph for our reasoning. This stated, we will be happy to work with the Omaha Field Office on their specific practical suggestions. To repeat, we want to be fully compliant while realistic in what we can accomplish.

Finally, we are very confident we will be able to demonstrate to Omaha that we received the best value possible for executive director and fee accounting services in the past even though we admit the procurement process was flawed.

There is one major objection to the recommendations contained in your report, that we submit all contracting action to Omaha for prior approval before we take action. We think this would be a major impediment to providing quality services to our residents due to the inevitable delays caused by a grossly understaffed Omaha Field Office in their duty and ability to serve all 107 Nebraska housing authorities. We do not think the findings you have made are anywhere near serious enough to justify this massive federal intrusion into the operations of an independent housing authority.

We do not believe this suggestion is compliant with Section 2(a)(1)(C) of the United States Housing Act of 1937, our basic authorizing legislation that states: (a) DECLARATION OF POLICY.—It is the policy of the United States - (1) to promote the general welfare of the Nation by employing the funds and credit of the Nation, as provided in this Act -

(A) to assist States and political subdivisions of States to remedy the unsafe housing conditions and the acute shortage of decent and safe dwellings for low-income families;

(B) to assist States and political subdivisions of States to address the shortage of housing affordable to low-income families; and

(C) consistent with the objectives of this title, to vest in public housing agencies that perform well, the maximum amount of responsibility and flexibility in program administration, with appropriate accountability to public housing residents, localities, and the general public;

Nor is it consistent with Section 3 of the latest (1995) ACC that binds HAs to HUD -

Section 3 – Mission of HUD.

HUD shall administer the Federal public and Indian housing program for the provision of decent, safe, and sanitary housing to eligible families in accordance with this ACC and all applicable statutes, executive orders, and regulations. HUD shall provide maximum responsibility and flexibility to HAs in making administrative decisions within all applicable statutes, executive orders, regulations and this ACC. HUD shall provide annual contributions to the HA in accordance with all applicable statutes, executive orders, regulations, and this ACC.

Ref to OIG Evaluation

Auditee Comments

Also, it is inconsistent with QHWRRA Section 502(a)(5)(C) –

(5) the interests of low-income persons, and the public interest, will best be served by a reformed public housing program that--

(A) consolidates many public housing programs into programs for the operation and capital needs of public housing;

(B) streamlines program requirements;

(C) vests in public housing agencies that perform well the maximum feasible authority, discretion, and control with appropriate accountability to public housing residents, localities, and the general public; and

(D) rewards employment and economic self-sufficiency of public housing residents.

Finally, it is not compliant with the procurement section of the COFAR, which at 2 CFR 300.318 states the following which is in line with the thought process of Section 2 of the USHA:

(k). The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, **for the settlement of all contractual and administrative issues arising out of procurements**. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

With all of this stated, perhaps we could agree that all purchases that exceed the small purchase threshold, rather than absolutely ALL purchases, go through the Omaha Office until their finding can be clearer. We believe both that practicality should be observed and the actions recommended should be consistent with the problems found. This is more appropriate.

Finding Two: The Authority Spent \$21,047 for Ineligible and Unsupported Costs.

While no one wants to expend federal funds on ineligible or unsupported activities, we feel obligated to place this finding in context. The finding involves \$21,047 over a four-year period, 2011 through 2014. **In context, the York Housing Authority spent a total of \$2,840,064 during this same period. Therefore, despite an extensive, thorough examination by multiple Inspector General employees diligently looking for problems, only 70% of 1% of our expenditures is being challenged. While we seek zero defects, we are not overly concerned with a possible .0074% error rate.** This is significantly purer than Ivory Soap. This stated, we will work with the Omaha Office to lower this incredibly small percentage and produce proof of the appropriateness of most of them to the Omaha Office. This stated, let's look at each element of this finding.

Comment 5

Ref to OIG Evaluation

Auditee Comments

Comment 6

We are criticized by your office for expending money to support our efforts to enhance the quality of life of our residents. We sincerely regret your interpretation of the federal regulations that precludes things like sponsoring a Fourth of July cookout for our residents or hosting Thanksgiving and Christmas dinners for extremely low-income families, but ceased these activities last year as soon as we were notified of your interpretation. The tenants enjoyed the meals and were able to bring one guest to the celebration. In some cases, it was the only holiday meal they celebrated as many do not have family and exist on a fixed income. The Authority also used this special time together to use as a marketing tool to showcase the facility. Some of the guests were ministers, prospective tenants, chamber of commerce president, visitor bureau and other local persons. We believed the expenditures on these activities were necessary and reasonable to support our public housing program.

Comment 7

This stated, in an effort to increase our understanding of the rules, we would appreciate an explanation of how our efforts were different from the one HUD suggested just a couple of months ago that included hosting a spaghetti dinner in honor of their Father's Day effort.

Comment 8

The Authority Commissioners meet at noon once a month. A light lunch was provided for the Commissioners at the meeting. It was the Authority's understanding that a light lunch could be provided if it is a local practice. At the time the Authority was created, it was local practice for the City Commissioners to meet at noon with a meal provided. On average, this cost the authority less than \$40 a month to feed the seven people involved to thank them for their volunteer service to the authority. Also, as a memorial donation for a long time Commissioner Chair, a small floral arrangement was sent to the hospitalized Commissioner. The Commissioner meals, memorials and floral arrangements were stopped once HUD sent the email in 2014 that Authorities were not to be providing meals.

Comment 9

The Authority is required by HUD to inspect units for the HCV program. The inspector was paid from the fee accountant company. The executive director contract includes one of the duties as voucher inspections. The executive director does some of the inspections and quality control. An implied contract with the inspector exists. This will be explored in greater detail with the Omaha HUD Office. Reasonable value was received at a reasonable price for this programmatically required activity.

Comment 10

We clearly disagree with the allegation that the authority did not understand program rules. Challenging .0074% of our expenditures is not catastrophic. We think this is a gross subjective overstatement that should be modified in the final report.

Comment 11

As far as the HCV budget form, we believe we are both wrong. The form we have been using, 52571, is expired and no longer used by HUD and the 52672 is used for some specific HCV programs, but not the general tenant-based program we administer. HUD uses other data to calculate both the appropriate HAP funds to pay York and our related administrative fees. There is no HCV budget submission to the Department. We urge you to re-examine this element of the finding.

The York Housing Authority currently has a total of three full-time and three part-time employees. We are not the New York City Housing Authority or even the Omaha Housing

Ref to OIG Evaluation

Auditee Comments

Comment 12

Authority. By necessity, we work in a more informal atmosphere. We clearly do not have detailed written operating policies and procedures, and this is by design. We are anxious to work with the Omaha HUD office on practical suggestions they can make to show us how this is achievable and still allow enough time to provide the high quality of service to our residents that we demand.

Comment 13

Finally, the report states that \$21,047 over a four-year period was not available for other operating expenses. I feel it is important to note that despite this allegation and extreme proportions of both operating subsidy and HCV administrative fees, we have operated three out of the four years in the black (the exception was due to the 2012 recapture of housing authority reserves). In fact, we deposited the following amounts in our reserves each year:

2011	\$77,346
2012	(\$56,110)
2013	\$26,883
2014	\$152,664

Comment 14

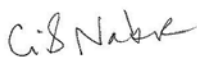
To compliment this solid financial management we received the following REAC scores for financial management (is perfect) and physical scores (40 is perfect):

	2011	2012	2013	2014
Physical	40	40	36	36
Financial	25	25	25	25

We think these are excellent scores that reflect a well-run housing authority.

Thank you again for this opportunity to formally respond to your office's draft audit and we look forward to working with the Omaha HUD Public Housing Division to resolve these finding as expeditiously as possible.

Sincerely yours



Cindy Naber
Executive Director

OIG Evaluation of Auditee Comments

- General The Authority took considerable effort in its response to minimize the efforts of the auditors and the audit results identified in the report. HUD and the Authority's Board should take the findings seriously. During our review, we found the Authority did not maintain adequate documentation to support procurements, nor did it keep a listing of its procurements or contracts. We reviewed a small sample of procurements and expenditures using the Authority's general ledger. We reviewed \$53,521 of a total universe of \$342,469 expenditures during our 3.25-year audit period – not 4 years as stated in the auditee's comments. Our universe did not come close to the \$2,840,064 of expenditures suggested by the auditee, nor can our results be projected to such a population. We did not expand the scope of our review because we determined that it was likely that we would uncover similar issues as those reported, and it would have placed a burden on the Authority to cost justify additional items.
- Comment 1 During our audit, we found the Authority did not properly procure its fee accounting services. We did not comment on the Authority's hiring of its executive director because the Authority had an employment contract with its executive director and considered the executive director an employee of the Authority.
- The reprocurement of fee accounting services that the Authority plans to use to justify the cost of previous fee accounting services took place after OIG had completed its review. OIG did not review any bids for the reprocurement of the services. At the time of the report issuance, OIG could not comment on the Authority's ability to support previous fee accounting service expenses.
- Comment 2 An exclusion clause in the Authority's procurement policy specifically excludes the Housing Choice Voucher program and states that the Authority will use state and local law in its place. However, state law requires the Authority to maintain policies for all of its programs, and 24 CFR 982.54 requires the Authority to include any local laws utilized in its administrative plan for the Housing Choice Voucher program. The Authority is not required to adopt a separate policy if it were to include the Housing Choice Voucher program in its current policy.
- Comment 3 The Authority failed to comply with HUD requirements. HUD requirements include required contract provisions to protect HUD funds, program participants, and to ensure compliance with federal rules and regulations, including prevailing wage requirements.
- Comment 4 In our review of the Authority's procurement, we identified significant deficiencies in the Authority's procurement. According to HUD Handbook 7460.8, REV-2, section 12.2(L), solicitation and contracts by any PHA (public

housing authority) whose procurement procedures or operations fail to comply with the procurement standards in 24 CFR 85.36 shall have prior HUD approval. We found the Authority did not comply with 24 CFR 85.36 when it failed to maintain documentation on the procurement for its fee accounting services or require contractors to comply with the required contract provisions. Our recommendation that all contracting actions go through the Omaha field office still stands.

- Comment 5 Our review only included a small sample of the Authority's expenditures and procurements over a 3.25-year audit period – not 4 years as stated in the auditee's comments (see the Scope and Methodology section on pages 11-12). We did not review 100% of the funds expended during the audit period. Our limited review cannot be projected to the entire population of expenditures. Therefore, it cannot be said that the items we did not review were spent in accordance with HUD's rules and regulations.
- Comment 6 2 CFR 225 prohibits the use of federal funds for the following:
- Amusement (trips to theme parks, county fairs, etc.)
 - Diversions (theatre, movies, sports events, etc.)
 - Social activities (parties, bowling nights, etc.)
 - Any directly associated costs for the events in the categories above (tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).
- Comment 7 We have not seen any guidance from HUD that PHAs could use federal funds for the suggested Father's Day activities. HUD encourages housing authorities to seek additional funds or partnerships to provide activities with beneficial outcomes to public housing residents and communities.
- Comment 8 Expenditures must be spent for items that are reasonable and necessary for the operation of the property. The Authority is prohibited from using federal funds for meals, donations, and floral arrangements. As we previously noted in finding 2, these purchases significantly decreased during the Authority's 2015 fiscal year.
- Comment 9 The Authority did not have a contract with its fee accountant to provide Housing Choice Voucher inspections. Additionally, the inspector the Authority paid through its fee accountant was already an employee of the Authority. The Authority could have paid its employee to conduct the inspections without involving its fee accountant in the transaction. Furthermore, the Authority did not include the voucher inspections in its operating budget. Section 11(d) of the Authority's annual contributions contract states that the Authority shall not incur any operating expenditures except pursuant to an approved operating budget. Therefore, the expenditure is ineligible.

- Comment 10 The Authority did not understand the requirements of 2 CFR 225. Specifically, the Authority did not understand that funds spent on social activities were prohibited.
- Comment 11 HUD's Housing Choice Voucher Guidebook 7420.10G, Chapter 20.3 states that "the budgeting process includes preparation and submission of form HUD-52672." Neither the Guidebook, nor the form itself, indicates that the form only applies to certain Housing Choice Voucher programs. Furthermore, the Authority's annual contribution contract with HUD states that the Authority shall not incur any operating expenditures except pursuant to an approved operating budget. The Authority should work with HUD to determine the best way going forward to ensure that all of the Authority's operating expenditures are included in its budget.
- Comment 12 Policies and procedures are the only way to ensure that the Authority complies with HUD rules and regulations and expends funds effectively and efficiently. The Authority failed to comply with HUD rules and regulations for its procurement and expenditures, as noted in the audit report.
- Comment 13 The Authority did not have the \$21,047 available to spend on other operating expenditures, and the funds could have been spent on other eligible activities or moved into the Authority's reserves for future shortages. Also, our audit period was 3.25 years – not 4 years as stated in the auditee's comments.
- Comment 14 Audits conducted by the Office of Inspector General have very different scopes and objectives than those conducted by HUD. Therefore, it is not uncommon for the OIG to identify issues not previously identified by HUD.

Appendix C

Ineligible and Unsupported Cost Detail

Finding 2 – Ineligible cost detail

Check number	Date	Expenditure	Public Housing Operating Fund program	Housing Choice Voucher program	Total
112061	12/12/2011	Meals for board meetings	\$37.41	\$22.82	\$60.23
112069	1/5/2012	Catered holiday meals for tenants	855.00	-	855.00
112571	12/6/2011	Floral arrangements for board members	38.61	23.54	62.15
112737	4/8/2013	Bingo cage	179.22	-	179.22
112737	4/8/2013	Coffee makers	63.79	-	63.79
112737	4/8/2013	Splenda packets	2.87	-	2.87
113042	10/28/2013	Donation	41.00	34.00	66.00
113153	1/9/2014	Gift cards for tenants	756.00	-	756.00
113153	1/9/2014	Grocery items	92.84	-	92.84
Totals			\$2,066.74	\$80.36	\$2,147.10*

*We reported this number as \$2,148 throughout the report due to rounding.

Finding 2 – Unsupported cost detail

Check number	Date	Expenditure	Public Housing Operating Fund program	Housing Choice Voucher program	Total
113153	1/9/2014	Grocery store	\$52.99	-	\$52.99

Finding 2 – Potentially ineligible expenditures

Check number	Date	Expenditure	Public Housing Operating Fund program	Housing Choice Voucher program	Total
111974	11/10/2011	Restaurant	\$15.48	\$9.43	\$24.91
111979	11/10/2011	Grocery store	117.98	-	117.98
112023	12/9/2011	Restaurant	22.90	13.96	36.86
112027	12/9/2011	Grocery store	139.38	-	139.38
112033	12/9/2011	Floral shop	30.82	-	30.82
112066	1/5/2012	Grocery store	441.89	-	441.89
112097	2/9/2012	Restaurant	21.50	13.12	34.62
112105	2/9/2012	Grocery store	109.19	-	109.19
112151	3/9/2012	Restaurant	21.73	13.25	34.98
112155	3/9/2012	Grocery store	70.04	-	70.04
112190	4/11/2012	Restaurant	21.11	12.88	33.99
112197	4/11/2012	Grocery store	68.55	-	68.55
112234	5/11/2012	Restaurant	28.04	17.10	45.14
112240	5/11/2012	Grocery store	104.99	-	104.99
112279	6/8/2012	Restaurant	30.28	18.46	48.74
112286	6/8/2012	Grocery store	87.92	-	87.92
112294	6/8/2012	Floral shop	12.26	7.48	19.74
112327	7/5/2012	Restaurant	23.35	14.24	37.59
112333	7/5/2012	Grocery store	116.45	-	116.45

Check number	Date	Expenditure	Public Housing Operating Fund program	Housing Choice Voucher program	Total
112337	7/5/2012	Restaurant	115.20	-	115.20
112374	8/9/2012	Restaurant	20.70	12.63	33.33
112379	8/9/2012	Grocery store	336.96	-	336.96
112417	9/5/2012	Restaurant	20.38	12.42	32.80
112424	9/5/2012	Grocery store	82.52	-	82.52
112463	10/3/2012	Restaurant	20.30	12.37	32.67
112469	10/3/2012	Grocery store	62.22	-	62.22
112510	11/9/2012	Restaurant	22.28	13.59	35.87
112516	11/9/2012	Grocery store	235.57	-	235.57
112557	12/6/2012	Restaurant	11.28	6.87	18.15
112563	12/6/2012	Grocery store	97.66	-	97.66
112566	12/6/2012	Restaurant	732.60	-	732.60
112601	1/8/2013	Restaurant	19.48	11.87	31.35
112609	1/8/2013	Grocery store	824.96	-	824.96
112612	1/8/2013	Restaurant	718.20	-	718.20
112641	2/8/2013	Restaurant	20.17	12.30	32.47
112648	2/8/2013	Grocery store	103.26	-	103.26
112696	3/8/2013	Restaurant	19.60	11.95	31.55
112700	3/8/2013	Grocery store	102.91	-	102.91
112739	4/8/2013	Restaurant	22.30	13.60	35.90

Check number	Date	Expenditure	Public Housing Operating Fund program	Housing Choice Voucher program	Total
112745	4/8/2013	Grocery store	65.80	-	65.80
112786	5/10/2013	Restaurant	22.14	13.50	35.64
112792	5/10/2013	Grocery store	65.21	-	65.21
112833	6/7/2013	Restaurant	26.45	16.12	42.57
112839	6/7/2013	Grocery store	90.62	-	90.62
112881	7/8/2013	Restaurant	26.45	16.12	42.57
112885	7/8/2013	Grocery store	62.86	-	62.86
112922	8/9/2013	Restaurant	23.27	14.19	37.46
112928	8/9/2013	Grocery store	424.03	-	424.03
112931	8/9/2013	Restaurant	158.04	-	158.04
112966	9/5/2013	Restaurant	23.96	14.61	38.57
112972	9/5/2013	Grocery store	57.99	-	57.99
113010	10/9/2013	Grocery store	86.10	-	86.10
113012	10/9/2013	Restaurant	18.45	11.25	29.70
113063	11/7/2013	Grocery store	223.65	-	223.65
113110	12/5/2013	Grocery store	90.53	-	90.53
113114	12/5/2013	Restaurant	853.83	32.72	886.55
113157	1/9/2014	Restaurant	676.48	-	676.48
113162	1/9/2014	Floral shop	37.71	-	37.71
113193	2/6/2014	Grocery store	67.27	-	67.27

Check number	Date	Expenditure	Public Housing Operating Fund program	Housing Choice Voucher program	Total
113196	2/6/2014	Restaurant	19.66	11.98	31.64
113234	3/6/2014	Grocery store	117.81	-	117.81
113239	3/6/2014	Restaurant	17.40	10.62	28.02
113281	4/10/2014	Grocery store	91.20	-	91.20
113285	4/10/2014	Restaurant	20.48	12.48	32.96
113323	5/9/2014	Grocery store	64.47	-	64.47
113365	6/6/2014	Grocery store	67.90	-	67.90
113370	6/6/2014	Restaurant	80.18	-	80.18
113401	7/10/2014	Restaurant	20.27	12.37	32.64
113404	7/10/2014	Grocery store	93.47	-	93.47
113448	8/8/2014	Grocery store	73.14	-	73.14
113485	9/10/2014	Grocery store	85.53	-	85.53
113526	10/8/2014	Grocery store	84.28	-	84.28
113564	11/7/2014	Grocery store	138.51	-	138.51
113612	12/5/2014	Grocery store	91.17	-	91.17
Totals			\$9,238.72	\$393.48	\$9,632.20

Appendix D

Criteria

2 CFR 225 – Cost Principles for State, Local, and Indian Tribal Governments

Appendix A

C. Basic Guidelines

1. **Factors affecting allowability of costs.** To be allowable under Federal awards, costs must meet the following general criteria:
 - a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards.
 - j. Be adequately documented.
2. **Reasonable costs.** A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

Appendix B

12. Donations and contributions

- a. Contributions or donations rendered. Contributions or donations, including cash, property, and services, made by the governmental unit, regardless of the recipient, are unallowable.

14. Entertainment. Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.

24 CFR 982 – Section 8 Tenant-Based Assistance: Housing Choice Voucher Program

982.4 Definitions

Administrative plan. The plan that describes PHA policies for administration of the tenant-based programs. See § 982.54.

982.54 Administrative plan

(a) The PHA must adopt a written administrative plan that establishes local policies for administration of the program in accordance with HUD requirements. The administrative plan and any revisions of the plan must be formally adopted by the PHA Board of Commissioners or other authorized PHA officials. The administrative plan states PHA policy on matters for which the PHA has discretion to establish local policies.

982.161 Conflict of Interest

(a) Neither the PHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the tenant-based programs in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- (1) Any present or former member or officer of the PHA (except a participant commissioner);
 - (2) Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs;
 - (3) Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or
 - (4) Any member of the Congress of the United States.
- (b) Any member of the classes described in paragraph (a) of this section must disclose their interest or prospective interest to the PHA and HUD.
- (c) The conflict of interest prohibition under this section may be waived by the HUD field office for good cause.

HUD Handbook 7460.8, REV-2 – Procurement Handbook for Public Housing Agencies

Chapter 3 – 3.3 Documentation

- A. **General 24 (CFR 85.36(b)(9)).** The PHA [public housing agency] must maintain records sufficient to detail the significant history of each procurement action. Such documentation is particularly important in the event a protest is lodged against the PHA. It will also facilitate future purchases of similar supplies or services since it will not be necessary to recreate solicitation documents. Supporting documentation shall be in writing and placed in the procurement file. These records shall include, but shall not necessarily be limited to, the following:
- 1. Rationale for the method of procurement selected. For example, the contract file would not need to state why the Contracting Officer chose small purchase procedures to order a desk but would want to note why noncompetitive proposals was used for a roofing contract.
 - 2. The solicitation.
 - 3. Selection of contract pricing arrangement, but only if not apparent. For example, the contract file would not need to document why a firm fixed-price was used to obtain building materials.
 - 4. Information regarding contractor selection or rejection, including, where applicable, the negotiation memo, the source selection panel, evaluation report, cost and price analysis, email correspondence (including offers, selections, pertinent pre- and post-award discussions and negotiations, etc.)
 - 5. Basis for the contract price (as prescribed in this handbook), and
 - 6. Contract administration issues/actions.
- The level of documentation should be commensurate with the value of the procurement.
- B. **Record Retention (24 CFR 85.42(a) and (b)).** PHAs shall retain all significant and material documentation and records concerning all procurements they conduct. These records must be retained for a period of three years after final payment and all matters pertaining to the contact are closed. If any claims or litigation are involved, the records shall be retained until all issues are satisfactorily resolved.

Chapter 5 – 5.10 Standardized Forms/Mandatory Contract Clauses

- A. **General.** Except in the case of bid specifications and contracts for construction or maintenance work in excess of \$2,000 (see paragraphs B and C, below), small purchases, including purchase orders, are subject only to the mandatory clauses contained in Table 5.1.

PHAs may be further bound by certain State or local requirements (See Chapter 13). Other than these Federal, State or locally-mandated provisions, PHAs should include language with any small purchase that is necessary and appropriate, consistent with good business practice.

In addition to Table 5.1, HUD has developed forms which contain the contract clauses required for small purchases related to construction and maintenance work. The use of the Table and these forms are described in the paragraphs below.

- B. **Mandatory Requirements for Construction Contracts greater than \$2,000 but not more than \$100,000.** PHAs must incorporate the clauses contained in form HUD-5370-EZ, General Conditions for Small Construction/Development Contracts, and the applicable Davis-Bacon wage decision. Form HUD-5370-EZ has been designed for small construction jobs. PHAs may use form HUD-5370 in lieu of the HUD-5370-EZ if the former is more appropriate given the nature of the work.
- C. **Mandatory Requirements for Maintenance Contracts (including nonroutine maintenance work) greater than \$2,000 but not more than \$100,000.** PHAs must incorporate the clauses contained in Table 5.1; Section II of form HUD-5370-C, General Conditions for Non-Construction Contracts, and the applicable HUD wage decision.

TABLE 5.1 Mandatory Contract Clauses for Small Purchases Other than Construction

The following contract clauses are required in contracts pursuant to **24 CFR 85.36(i)** and Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. HUD is permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy. The PHA and contractor is also subject to other Federal laws including the U.S. Housing Act of 1937, as amended, Federal regulations, and state law and regulations.

Examination and Retention of Contractor's Records. The PHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

Right in Data and Patent Rights (Ownership and Proprietary Interest). The PHA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials, and documents discovered or produced by

Contractor pursuant to the terms of this Contract, including, but not limited to, reports, memoranda or letters concerning the research and reporting tasks of the Contract.

Energy Efficiency. The Contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. [Public Law] 94-163) for the State in which the work under this contract is performed.

York Housing Authority Consolidated Annual Contributions Contract

Section 9 – Depository Agreement and General Fund

(C) The HA [housing authority] shall maintain records that identify the source and application of funds in such a manner as to allow HUD to determine that all funds are and have been expended in accordance with each specific program regulation and requirement. The HA may withdraw funds from the General Fund only for: (1) the payment of the costs of development and operation of the projects under ACC [annual contributions contract] with HUD; (2) the purchase of investment securities as approved by HUD; and (3) such other purposes as may be specifically approved by HUD. Program funds are not fungible; withdrawals shall not be made for a specific program in excess of the funds available on deposit for that program.

Section 11 – Operating Budget

(D) The HA shall not incur any operating expenditures except pursuant to an approved operating budget.

HUD Guidebook 7420.10G – Housing Choice Voucher Program

Chapter 20.3

The PHA must prepare an annual estimate of required annual contributions and an operating budget to ensure that costs do not exceed the annual contributions provided by HUD. Housing assistance payments, ongoing administrative fees, hard-to-house fees, audit costs, and, in certain cases, preliminary fees are included in the calculation of annual contributions. The preparation of a budget and the imposition of good financial management controls are critical components of the PHA's financial management process. The budgeting process includes preparation and submission of form HUD-52672, Supporting Data for Annual Contribution Estimates, and form HUD-52673, Estimate of Total Required Annual Contributions.

York Housing Authority Procurement Policy

Small Purchase Procedures

For any amounts above the Petty Cash ceiling, but not exceeding \$100,000, the YHA [Authority] may use small purchase procedures. Under small purchase procedures, the YHA shall obtain a reasonable number of quotes (preferably three); however, for purchases of less than \$2,000, also known as Micro Purchases, only one quote is required provided the quote is considered reasonable. To the greatest extent feasible, and to promote competition, small purchases should be distributed among qualified sources. Quotes may be obtained

orally (either in person or by phone), by fax, in writing, or through eprocurement. Award shall be made to the qualified vendor that provides the best value to the YHA. If award is to be made for reasons other than lowest price, documentation shall be provided in the contract file. The YHA shall not break down requirements aggregating more than the small purchase threshold (or the Micro Purchase threshold) into several purchases that are less than the applicable threshold merely to: (1) permit use of the small purchase procedures or (2) avoid any requirements that applies to purchases that exceed the Micro Purchase threshold.