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TO: Donald J. Lavoy, Deputy Assistant Secretary for Field Operations, PQ

//signed//

FROM: Ronald J. Hosking, Regional Inspector General for Audit, 7AGA

SUBJECT: The East St. Louis Housing Authority Did Not Properly Manage or Report on Recovery Act Capital Funds

## **HIGHLIGHTS**

### **What We Audited and Why**

We selected the East St. Louis Housing Authority for an American Recovery and Reinvestment Act of 2009 Public Housing Capital Fund audit because it received the second largest amount of Recovery Act capital funds in the State of Illinois and because of its receivership status.

We audited the Authority to determine whether it (1) complied with applicable procurement requirements and properly managed its Recovery Act contracts, (2) properly drew down and expended funds for eligible activities, and (3) properly reported its Recovery Act activities.

### **What We Found**

The Authority did not (1) comply with applicable procurement requirements and properly manage its Recovery Act contracts, (2) properly draw down and expend funds for eligible activities, and (3) properly report its Recovery Act activities. Specifically, the Authority (1) improperly awarded Recovery Act-funded contracts, (2) improperly approved change orders, (3) did not enforce the fair

labor standards prevailing wage rate requirements in its contracts, (4) paid for a Recovery Act contract before receiving U.S. Department of Housing and Urban Development (HUD) approval to obligate or expend the funds, (5) improperly drew down all of its administrative fees, and (6) reported incomplete and inconsistent information on the number of jobs created and the amounts expended on Recovery Act contracts. As a result, the Authority used capital funds for unsupported and ineligible expenses and failed to ensure that all its contractors paid the appropriate wages, and its reported use of Recovery Act capital funds was not accurate.

### **What We Recommend**

We recommend that HUD require the Authority to (1) support that nearly \$1.9 million in Recovery Act contracts and change orders was granted at a reasonable cost and repay any amount determined to be unreasonable, (2) collect \$46,922 in overpaid funds from its contractor and return these funds to the U.S. Treasury, (3) ensure that contractors make any required wage restitution, and (4) provide documentation to support all administration expenses incurred or repay \$132,322 to the U.S. Treasury for the unsupported expenses. In addition, HUD should require the Authority to correct the amounts reported in FederalReporting.gov and verify that its data entries meet Recovery Act reporting requirements.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

### **Auditee's Response**

We provided the draft report to the Authority on February 8, 2012, and held an exit conference on February 14, 2012. The Authority provided its written response dated February 22, 2012 and generally disagreed with our audit findings.

The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix B of this report. The auditee also provided copies of supporting documentation that it referenced in its response. These supporting documents are available upon request.

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## **BACKGROUND AND OBJECTIVES**

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The East St. Louis Housing Authority provides housing to low-income families, the elderly, and people with disabilities in St. Clair County, IL. It owns and operates approximately 2,000 units of public housing within the city of East St. Louis. These units include nine family developments, six highrise apartment buildings, and various single-family detached homes known as scattered sites.

The Authority is one of seven public housing authorities under U.S. Department of Housing and Urban Development (HUD) administrative receivership, and it has been under receivership since 1985. Administrative receivership is a process whereby HUD declares a public housing authority in substantial default of its annual contributions contract and takes control of the authority. For the Authority, a HUD representative who works in the Milwaukee Office of Public Housing acts as the board. We are also conducting a separate audit of HUD's receivership over the Authority.

On February 17, 2009, the President signed the American Recovery and Reinvestment Act. The Recovery Act provided an additional \$4 billion to public housing agencies to carry out capital and management activities, including the modernization and development of public housing. The Recovery Act required that \$3 billion of these funds be distributed as formula grants and the remaining \$1 billion be distributed through a competitive process. The Recovery Act required public housing agencies to (1) obligate 100 percent of the funds within 1 year, (2) expend 60 percent of the funds within 2 years, and (3) expend 100 percent of the funds within 3 years of the grant's effective date. HUD's Office of Public Housing administers these grant funds.

In March 2009, the Authority received a \$4.9 million Public Housing Capital Fund Recovery Act formula grant. It had obligated 100 percent of its grant funds and expended 74 percent as of August 31, 2011. The Authority awarded 16 contracts using its Recovery Act funds. These contracts were for work such as landscaping; installation of signs, speed bumps and parking lot striping; sewer cleaning; exterior lighting; installation of new fire alarms; installation of new boilers and hot water systems; and the complete renovation of one of its developments.

Our objectives were to determine whether the Authority (1) complied with applicable procurement requirements and properly managed its Recovery Act contracts, (2) properly drew down and expended funds for eligible activities, and (3) properly reported its Recovery Act activities.

## RESULTS OF AUDIT

### Finding 1: The Authority Did Not Properly Award Recovery Act-Funded Contracts

The Authority did not properly award Recovery Act-funded contracts. This condition occurred because Authority staff misunderstood the requirements. As a result, the Authority could not show that more than \$1.5 million of the contract amounts was reasonable.

#### Improper Procurement Actions

The Authority did not properly award Recovery Act-funded contracts. It

- Did not always properly prepare independent cost estimates,
- Did not always perform cost or price analyses,
- Did not always verify the past performance of its contractors,
- Did not always document that its contractors had not been barred from doing business with the government in any way,
- Selected contractors that failed to submit Section 3 plans or submitted deficient plans, and
- Did not ensure that a contractor properly fulfilled the minority participation requirements.

Activity	Recovery Act obligation amount	Independent cost estimate improperly prepared	Cost or price analysis not performed	Past performance not verified	Debarment, suspension, or limited denial of participation check not documented	Section 3 plan missing or inadequate
Landscaping 1	\$134,003		x	x		
Landscaping 2	\$244,000		x	x		
Boiler & hot water heater	\$469,950			x	x	x
Villa Griffin project	\$1,992,908			x		x
Parking lots	\$472,500		x	x	x	x
Door replacement	\$62,125	x		x	x	
Door lock replacement	\$31,550			x		
Exterior lights	\$125,550			x		
Termite abatement	\$271,410	x		x	x	
Relocation	\$20,828				x	

Fire panel replacement	\$196,000	x	x	x	x	
Sewer cleaning	\$87,500					x
Architect	\$35,000			x	x	
Mold remediation <sup>1</sup>	\$73,600	x				
Trash chutes	\$9,224			x		
Miniblinds	\$190,000	x		x		
<b>Total</b>	<b>\$4,416,148</b>	<b>5</b>	<b>4</b>	<b>13</b>	<b>8</b>	<b>3</b>

This contract is also included in finding 4.

#### Independent Cost Estimates

The Authority did not always properly prepare independent cost estimates before receiving bids or proposals as required by 24 CFR (Code of Federal Regulations) 85.36 and its own policy. In certain instances, the independent cost estimate was prepared after the Authority received bids. In one case, the Authority prepared the independent cost estimate 16 days after it received the bids. In another instance, it used the price quote from the winning bidder as an independent cost estimate.

#### Cost or Price Analysis

The Authority did not always perform cost or price analyses before awarding Recovery Act contracts as required by 24 CFR 85.36 and HUD Handbook 7460.8, REV-2. HUD's and its own procurement policies and procedures require it to perform a cost or price analysis before awarding Recovery Act contracts when competition is lacking. This analysis would have allowed the Authority to evaluate the reasonableness of proposed contract prices. The Authority did not complete a cost or price analysis for four contracts that had single bidders or two bidders.

#### Contractor Past Performance

The Authority did not always verify the past performance of its contractors before awarding Recovery Act contracts. HUD Handbook 7460.8, REV-2, requires the Authority to conduct research to determine that a prospective contractor is responsible and document the results in the procurement file. One such method is to contact past customers to determine the bidders' quality of performance, including timeliness of delivery or completion, quality of work, and compliance with terms and conditions of the contract. The Authority did not always verify the past performance of its contractors, and in one instance, the listed author of a letter of recommendation later denied writing it.

#### Debarment and Suspension Check

The Authority did not always document that its contractors had not been debarred or suspended or barred in any way before awarding Recovery Act contracts as required by 24 CFR 85.35. Before a contract is awarded, the Authority is required to determine whether HUD has issued a limited denial of participation or a contractor has been debarred or suspended. In a number of instances, the Authority could not document that contractors were fully screened. It

documented either the limited denial of participation check or the debarment or suspension check, when both were required. In one instance, a contractor used subcontractors that the Authority was not aware of and had not screened before they worked on the contract. HUD Handbook 7460.8, REV-2, requires the Authority to obtain evidence from contractors that a check has occurred on each proposed subcontractor before the award is made or new subcontractors are allowed to participate in the contract. We verified that none of the contractors had been barred from doing business with the government in any way.

### Section 3 Plans

The Authority selected three contractors that failed to submit Section 3 plans or submitted deficient plans. The Authority required all bidders to provide written plans with their bids showing their possible compliance with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. (United States Code) 1701u. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 are, to the greatest extent feasible, directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. The deficient plans did not display the contractors' efforts in meeting the minimum numerical goals set forth in 24 CFR 135.30.

### Minority Participation

The Authority did not ensure that the contractor for the Villa Griffin project satisfied the mandatory minority business subcontractor participation requirements of the contract. The contractor was a partner with a minority-owned business in a Small Business Administration-approved 8(a) joint venture. The contractor listed this joint venture as a subcontractor to meet the minority participation requirements. The Authority required all bidders for this contract to use qualified minority businesses to perform subcontractor work for no less than 25 percent of the total contract price. In addition, 24 CFR 85.36(e) requires the contractor to take all necessary affirmative steps to ensure that minority firms are used when possible. Shortly before the notice to proceed date, the contractor submitted identical employee lists for the contractor and the minority business subcontractor. Because the subcontractor had no employees of its own assigned to the contract, its work under any subcontract would be performed by employees of the contractor, a nonminority company. Further, some of the minority subcontractor's work was subcontracted to other subcontractors. The Authority should have made additional inquiries to ensure that the contractor satisfied the purpose and intent of the minority participation requirements under the contract.

## **Requirements Misunderstood**

Authority staff did not understand all of the requirements for awarding contracts. Specifically, it did not realize that it was required to perform cost analyses when

competition was lacking. In addition, the Authority did not have detailed procedures for performing and documenting these items; it had only a general policy requiring them. Finally, Authority staff members lacked the appropriate procurement training as the Authority had little time for training new employees due to the time constraints for spending Recovery Act funds.

**Contract Amounts Possibly Unreasonable**

The Authority improperly awarded more than \$1.5 million in contracts that the Authority could not show were reasonable since it did not perform all required contract cost and price analyses. The table below identifies the contracts in question.

<b>Activity</b>	<b>Contract amounts</b>
Landscaping 1	\$134,003
Landscaping 2	\$244,000
Parking lots	\$472,500
Door replacement	\$62,125
Termite abatement	\$271,410
Fire panel replacement	\$196,000
Miniblinds	\$190,000
<b>Total<sup>2</sup></b>	<b>\$1,570,038</b>

<sup>2</sup>Total excludes the mold remediation contract, which is included in the schedule of questioned costs for finding 4, to avoid double counting.

**Conclusion**

The Authority awarded contracts without complying with Federal procurement requirements. These requirements include the performance of cost or price analyses and independent cost estimates, among other items. As a result, the Authority could not support that all contracts were awarded at a reasonable cost. It must ensure that all procurements meet Federal requirements.

**Recommendations**

We recommend that the Deputy Assistant Secretary for Field Operations require the Authority to

- 1A. Support that \$1,570,038 in Recovery Act contracts awarded was granted at a reasonable cost and repay the U.S. Treasury from non-Federal funds any amount determined to be unreasonable.



- 1B. Obtain evidence documenting compliance with Section 3's 10 percent numerical goal of \$293,536 or demonstrate why compliance was not possible for the three contracts (totaling \$2,935,358) with missing or deficient plans.
- 1C. Develop procedures to ensure that it performs and documents all required procurement actions.
- 1D. Provide its staff with procurement training.

## Finding 2: The Authority Improperly Approved Change Orders for Recovery Act Contracts

The Authority improperly approved change orders for Recovery Act contracts. This condition occurred because the Authority had inadequate controls and was unaware of all requirements. As a result, it improperly paid \$351,702 on Recovery Act contracts.

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### Improperly Approved Change Orders

The Authority improperly approved change orders for Recovery Act contracts. Specifically, it

- Did not always perform cost analyses before it approved change orders,
- Included profit in delay costs, and
- Increased a contract without processing a change order.

#### Cost Analyses

The Authority did not always perform cost analyses before it approved contract change orders. Regulations at 24 CFR 85.36 require a cost analysis for contract modifications or change orders unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. The Authority's procurement policy also requires a cost analysis for contract modifications.

Some of these change orders included profit in addition to the profit charged by the subcontractor. Clause 29 of form HUD-5370 states that the contractor must not be allowed a profit on the profit received by any subcontractor. A cost analysis would have identified components of the change order that were not allowable, allocable, or reasonable, such as these profit costs.

#### Change Order Profit

The Authority improperly paid for construction delays by including profit in the computation. Clause 30 of form HUD-5370 prohibits the Authority from initiating change orders that pay profit when the contract is delayed. The Authority processed two change orders for extended general conditions due to project delays that it caused. One of the change orders was for \$87,373, and the other was for \$38,606. These change orders included \$11,228 (\$7,787 + \$3,441) in unallowable profit and overhead. In addition, the same contract had a line item for lime stabilization but when this work was removed from the scope of work and the contractor removed the funds allocated to this activity from his contract price, he did not remove the \$35,694 in profit related to the deleted work. Clause 29 of form HUD-5370 states that in the case of deleted work, the change order must include a credit for profit and may include a credit for indirect costs. The

profit on the work not done should have been returned to the Authority and not kept by the contractor.

#### Missing Change Order

The Authority increased a contract amount without processing a change order. Clause 28 of form HUD-5370 states that any contract modification must be authorized in writing. The Authority granted an architectural services contract that was not to exceed \$340,000, but as of June 27, 2011, it had paid \$360,902 (an increase of \$20,902) without processing a written change order.

### **Inadequate Supervision and Awareness of Requirements**

The Authority did not properly supervise staff to ensure that change orders were processed when required. In addition, its staff members did not realize that they were required to conduct cost analyses for every change order processed as they often accepted the prices quoted by the contractors. Finally, staff members did not have much experience in managing construction contracts and were not aware of all requirements.

### **Change Orders Totaling \$351,702 Possibly Unreasonable**

The Authority improperly paid \$351,702 on Recovery Act contracts. This amount included \$46,922 improperly spent on profit for change orders. In addition, since it did not perform all the required contract cost and price analyses and properly modify and document change orders, the Authority could not show that changes totaling \$304,780 were reasonable. A listing of the unsupported changes by contract is in the table below.

<b>Activity</b>	<b>Changes processed</b>
Landscaping	\$175,678
Parking lot	\$42,053
Villa Griffin development	\$55,958
Miniblinds	\$172
Exterior doors	\$10,017
Architect	\$20,902
<b>Total</b>	<b>\$304,780</b>

## **Conclusion**

The Authority improperly approved change orders for Recovery Act contracts. It must collect all overpaid funds, strengthen its controls, and train its staff. These measures will ensure that the situation described above does not recur.

## **Recommendations**

We recommend that the Deputy Assistant Secretary for Field Operations require the Authority to

- 2A. Collect \$46,922 in overpaid funds from the contractor and return these funds to the U.S. Treasury.
- 2B. Support that \$304,780 in Recovery Act change orders was provided at a reasonable cost and repay any amount determined to be unreasonable from non-Federal funds to the U.S. Treasury.
- 2C. Develop controls to ensure that its staff is adequately supervised.
- 2D. Provide its employees with contract management training.

### Finding 3: The Authority Did Not Enforce the Fair Labor Standards Prevailing Wage Rate Requirements in Its Contracts

The Authority did not enforce the fair labor standards prevailing wage rate requirements in its contracts. This condition occurred because the Authority did not have adequate controls. As a result, contractor employees did not always receive their appropriate wages.

#### Inadequate Enforcement of Prevailing Wages

The Authority did not enforce the fair labor standards prevailing wage rate requirements in all of its contracts that were subject to these requirements. Section 1606 of the Recovery Act states that all laborers and mechanics employed by contractors and subcontractors on Recovery Act-funded projects must be paid prevailing wage rates. The Authority granted 11 contracts that were subject to the prevailing wage rates with a total value of more than \$4 million. HUD Handbook 1344.1, REV-1, requires public housing agencies to monitor enforcement of labor standards for the payment of prevailing wage rates in contracts over \$2,000 involving Federal funds. The amounts awarded for the contracts ranged from \$20,000 to more than \$1.9 million. The Authority did not (1) always verify wages and fringe benefits, (2) always verify that payroll reports were accurate, (3) always receive payroll reports in a timely manner, and (4) withhold payments for late payroll reports.

Contract	Indications that proper wages and fringe benefits not paid	Inaccurate certified payroll records	Late or missing payroll records
Landscaping 1	x	x	x
Landscaping 2	x	x	x
Boiler and hot water heater			x
Villa Griffin project		x	
Parking lots	x	x	x
Exterior lights		x	x
Termite abatement	x		
Relocation	x		
Fire panel replacement	x	x	x
Sewer cleaning	x		
Mold remediation	x		x
	8	6	7

### Wages and Fringe Benefits

The Authority did not always verify that its contractors paid Davis-Bacon wages and related acts and fringe benefits to their employees although it had indications that the wages were not being paid. In some instances, the Authority noted on its employee interview records that the employees reported wages or fringe benefits that were below the appropriate amount. HUD Handbook 7460.8, REV-2, paragraph 10-9(E)(3), requires housing authorities to review the certified payroll reports submitted by the contractor and subcontractors to ensure that all laborers and mechanics are classified and paid in accordance with the applicable wage determination and to compare information collected during onsite interviews to ensure consistency with interview data.

### Inaccurate Certified Payroll Records

The Authority did not always verify that the certified payroll reports received from its contractors were accurate, although they sometimes contradicted the Authority's inspection reports. In these instances, the Authority noted that certain employees worked on certain days, but the certified payroll records from the contractors did not list those employees as working on the same days.

### Late or Missing Certified Payroll Records

The Authority did not always receive certified payroll reports from its contractors in a timely manner, if at all. Regulations at 29 CFR 5.5(a)(3)(ii)(A) require the contractor to submit weekly, for each week in which any contract work is performed, a copy of all payrolls. It also requires that the payroll records be accurate and complete. In one case, the payroll records were submitted by the contractor 2 months late. In another case, the contractor did not submit any of the payroll records of its subcontractors, and the Authority did not document steps taken to obtain the payroll records.

### Lack of Enforcement

The Authority did not withhold payments from contractors that failed to provide timely certified payroll reports. HUD Handbook 1344.1, REV-1, paragraph 5-1(c) allows the Authority to suspend contract payments until the violation of Davis-Bacon and related acts ends or until sufficient funds are withheld to compensate employees for the wages to which they are entitled.

## **Inadequate Controls**

The Authority lacked policies and procedures requiring it to compare the staff field inspection reports with the certified payroll records and ensure that all contractors paid the appropriate wages. In addition, Authority staff was not adequately supervised to ensure that it followed up on all indications of noncompliance with Davis-Bacon and related acts.

## **Appropriate Wages Not Paid**

Contractor employees did not always receive their appropriate wages. Due to the inaccurate and incomplete records retained by the Authority, we were unable to calculate the actual underpayment of wages and fringe benefits.

## **Conclusion**

The Authority did not enforce the fair labor standards prevailing wage rate requirements in its contracts. It did not always ensure that workers were paid their proper wages and benefits, receive and verify all payroll records, or impose penalties when warranted. HUD Handbook 7460.8, REV-2, paragraph 10-9(E)(3), requires that any discrepancies in payroll records found be corrected and wage restitution be required wherever underpayments are disclosed. The Authority must ensure that it remedies this situation.

## **Recommendations**

We recommend that the Deputy Assistant Secretary for Field Operations

- 3A. Require the Authority to review all payments to its contractors' employees to determine whether wage restitution is owed and provide the review results to HUD for review and approval. If wage restitution is required, ensure the contractors make the restitution.
- 3B. Require the Authority to develop and implement adequate written procedures, controls, and supervision to ensure that its contractors' employees are paid at the appropriate Federal prevailing wage rates. These measures would include but not be limited to reviewing contractors' weekly certified payrolls, comparing the weekly certified payrolls with the field inspection reports, maintaining full documentation such as weekly payrolls and copies of wage determinations, penalizing contractors that violate fair labor standards, and making any applicable changes or modifications needed to comply with the Davis-Bacon and related acts.

## Finding 4: The Authority Paid for a Recovery Act Contract Before Receiving HUD Approval To Obligate or Expend the Funds

The Authority paid for a Recovery Act contract before receiving HUD approval to obligate or expend the funds. This condition occurred because the Authority misunderstood the requirements. As a result, it paid the contractor and tenants \$74,425 before receiving HUD approval to obligate or expend the funds.

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### Improperly Executed Contracts

The Authority awarded a mold remediation contract for \$73,600 in January 2011 without obtaining HUD obligation approval. It sought HUD approval to solicit for quotes on October 28, 2011, when the contract had been completed as of May 18, 2011, according to the certificate of completion.

According to the obligation submission approval requirements for troubled public housing authorities provided to the Authority by HUD, before obligation, all award documents must be submitted to the field office for review and approval. HUD requirements also state that the field office must review the Authority's determination of the successful respondents before the Authority may award the contract. In its obligation request, the Authority sought HUD's approval to solicit for contractors but did not inform HUD that it had already awarded the contract and granted the notice to proceed. In addition it did not seek HUD approval to expend the funds.

Additionally, the Authority used relocation activity funds to reimburse tenant moving expenses when the activity amount obligated was only meant to pay for the company that was contracted to relocate the tenants. The Authority did not seek HUD approval to directly reimburse these tenants with Recovery Act funds.

### Requirements Misunderstood

The Authority did not realize that it was barred from spending funds on Recovery Act contracts until it received HUD approval. Additionally, it did not realize that since it is in receivership, all Recovery Act Capital Fund grants were to be manually reviewed by HUD and that its board approval was required for all Recovery Act contracts before they were awarded. Authority staff members also noted that they thought that reimbursing tenant moving expenses was allowable because the line item was an allowable Recovery Act expense.



### **Contractors Paid \$73,600 Before HUD Approval**

The Authority paid the contractor \$73,600 before receiving HUD approval to obligate or expend the funds. In addition, it was not entitled to receive reimbursement for \$825 in non-Recovery Act funds expended on improperly paid tenant moving expenses.

### **Recommendations**

We recommend that the Deputy Assistant Secretary for Field Operations

- 4A. Require the Authority to provide documentation supporting that it received HUD approval for the mold remediation contract, or require repayment of \$73,600 to the U.S. Treasury.
- 4B. Require the Authority to repay \$825 to the U.S. Treasury for the improperly paid tenant moving expenses.
- 4C. Provide training to the Authority's staff.

## Finding 5: The Authority Improperly Drew Down All of Its Administrative Fees

The Authority drew down all of its administrative fees totaling \$434,883, when it was only entitled to draw down a total of \$302,561. This condition occurred because its staff misunderstood the requirements. As a result, the Authority overdrawed its administrative fees by \$132,322 without the required support and possibly received administrative fees to which it was not entitled.

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### Administrative Fees Drawn Before Earned

As of May 27, 2011, the Authority had drawn down \$434,883 in administrative expenses (a total of \$154,972 drawn before May 27, 2011, and \$279,911 requested on May 27, 2011). However, the Authority was only entitled to draw down \$302,561 because it did not provide support showing that it had already incurred \$434,883 in administrative expenses.

In the initial budget, HUD had approved the Authority's request to use up to \$434,883 in administrative fees to administer its Recovery Act Capital Fund program. However, PIH Notice 2011-04 allows housing authorities to draw only up to 10 percent of each contractor payment for administration of the Recovery Act grant or with field office approval, to draw beyond 10 percent of the expenditure if it demonstrates that it has already incurred the administrative expense. Since the Authority had drawn down only slightly more than \$3 million in contractor payments as of May 27, 2011, it was entitled to have drawn down only \$302,561 (10 percent) in administrative expenses.

### Requirements Misunderstood

Staff erroneously relied on PIH Notice 2010-34 to draw the remaining balance of the Authority's administrative fee and did not realize that the notice applied only to competitive Capital Fund grants, while the Authority had a formula capital fund grant. The Authority failed to rely on PIH Notice 2011-04, which is specifically for formula grants, when it initiated the drawdown of funds from HUD.

Staff members erroneously believed that the PIH notices allowed them to draw administrative fees based on the actual administrative expenses incurred plus a percentage of the amounts paid to the Authority's contractors. They believed that since they did not draw beyond 10 percent of the grant amount as specified by PIH Notice 2011-04, they could draw the remaining balance. In addition, they believed that since HUD approved the drawdown of funds, it must have agreed that the Authority was eligible to draw the entire administrative fee amount.

## **Unsupported Fees Received**

The Authority overdrew its administrative fees by \$132,322 without the required support. If it does not spend all of its Recovery Act funds, it will have received administrative fees to which it was not entitled.

## **Conclusion**

The Authority inappropriately drew down all of its administrative fees because it misunderstood the requirements. It needs to properly train its staff to ensure that administrative fees are drawn only when allowable and repay any portion that is unallowable.

## **Recommendations**

We recommend that the Deputy Assistant Secretary for Field Operations require the Authority to

- 5A. Provide documentation to support excess administrative fees received or repay \$132,322 to the U.S. Treasury for the unsupported expenses.
- 5B. Provide its employees with training related to the drawing of administrative fees.

## Finding 6: The Authority Reported Incomplete and Inconsistent Information on the Number of Jobs Created and the Amounts Expended on Recovery Act Contracts

The Authority reported incomplete and inconsistent information on the number of jobs created and the amounts expended on Recovery Act contracts. This deficiency occurred because the Authority was not aware of all requirements. As a result, the public did not have access to accurate grant information related to the Authority's expenditures of Recovery Act capital funds, and its use of Recovery Act capital funds was not transparent.

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### Incomplete and Inconsistent Information Reported

The Authority reported incomplete and inconsistent information on the number of jobs created and the amounts expended on Recovery Act contracts. According to the Recovery Act reporting requirements in 2 CFR Part 176 and section 1512(c) of the Recovery Act, Recovery Act grant recipients are required to report the following information in FederalReporting.gov:

- Amount of the Recovery Act grant award,
- Project information for use of the grant funds,
- Number of jobs created or retained with the Recovery Act grant,
- Grant funds invoiced and received,
- Expenditure amounts,
- Listing of vendors receiving Recovery Act funds, and
- Vendor transactions and payments.

#### Jobs Inaccurately Reported

The Authority did not accurately report the number of jobs created or retained. It did not use staff hours to calculate full-time job equivalents but based them on the number of workers employed. The Recovery Act requires full-time-equivalent jobs to be calculated using staff hours worked per quarter. Additionally, the Authority did not report jobs created by its contractors or force account labor. In its Section 3 reporting to HUD for 2010, it listed 15 jobs created but did not list more than three jobs created in any of the quarterly submissions to FederalReporting.gov. It also reported to FederalReporting.gov that the only jobs created were those of a contract administrator, construction inspector, and financial analyst, while it reported professional, office and clerical worker, construction worker, inspector, union carpenter, and laborer jobs created in its Section 3 report to HUD.

#### Vendor Expenditures Improperly Reported

The Authority did not properly report on the expenditures made to each of its vendors. It reported on the total amount awarded to each vendor but did not

report on the disbursement progress of each vendor. Through the first quarter of 2010, the Authority reported \$0 disbursed to its vendors. From the second quarter of 2010 until the second quarter of 2011, the Authority reported that it disbursed the full contract amount to each of its vendors.

**Funds Received Improperly Reported**

The Authority did not accurately report the total amount of Recovery Act funds received. It did not properly report the amount of funds received for two quarters in 2010. The following table lists the amounts received as reported in FederalReporting.gov, the actual amounts received, and the difference between the two numbers.

<b>Recovery Act capital funds received</b>			
<b>Ending date for reporting period</b>	<b>Reported amount received</b>	<b>Actual amount received</b>	<b>Difference</b>
9/30/2009	\$0	\$0	\$0
12/31/2009	\$0	\$0	\$0
3/31/2010	\$0	\$0	\$0
6/30/2010	\$574,216	\$574,216	\$0
9/30/2010	\$4,948,702	\$1,213,909	\$3,734,793
12/31/2010	\$4,948,702	\$2,607,441	\$2,341,261
3/31/2011	\$3,025,008	\$3,025,008	\$0
6/30/2011	\$3,517,755	\$3,517,755	\$0

**Staff Unaware of Requirements**

The Authority’s staff members did not realize that they were required to report the jobs created by the contractors as well as those created by employing force account labor. In addition, they were not aware that they were required to use staff hours to calculate full-time job equivalents. Once the quarterly reports were due, the employee tasked with reporting Recovery Act information requested information from different departments within the Authority and reported the information as she received it. In addition, this employee did not know how to report Recovery Act funds paid to contractors quarterly, as she used only the Web site interface of FederalReporting.gov and did not know how to upload the information into an Excel file.

**Loss of Transparency**

The public did not have access to accurate grant information related to the Authority’s expenditures of Recovery Act capital funds. In addition, the public did not have information pertaining to the projects and activities funded with

Recovery Act grant funds. As a result, the Authority's use of Recovery Act capital funds was not transparent.

## **Conclusion**

The Recovery Act required an unprecedented level of transparency, and the Authority failed to provide the public with reliable information. Its employees need to be trained so that they can report information accurately.

## **Recommendations**

We recommend that the Deputy Assistant Secretary for Field Operations

- 6A. Require the Authority to correct the amounts reported in Federal Reporting.gov and verify the Authority's data entries to ensure that they meet Recovery Act reporting requirements
- 6B. Assist the Authority in receiving training on how to accurately report required Recovery Act grant information in FederalReporting.gov.

## SCOPE AND METHODOLOGY

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To accomplish our objectives, we performed the following steps as they related to the Authority's Recovery Act Public Housing Capital Fund formula grant:

- Reviewed relevant laws, regulations, and HUD guidance.
- Reviewed the Authority's Recovery Act Public Housing Capital Fund formula grant agreement, budget, procurement policies, change order and contract modification policy and procedure, and relocation plan.
- Reviewed Recovery Act reporting documents and reports submitted to [FederalReporting.gov](http://FederalReporting.gov).
- Interviewed Authority and HUD staff.

We reviewed the Authority's entire Recovery Act grant totaling nearly \$4.9 million. The grant was used to fund 16 contracts, 3 force account labor activities, and the Authority's administrative fee. We reviewed each of the contract files, including the advertisement; independent cost estimate; solicitation; bid documents; debarment, suspension, and limited denial of participation verifications; references; recommendation for award; notice of award; notice to proceed; contract; and buy American certifications. We also reviewed obligation submission approval requirements and expenditure submission approval requirements documents, change orders, cost or price analyses, inspection reports, and certificates of substantial completion. Additionally, we reviewed staff field reports, employee interviews, certified payroll records, timesheets, and other documents to determine whether the Authority enforced fair labor standards.

We identified four contracts that the Authority awarded before receiving the obligation submission approval requirements approval from HUD. For these contracts, we reviewed the invoices and the draw requests.

We did not use computer-generated data to support our audit conclusions. We compared the source documentation maintained in the Authority's files to data reported in HUD's Line of Credit Control System and [FederalReporting.gov](http://FederalReporting.gov). All conclusions were based on source documentation reviewed during the audit.

We performed our audit between September 2011 and January 2012 at the Authority's office at 700 North 20th Street, East St. Louis, IL. Our audit generally covered the period September 1, 2009, through August 31, 2011.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

# INTERNAL CONTROLS

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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.

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## Relevant Internal Controls

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

- Policies and procedures to ensure that the Authority complied with applicable procurement requirements when awarding Recovery Act contracts.
- Policies and procedures to ensure that the Authority properly drew down and expended Recovery Act capital funds for eligible activities.
- Policies and procedures to ensure that the Authority properly and accurately reported its Recovery Act activities to the public.

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 to properly award and manage Recovery Act-funded contracts (see findings 1 and 2).
- The Authority did not have adequate controls to enforce fair labor standards prevailing wage rate requirements in its contracts (see finding 3).
- The Authority did not have adequate controls to properly draw down and expend Recovery Act funds (see findings 4 and 5).
- The Authority did not have adequate controls to properly report information on the number of jobs it created and the amounts expended on Recovery Act contracts (see finding 6).

## APPENDIXES

### Appendix A

#### SCHEDULE OF QUESTIONED COSTS

Recommendation number	Ineligible 1/	Unsupported 2/
1A		\$1,570,038
1B		\$293,536
2A	\$46,922	
2B		\$304,780
4A		\$73,600
4B	<u>\$825</u>	
5A		<u>\$132,322</u>
	\$47,747	\$2,374,276

- 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

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#### Ref to OIG Evaluation

#### Auditee Comments

#### **THE HOUSING AUTHORITY OF THE CITY OF EAST ST. LOUIS**

Contracts Department\* 700 North 20<sup>th</sup> Street\*East St. Louis, IL 62205 618.646.7100 TDD  
800.545.1833 ext. 471

February 22, 2012

U.S. Department of Housing and Urban Development  
Office of Inspector General  
Region vii Office of Audit  
Gateway Tower II-5<sup>th</sup> Floor  
400 State Avenue  
Kansas City, Kansas 66101-2406

RE: Response to the Audit Report dated February 8, 2012 The East St. Louis Housing Authority Did Not Properly Manage or Report on Recovery Act Capital Funds

Dear Mr. Ronald J. Hosking:

Please accept this written response to the Draft Audit Report provided to us by Office of Inspector General (OIG) dated February 8, 2012. The HA worked diligently to insure all ARRA Funds were properly used and managed. The ELSHA takes audits very seriously and would like to express our appreciation for allowing us to respond to your recommendations.

#### **Finding 1**

The Authority did not properly award Recovery Act-funded contracts.  
Specifically:

- The Authority did not always properly prepare independent cost estimates as required by 24 CFR 85.36 and HUD Handbook 7460.8 Rev-2

#### **Management Response:**

Management does not concur. An overview of each contract was performed to assure pre-procurement was satisfied. The HA records indicate that independent cost estimates (ICE) were performed for each procurement. Per Handbook No. 7460.8 Page 3-2 paragraph D. "The level of detail will depend upon the dollar value of the proposed contract and the nature of the goods or services to be acquired. The ICE must be prepared prior to the solicitation of offers" The following contracts were detailed in the audit report:

#### **Comment 1**

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 2**

- *Door Replacement- ICE was performed on 12/16/2009 contract resolution on 02/24/2010 (see attachments that was submitted to HUD Field Office)*

**Comment 3**

- *Termite Abatement- ICE was performed on 06/01/2009 contract resolution on 09/11/2009 (see attachments that was submitted to HUD Field Office)*

**Comment 4**

- *Fire Panel Replacement- ICE was submitted to our Field Office on 01/26/2010 which would indicate that the HA in fact had a ICE prior to contract award and contract resolution on 02/24/2010 (see attachments that was submitted to HUD Field Office)*

**Comment 5**

- *Mold Remediation- ICE was submitted to our Field Office on 10/28/2010 which would indicate that the HA in fact had a ICE prior to contract award and contract resolution on 01/20/2011 (see attachments that was submitted to HUD Field Office)*

**Comment 6**

- *Miniblinds- ICE was performed on 12/16/2009 contract resolution on 02/24/2010 (see attachments that was submitted to HUD Field Office)*

**Comment 7**

*The HA did not find that any independent cost estimates performed after the Authority received bid, nor did the Authority find an ICE performed 26 days after it received bids. The above bullets details when the ICE was either prepared or submitted to HUD, along with the contract award. It should be noted these files have been reviewed numerous times and certain information could have been unorganized at the time of the review.*

- The Authority did not always perform cost or price analysis prior to awarding recovery act contracts as required by 24 CFR 85.36 and HUD Handbook 7460.8 Rev-2.

**Managements Response:**

**Comment 8**

*Management does not concur. Handbook No 7460.8 Rev 2 page 3-2 paragraph E., states, "If a significant period of time has elapsed, or the PHA knows that certain market conditions have changed, the Contracting Officer should request that an updated ICE be prepared to*

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 9**

*use in evaluating offers.” HUD did not identify in its handbook No 7460.8 what would be considered a significant period of time. Management does not consider one – two months a significant period of time. Furthermore, market conditions had not changed and did not warrant and updated ICE. In addition, 24 CFR 85.36 do not address cost and price analysis after bid offers have been received and therefore should not be reference as sources to support OIG finding.*

- The Authority did not always verify the past performance of its contractors prior to awarding recovery act contracts as required by HUD Handbook 7460.8 Rev-2.

**Management Response:**

*Management does not concur. HA met this requirement based on past contracts awarded to the contracts in question. Handbook No 7460.8 REV 2 states “Require offerors to submit contact information for recent contracts they have performed for other customers and contact them to ascertain the offerors quality of performance.” Each contractor provided contact information for recent contracts that they have performed including reference letters. The HA had firsthand experience with the contractors and determined that past quality of performance, including timeliness of delivery/completion, quality of work, complied with terms and conditions of past contracts and cost control. Therefore, HA did not pursue further verification from other customers of the contractors.*

- *Landscaping- [REDACTED] has performed services with the HA since 2005.*
- *Boiler and Hot Water- [REDACTED] has performed services since 2006*
- *Termite abatement- [REDACTED] has performed services since 2005*
- *Villa Griffin- [REDACTED] performed rehab work for the HA on our John DeShields Homes during the 90’s.*

The Authority did not always document that its contractors were not debarred or suspended or barred in any way prior to awarding recovery act contracts as required by 24 CFR 85.36.

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 10**

**Managements Response:**

*Management does not concur. OIG has reference 24.CFR.85.36 to support this finding. After reviewing the CFR management found that this reference did not support this finding. However, 85.35 addresses debarred or suspension.*

**§ 85.36 Procurement.**

(a) *States.* When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (I) in this section.

**§ 85.35 Subawards to debarred and suspended parties.**

Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, “Debarment and Suspension

**Comment 11**

*“The Authority documented that each contractor was not debarred or suspended utilizing LDP as required per HUD Handbook 7460.8 REV 2. HUD Handbook 7460.8 REV 2 also, states, “PHAs should determine whether contractors have been restricted from participation in HUD or Government Services Administration (GSA) contracts”. The HA did check if HUD had issued an LDP or if the contractors had been debarred or suspended. The HA has a detail print listing from the U.S. Department of Housing and Urban Development, Limited Denial of Participation as of 02/11/2010. Note that over 50% of our contracts were awarded in February 2010 (see attached listing dated 02/11/2010. The Authority will continue to check before contracts are awarded both LDP, GSA and State agencies regarding debarred or suspended contractors.*

- The Authority selected contractors who failed to submit Section 3 plans or submitted deficient plans.

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 12**

**Managements Response:**

*Management does not concur. Two out of the three contractors were able to comply: Management reviewed the contractors file for the Parking lot improvement. It was noted that the actual plan was missing from the file, however it should be documented that the contractor was in compliance by utilizing Section 3 workers, as documented in meeting minutes. The contractor for Villa Griffin did submit a Section 3 plan that was deemed by OIG as a deficient plan, however the HA is taking necessary measures with this contractor to bring the plan up to date as we are still under construction with such contractor, and do not see a problem with meeting the goal.*

- The Authority did not ensure a contractor properly fulfilled the minority participation requirements.

**Managements Response:**

**Comment 13**

*The Management do not concur, the contractor submitted a detailed listing of how they would satisfy the 25 percent goal which is what the HA approved. The contractor listed a joint venture as a subcontractor to meet the minority participation requirements”. As documented in the HA records [REDACTED] fulfilled their 25 percent MBE/WBE requirements in the amount of \$ 745,502 through the following sub-contracts:*

- *Carpentry sub-contract to MBE in the amount of \$574,555*
- *Plumbing sub-contract to MBE in the amount of \$111,300*
- *Roofing sub-contract to MBE in the amount of \$35,010*
- *Flooring sub-contract to MBE in the amount of \$24,637*

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 14**

Recommendations

We recommend that the Deputy Assistant Secretary for Field Operations require the Authority to:

1A. Provide support that \$1,580,056 in Recovery Act contracts awarded were at a reasonable cost, and repay any amount determined to be unreasonable.

**Managements Response:**

*The Authority have attached all supporting documentation, particularly copies of all OSAR's that was submitted and approved by HUD that all contracts awarded were reasonable in cost.*

1B. Obtain evidence documenting compliance with Section 3's ten percent numerical goal (\$293,536), or demonstrate why compliance was not possible, for the three contracts totaling \$2,935,358 with missing or deficient plans.

**Managements Response:**

*As documented in the HA records Section 3 compliance exceeded its ten percent numerical goal.*

**Comment 15**

1C. Develop procedures to ensure that it performs and documents all required procurement actions.

**Managements Response:**

*The Authority updated its Procurements Policies and Procedures to cover the Recovery Act Contracts in April 2009. Management will require all staff involved in the contracting office to review our Procedures to assure we have incorporated all required procurement actions.*

1D. Provide its staff with procurement training

**Managements Response:**

*Procurement training has been provided to key staff involved with the contracts procurement. In addition, the Authority relies on HUD guidance through PIH Notices, 24CFR's, HUD handbook and guide books. We can assure you the Authority takes pride in its integrity*



**Ref to OIG Evaluation**

**Auditee Comments**

*and its ability to provide complete and intelligent data to our Board, HUD and other local and federal agencies. Staff is kept abreast with new requirements through printed publications, on-site training and HUD webcast.*

**Finding 2**

The Authority improperly approved change orders for Recovery Act contracts.

Specifically:

- The Authority did not perform cost analysis before it approved change orders.

**Management Response:**

*Management agrees that it paid the contractor profit for the construction delays. During such time staff pointed out to OIG that the contractor can be paid overhead cost however they should not be paid profit. The Authority would like to request further guidance on these regulations so the Authority can incorporate into its procurement procedures the correct administration of when the profit for the construction should be paid.*

- The Authority increased contract amounts without processing change orders.

**Managements Response:**

*During the course of this engagement with administering the ARRA funds the Authority has undergone countless reviews. In the review processes several individuals have handled our contract records causing documented items to become disorganized and difficult to locate. The Authority has been unable to locate the original change order for Architectural service contract. Please note that the information that OIG is referring to is a contract summary sheet, it details specific tasks and estimated task orders. At no time has the HA awarded an actual contract in the amount of \$425,292. As of today the HA has only expensed \$360,927 to the current contractor. The Authority disagrees with the amount in which OIG is referring, an increase of (\$85,292) when the ARRAS budget only reflects (\$35,000).*

**Comment 16**

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 17**

*The Authority would also like to request additional clarification on what represents \$416,092 improperly spent on recovery act contracts. Our records indicated the following:*

Activity	ARRA Change orders
Landscaping	8,618
Parking Lots	14,838
Villa Griffin	55,958
Miniblinds	0
Exterior Doors	10,017
Architect	35,000
Total	124,431

**Finding 3**

The Authority did not enforce the Fair Labor Standards prevailing wage rate requirements in its contracts

Specifically:

- The Authority did not always verify that its contractors paid Davis-Bacon wages and fringe benefits to their employees even though it had indications that the wages were not being paid.
- The Authority did not always verify that the certified payroll reports received from its contractors were accurate even though they sometimes contradicted the Authority’s inspector’s reports.
- The Authority did not always receive certified payroll reports from its contractors in a timely manner, if received at all.
- The Authority did not withhold payments from contractors that failed to provide timely certified payroll reports.

**Managements Response:**

*This is a potential problem because the housing authority inspector who conducted majority of the HUD 11 interviews indicated that many of the employees do not know how much they make an hour, so they guessed at their rates.*

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 18**

- **Landscaping 1\* 2**
  - *The certified payrolls that the HA received did in fact show that the employees were not paid their fringe benefits, the contractor was not aware that the fringe along with the hourly wage must be shown on the certified payroll. While OIG was reviewing the records the HA provided proof that the fringes were paid. The contractor submitted a copy of their ADP report that provided proof those fringes was paid.*

**Comment 19**

- **Boiler and hot water heater-** *All payrolls are present. Some payrolls were received later than a week.*

**Comment 20**

- **Villa Griffin Project-)**
  - *ESLHA collected restitution when an employee was not paid the proper wage rate. (See attached letter and cancelled check from [REDACTED]).*
  - *In other cases, ESLHA took the inspectors HUD 11 forms and compared them to the Certified Payrolls and the Davis Bacon Wage Decision. When there was an indication that an employee was not making the appropriate wage amount, ESLHA contacted the contractor for clarification. It was confirmed that ESLHA was looking at the wrong amount due for the classification, and in that particular case, the employees were paid the correct wage amount. (See minutes 11 and 12.)*
  - *Without further information, ESLHA cannot determine that other certified payrolls contradict the HUD 11 interviews.*

**Comment 21**

- **Parking lots**
  - *Some payrolls were received from this contractor later than a week. There was some discussion with regard to truck drivers. Inspectors sited the employees were not being paid Davis Bacon, after careful research our records*

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 22**

- *indicated that Drivers are handled differently as a classification. Those owners that drive their truck can pay themselves whatever they want. This was pointed out during the review with OIG.*

- ***Exterior Lights*** *All payrolls are present. Some payrolls were received from this contractor later than a week.*

- *Without further information, ESLHA cannot determine that the certified payrolls contradict the HUD 11 interviews.*

**Comment 23**

- ***Termite abatement***

- *This was a service contract that the HA did not apply Davis Bacon wages to since the HA has the Exterminator Classification on the Maintenance Wage Decision. Therefore certified payrolls would not be subject.*

**Comment 24**

- ***Relocation*** *ESLHA did not require payroll records. It was a small purchase quote for tenant relocation services.*

- ***Fire Panel Replacement***

**Comment 25**

- *ESLHA has determined that proper wages were paid on this contract. The sub contractor who conducted the fire panel testing was not required to pay the same wages as the contracted electricians.*

- *It is unclear whether the certified payrolls are incorrect or if the Inspection reports are incorrect.*

- *Some payrolls may have arrived later than a week.*

**Comment 26**

- ***Sewer Cleaning*** *Employee was classified as laborer and paid laborer wage according to the Davis Bacon Wage Rate for this project.*

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 27**

- **Mold Remediation** Payroll number 1 showed the contractors were paying employees below the Davis Bacon Wage rate. ESLHA contacted the contractor who agreed to pay the employees the difference. They submitted a revised payroll number 1 showing the difference paid. (See attached)

**Finding 4**

The Authority paid for recovery act contracts prior to receiving HUD approval to obligate or expend the funds

Specifically:

- The Authority entered into 4 recovery act contracts worth more than \$400,000 in late 2009 and early 2011.

**Managements Response:**

*The Authority was not aware of such obligation submission requirement (OSAR) until December 11, 2009 in which this is the date that the three (3) contracts were submitted for approval. The fact remains that the Authority did comply with each requirement.*

**Comment 28**

- The Authority paid the contractors \$169,433 prior to receiving HUD approval to obligate or expend the funds

**Managements Rresponse:**

*The Authority had these work items in the budget that was approved by HUD. The Authority followed PIH notice 2009-12 under section VI. "That PHA's can utilize projects that are already underway, or are included in the Five- year Capital Fund Action Plan".*

*Furthermore, each pay application was submitted to HUD for payment, which could be understood as approval.*

- The Authority used ARRA Capital funds to reimburse \$825 in tenants moving expenses without HUD approval.

**Managements Response:**

*The Authority accepts OIG's recommendation and understands that the \$825 in tenant moving expenses without HUD approval.*

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 29**

**Finding 5:**

The Authority Improperly Drew Down All of Its Administrative Fees

The Authority drew down all of its administrative fees totaling \$434,883, when it was only entitled to draw down a total of \$302,561. This condition occurred because its staff misunderstood the requirements. As a result, the Authority overdrew its administrative fees by \$132,322 without the required support and possibly received administrative fees to which it was not entitled.

**Management Response**

Management did not rely solely on PIH notice 2010-34 for guidance , PIH notices 2009-12 and 2011-4 were also used for guidance on the restrictions on use of funds for BLI 1410(Administration).

- PIH Notice 2009-12, 2010-34 and 2011-4 in parts states exactly the same. “All expenditures from Account 1410(Administration) are limited to 10 percent of the total grant”. This is understood. PIH notice 2010-34 requirements did not lead staff to believe draws could be based on actual administrative expenses incurred as well as 10 percent of each expenditure reimbursement. As stated above the exact language giving guidance for BLI 1410(Administration) appears in all notices. However, language does not appear in any of the notices as identified above by OIG auditor. “PIH Notice 2011-04 allows the Authority to draw up to 10% of each contractor payment for the administration of the Recovery Act grant or actual administrative expenses already incurred.”

**Restriction on Use of Funds:**

PIH NOTICES 2009-12 and 2011-4

“All expenditures from account 1410 (Administration) are limited to 10 percent of the total grant. A PHA may draw up to 10 percent of each expenditure reimbursement for administration of the Recovery Act grant. **Or** with Field Office approval, a PHA may draw beyond 10 percent of the expenditure if the PHA demonstrates that it has already incurred the administrative expense.

**Ref to OIG Evaluation**

**Auditee Comments**

**Restriction on Use of Funds:**

PIH Notice 2010-34

“All expenditures from account 1410 (Administration) are limited to 10 percent of the total grant. A PHA may draw up to 11 percent of each expenditure reimbursement for administration of the Recovery Act grant. With Field Office approval, a PHA may draw beyond 11 percent of the expenditure if the PHA demonstrates that it has already incurred the administrative expense. Again, the total amount drawn down for administration is capped at 10 percent of the grant.

**Effect:**

Administrative expenses was incurred in the amount of \$154,972.48 and drawn based on supporting documentation of the expense. In addition \$279,910.52 was drawn based on the amount to contractors. The Combined total of both of the draws do not exceed 10% of the grant. 10 percent of the total grant have not been exceeded nor was ESLHA BLI 1410 amount over expended.

**Recommendations:**

Supporting documentation for the incurred administrative expenses was presented and approved prior to the release of funds requested through the draws. Management believes that it is in compliance with HUD guidelines for BLI 1410 Administration and should not be sited for non-compliance resulting in repayment of funds.

**Finding 6**

The Authority Reported Incomplete and Inconsistent Information on the Number of Jobs Created and the Amounts Expended on Recovery Act Contracts

The Authority reported incomplete and inconsistent information on the number of jobs created and the amounts expended on Recovery Act contracts. This deficiency occurred because the Authority was not aware of all requirements. As a result, the public did not have access to accurate grant information related to the Authority’s expenditures of Recovery Act capital funds, and its use of Recovery Act capital funds was not transparent. The Authority reported incomplete and inconsistent information on the number of jobs created and the amounts expended on Recovery Act contracts. According to the Recovery Act reporting requirements in 2 CFR Part 176 and section 1512© of the Recovery Act, Recovery Act grant recipients are required to report the following information in FederalReporting.gov:

**Ref to OIG Evaluation**

**Auditee Comments**

- Amount of Recovery Act grant award,
- Project information for use of the grant funds,
- Number of jobs created or retained with the Recovery Act grant,
- Grant funds invoiced and received,
- Expenditure amounts,
- Listing of vendors receiving Recovery Act funds, and
- Vendor transactions and payments.

**Jobs Inaccurately Reported**

The Authority did not accurately report the number of jobs created or retained. It did not use staff hours to calculate full time job equivalents but based them on the number of workers employed. The Recovery Act requires full-time-equivalent jobs to be calculated using staff hours worked per quarter. Additionally, the Authority did not report jobs created by its contractors or force account labor. In its Section 3 reporting to HUD for 2010, it listed 15 jobs created but did not list more than three jobs created in any of the quarterly submissions to FederalReporting.gov. It also reported to FederalReporting.gov that the only jobs created were those of a contract administrator, construction inspector, and financial analyst, while it reported professional, office and clerical worker, construction worker, inspector, union carpenter, and laborer jobs created in its Section 3 report to HUD.

**Vendor Expenditures Improperly Reported**

The Authority did not properly report on the expenditures made to each of its vendors. It reported on the total amount awarded to each vendor but did not report on the disbursement progress of each vendor. Through the first quarter of 2010, the Authority reported \$0 disbursed to its vendors. From the second quarter of 2010 until the second quarter of 2011, the Authority reported that it disbursed the full contract amount to each of its vendors.

**Funds Received Improperly Reported**

The Authority did not accurately report the total amount of Recovery Act funds received. It did not properly report the amount of funds received for two quarters in 2010. The following table lists the amounts received as reported in FederalReporting.gov, the actual amounts received, and the difference between the two numbers.

**Recovery Act capital funds received Ending date for reporting Period Reported amount received Actual amount received Difference**

9/30/2009	\$0	\$0	\$0
12/31/2009	\$0	\$0	\$0
3/31/2010	\$0	\$0	\$0
6/30/2010	\$574,216	\$574,216	\$0



**Ref to OIG Evaluation**

**Auditee Comments**

9/30/2010 \$4,948,702 \$1,213,909 \$3,734,793  
12/31/2010 \$4,948,702 \$2,607,441 \$2,341,261  
3/31/2011 \$3,025,008 \$3,025,008 \$0  
6/30/2011 \$3,517,755 \$3,517,755 \$0

The Authority's staff members did not realize that they were required to report the jobs created by the contractors as well as those created by employing force account labor. In addition, they were not aware that they were required to use staff hours to calculate full-time job equivalents. Once the quarterly reports were due, the employee tasked with reporting Recovery Act information requested information from different departments within the Authority and reported the information as she received it. In addition, this employee did not know how to report Recovery act funds paid to contractors quarterly, as she used only Website interface of FederalReporting.gov and did not know how to upload the information into an Excel file. The public did not have access to accurate grant information related to the Authority's expenditures of Recovery Act capital funds. In addition, the public did not have information pertaining to the projects and activities funded with:

**Loss of Transparency  
Staff Unaware of Requirements**

Recovery Act Grant funds. As a result, the Authority's use of Recovery Act capital funds was not transparent.

The Recovery Act required an unprecedented level of transparency, and the Authority failed to provide the public with reliable information.

Its employees need to be trained so that they can report information accurately.

We recommend that the Deputy Assistant Secretary for Field Operations.

6A. Require the Authority to correct the amounts reported in FederalReporting.gov and verify the Authority's data entries to ensure that they meet Recovery Act reporting requirements.

6B. Assist the Authority in receiving training on how to accurately report required Recovery Act grant information in FederalReporting.gov.

**Condition:**

The Authority reported incomplete and inconsistent information on the number of jobs created and the amounts expended on Recovery Act contracts.

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 30**

Specifically:

1. It did not accurately report the number of jobs created or retained.
2. It did not properly report on the expenditures made to each of its vendors.
3. It did not accurately report the total amount of recovery act funds expended or received.

**Management Response:**

1. Management do not concur with this finding, the HA reported jobs by quarter using the job calculator. As of 03/31/2011, all jobs created for that quarter was accurate to the best of our knowledge.

**Conclusion:**

The HA is confident it has addressed all the issues outlined in the Draft Audit. The HA will implement a process to provide electronic files to any/all reviews that request to do audits in the future.

We request that you accept the enclosed information along with the supporting documentation to serve as evident to clear all the aforementioned findings.

Sincerely,

Elizabeth Tolliver  
Executive Director

**Attachments**

## OIG Evaluation of Auditee Comments

- Comment 1** We never stated that independent cost estimates were not performed for any of the contracts. Our position is that these estimates were not properly performed. As the Authority has noted from HUD's Handbook 7460.8 Page 3-2 paragraph D, "the ICE must be prepared prior to the solicitation of offers." This was not always the case.
- Comment 2** The Door replacement contract was solicited on October 19, 2009, based on the "Solicitation, Offer and Award" document the Authority issued and the bids were opened on November 30, 2009. Since the cost estimate was prepared on December 16, 2009, after the bids were received, it did not meet the requirement of HUD Handbook 7460.8 to be prepared before bids were received.
- Comment 3** The Authority provided a document titled "Independent Cost Estimate" and stated that the basis of the analysis was the price paid for the most recent contract and factored in inflation or changed market conditions. It stated that the estimated service cost was \$500,000, but it did not attach any documents to support the \$500,000 figure or list the price paid for the most recent contract.
- Comment 4** The Authority did perform a cost estimate for the fire panel contract but did not provide supporting documents for the cost estimates of \$1,183,957 or the alternate of \$1,062,407, as required by HUD handbook 7460.8 Rev-2 chapter 3.2. The cost estimate did not provide a detailed breakdown of the anticipated costs in terms of materials to be purchased or labor.
- Comment 5** The independent cost estimate was conducted almost a month after the bid solicitation was advertised. It was performed on January 7, 2011 while the solicitation was first advertised on December 8, 2010. Since the cost estimate was prepared after the solicitation, it did not meet the requirement of HUD Handbook 7460.8. In addition, the supporting document provided by the Authority lists the date of the independent cost estimate as January 7, 2011, not October 28, 2010 or any other date.
- Comment 6** The Authority conducted an Independent Cost Estimate based on a quote provided by the successful bidder; therefore, the cost estimate was not independent. In addition, the cost estimate was prepared on December 17, 2009, while the public solicitation was issued on October 13, 2009. Therefore, the Authority issued the public solicitation for the contract before conducting the cost estimate contrary to the requirements HUD Handbook 7460.8.
- Comment 7** For two of the five contracts cited in our finding for having improper independent cost estimates, the independent cost estimates were performed after the Authority received bids. In the case of the exterior doors, we note that the independent cost estimate was performed 16 days after the bids were received and opened, not 26 days. The original bid received date was extended by 10 days.

- Comment 8** The Authority did not always perform cost analyses before awarding Recovery Act contracts. For example, in the case of the parking lot contract, there was a single bidder and HUD Handbook 7460.8 Rev-2, Chapter 10.3A requires a cost analysis when there is inadequate competition. In this case, this was not performed. In addition, HUD Handbook 7460.8 Rev-2, Chapter 10.3A states that “for every procurement, PHAs are required to perform a cost or price analysis to determine that the price is reasonable.”
- Comment 9** The Authority requested references and contact information from all companies interested in obtaining contracts. At a minimum, it should have checked out the references to be in compliance with HUD’s requirements or document its reasons for not verifying the references. In some instances, the Authority did follow-up with references and documented such in the procurement files. Completion of this process will help the Authority to determine if the service levels of the bidders have declined. The contract amounts, where only this error was present, are not included in the questioned costs.
- Comment 10** We correctly cited in our report the regulations at 24 CFR 85.35 and not 24 CFR 85.36.
- Comment 11** While the Authority has a detailed listing of HUD’s limited denial of participation list dated February 11, 2010, eight contracts were awarded before this date and the Authority did not provide evidence that all the contractors were checked against the list. The only one cited in our report that was awarded after February 11, 2010 where the list was applicable was not missing the limited denial of participation check. The contract amounts, where only this error was present, are not included in the questioned costs.
- Comment 12** At least 10 percent of covered contracts are required to go to Section 3 businesses and the Authority could not document section 3 plans that showed how the contractors were going to meet this requirement. Two of the contracts were missing Section 3 plans. In addition, the Section 3 plan for the Villa Griffin development was deficient. Specifically, while it was required to show at least 10 percent of its construction contracts totaling \$2,977,000 going to Section 3 businesses, it only listed \$27,598 (0.9 percent) to be awarded to Section 3 businesses. The Authority acknowledges that this plan was deficient and it is working to resolve the issue.
- Comment 13** The Villa Griffin general contractor did not meet the minority participation requirement of 25 percent because the carpentry subcontractor was a related entity as it is a joint venture between the general contractor and another company. Therefore the general contractor would end up doing some of the work assigned to the subcontractor. In addition, the list of workers provided by the general contractor and the carpentry subcontractor were identical.

**Comment 14** We reviewed all the supporting documents and noted that they did not meet all of the requirements. Our analysis of the supporting documents provided by the Authority in its response to finding 1 can be found in our comments 1 through 13.

**Comment 15** See comment 12

**Comment 16** The Architectural Services contract was awarded with a provision that it was not to exceed \$340,000. As of June 27, 2011, the Authority had exceeded this amount by \$20,902 without an approved change order. We will amend the report to reflect this fact.

**Comment 17** The Authority processed \$80,927.50 worth of change orders for the landscaping 1 Contract, \$94,750 for landscaping 2, \$42,053 for parking lots (5 change orders) and \$171.61 for the Mini Blinds. These change order amounts are for added work and do not include any deletions. The Authority did not always distinguish between Recovery Act and non-Recovery Act sources of funding when processing change orders. Therefore, the Authority needs to do a cost analysis for each change order to determine if the change orders were reasonable, in order to show that the Recovery Act contributions were also reasonable.

**Comment 18** For the landscaping 1 contract, the Authority did not obtain all of the payroll records. Some of the reports were missing and those that were present did not always contain all the employees that worked during the reporting period. There were no payroll records documented after May 3, 2011 even though there was work performed until July 20, 2011, according to the field inspection reports. In addition, the contractor provided payroll records for the work performed between December 22, 2010 and March 1, 2011 on March 3, 2011, which was late. For the landscaping 2 contract, the Authority did not obtain all of the payroll records. It did not document payroll records between June 8, 2010 and June 29, 2011.

**Comment 19** For the boiler and hot water contract, the Authority did not obtain all of the payroll records of one of the subcontractors that worked on the contract. HUD-11 forms dated September 20, 2010 indicated that there were two employees of the subcontractor present on site. However, there were no payroll records provided by the subcontractor for that date.

**Comment 20** For the Villa Griffin project, we had no issues with the payroll records of the general contractor. The payroll records of some of the subcontractors were not accurate. In one particular case, the payroll records did not match with the HUD-11 interview forms from August 3, 2011. Specifically, workers that were interviewed for HUD-11 forms on that date were not listed on the payroll records for the same date.

**Comment 21** For the parking lot contract, the Authority did not obtain any of the payroll records of the subcontractors that worked on the contract. In addition, it never offered any evidence that the truck drivers were owner-operators and therefore

not subject to Davis-Bacon wages. Finally, the Authority did not document complete certified payroll reports from the general contractor. Some of the reports were missing and those that were present did not always contain all the employees that were shown on the HUD-11 interview forms for March 30, 2010 and other days. Specifically, workers that were interviewed for HUD-11 forms on that date were not listed on the payroll records for the same date. Additionally, the general contractor should have provided the payroll records until September 17, 2010 when the certificate of substantial completion was issued, but only provided records through July 27, 2010 when the work was still in progress.

**Comment 22** For the exterior lights contract, the Authority did not obtain all of the payroll records of the general contractor. There were no payroll records documented after January, 2011 even though there was some work performed until June 2011 according to the field inspection reports. Additionally, the Authority did not document any of the payrolls of the subcontractor.

**Comment 23** We removed the deficiency for the missing certified payrolls for this contract.

**Comment 24** OMB Memorandum M-09-10 states that Recovery Act funds are subject to the requirements of the Davis-Bacon Act and Service Contract Act. Therefore, the Authority was required to pay prevailing wages for this contract.

**Comment 25** For the fire panel contract, the Authority did not obtain all of the payroll records of the general contractor. There were no payroll records documented after April 2, 2011 even though there was some work performed on April 15, 2011, according to the field inspection reports. Additionally, contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The Authority did not state why the subcontractor was not required to pay the same wages for electricians as the general contractor.

**Comment 26** For the sewer cleaning contract, the contractor's employees were misclassified as laborers rather than power equipment operators. The Authority advertised for bids from contractors to clean sewer reaches using high velocity hydro cleaning, mechanically powered, or hydraulically propelled sewer-cleaning equipment. Since the contractor is using power equipment to clean out the sewers, the employees should be classified as power equipment operators and not laborers.

**Comment 27** For the mold remediation contract, the Authority did not obtain all of the payroll records of the general contractor. There were no payroll records documented after March 12, 2011 even though there was some work performed until March 16, 2011, according to the field inspection reports. Additionally, even though the contractor corrected the pay rate on the certified records, one of its employees stated that he had not been receiving any fringe benefits in violation of the Davis-Bacon Act. The Authority did not document evidence that all of the workers received fringe benefits.

- Comment 28** We amended the report based on the documentation provided as we agree that the Authority was notified about the OSAR requirements on December 11, 2009.
- Comment 29** PIH Notice 2011-4 says "A PHA may draw up to 10 percent of each expenditure reimbursement for administration of the Recovery Act Grant. Or with Field Office approval, a PHA may draw beyond 10 percent of the expenditure if the PHA demonstrates that it has already incurred the administrative expense". The Authority did not demonstrate that it had already incurred \$434,883 or more in administrative expenses when it drew down the funds and had not drawn enough expenditure reimbursements to receive \$434,883 in administrative fees.
- Comment 30** The Authority did not report any of the jobs created by its contractors or force account labor during our audit period, therefore it did not accurately report the jobs created.