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Audit Report Number	2009-CH-1003
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TO: Thomas S. Marshall, Director of Public Housing Hub, 5DPH

FROM:  Heath Wolfe, Regional Inspector General for Audit, 5AGA

SUBJECT: The Portage Metropolitan Housing Authority, Ravenna, Ohio, Improperly Operated Its Section 8 Housing Choice Voucher Program

## **HIGHLIGHTS**

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

We audited the Portage Metropolitan Housing Authority's (Authority) Section 8 Housing Choice Voucher program (program) under its Moving to Work Demonstration program. The audit was part of the activities in our fiscal year 2008 annual audit plan. We selected the Authority based upon our analysis of risk factors relating to the housing agencies in Region V's jurisdiction. Our objective was to determine whether the Authority administered its program according to the U.S. Department of Housing and Urban Development's (HUD) requirements. This is the second of two audit reports on the Authority's program.

### **What We Found**

The Authority inappropriately administered its program. Its administration of its Project-Based Voucher program and its controls over program unit housing inspections were inadequate. It failed to properly select owners, approve program units, execute contracts, and monitor the operations of its Project-Based Voucher program. As a result, it paid nearly \$349,000 in improper housing and utility assistance, was unable to support nearly \$300,000 in housing and utility assistance, and received more than \$65,000 in improper Section 8 administrative fees. We estimate that over the next 12 months, the Authority will spend more than \$200,000 in program funds for inappropriate housing assistance and utility allowance payments and Section 8 administrative fees.

Of the 58 program units selected for inspection, 42 did not meet minimum housing quality standards, and 32 had material violations that existed before the Authority's previous inspections. The violations existed because the Authority lacked adequate controls to ensure that the inspections performed by its contractor, Housing Authority Services, were adequate. As a result, more than \$38,000 in program funds was spent on units that were not decent, safe, and sanitary. Based on our statistical sample, we estimate that over the next year, HUD will pay more than \$1 million in housing assistance on units with material housing quality standards violations. We informed the Authority's executive director and the Director of HUD's Cleveland Office of Public Housing of minor deficiencies through a memorandum, dated January 27, 2009.

### **What We Recommend**

We recommend that the Director of HUD's Cleveland Office of Public Housing require the Authority to reimburse its program from nonfederal funds for the improper use of more than \$450,000 in program funds; provide documentation or reimburse its program nearly \$300,000 from nonfederal funds for the unsupported payments cited in this audit report; and implement adequate procedures and controls to address the findings cited in this audit report to prevent more than \$1.2 million from being spent on housing that is not eligible for program assistance or decent, safe, and sanitary.

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 our review results and supporting schedules to the Director of HUD's Cleveland Office of Public Housing and the Authority's executive director during the audit. We provided our discussion draft audit report to the Authority's executive director, its board chairman, and HUD's staff during the audit. We held an exit conference with the executive director on January 6, 2009.

We asked the executive director to provide comments on our discussion draft audit report by January 26, 2009. The executive director provided written comments, dated January 26, 2009, and generally agreed with our findings. The complete text of the written comments, along with our evaluation of those comments, can be found in appendix B of this report.

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## **BACKGROUND AND OBJECTIVES**

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The Portage Metropolitan Housing Authority (Authority) was created in 1968 pursuant to Section 3735.27 of the Ohio Revised Code to provide safe and sanitary housing to low-income families in the Ravenna, Ohio area. In 1977, the Authority began administering federal housing programs, beginning with the Section 8 rental housing assistance program, and expanded its jurisdiction to include all of Portage County. The Authority is a political subdivision of the State of Ohio and is governed by a five-member board of commissioners appointed for five-year terms by local elected officials. The Authority's executive director is appointed by the board of commissioners and is responsible for coordinating established policy and carrying out the Authority's day-to-day operations.

In 1996, Congress authorized the Moving to Work Demonstration (Moving to Work) program as a demonstration program under the U.S. Department of Housing and Urban Development (HUD). The Authority was accepted into the program on March 15, 1999, when HUD's Assistant Secretary for Public and Indian Housing signed the Authority's Moving to Work agreement (agreement). Moving to Work allows certain housing authorities to design and test ways to promote self-sufficiency among assisted families, achieve programmatic efficiency, reduce costs, and increase housing choice for low-income households. Congress exempted the participants from much of the Housing Act of 1937 and associated regulations, but only as authorized in its agreement. The Authority's agreement outlines alternate funding, reporting, occupancy, and rent structure policies for its Section 8 Housing Choice Voucher program (program).

As of December 2008, the Authority had 1,521 units under contract with annual housing assistance payments totaling more than \$8.5 million in program funds.

This is the second of two audit reports on the Authority's program. Our objectives were to determine whether: (1) the Authority administered its Section 8 Project-Based Voucher program according to HUD's and its requirements, and (2) the Authority's unit inspections were sufficient to detect housing quality standards violations and provide decent, safe, and sanitary housing to its residents. The first audit report (report number 2008-CH-1011, issued on June 30, 2008) included three findings. The objectives of the first audit were to determine whether the Authority (1) accurately calculated housing assistance and utility allowance payments, (2) maintained required documentation to support household eligibility, (3) appropriately verified whether reported zero-income households had income, and (4) properly enforced HUD's housing quality standards.

## RESULTS OF AUDIT

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### Finding 1: The Authority Inappropriately Administered Its Section 8 Project-Based Voucher Program

The Authority administered its Section 8 Project-Based Voucher program contrary to HUD's requirements, its agreement with HUD, and its Section 8 administrative plan. The problems occurred because the Authority failed to exercise proper supervision and oversight of its project-based program and lacked adequate procedures and controls to ensure that HUD's and its requirements were appropriately followed. As a result, the Authority inappropriately paid nearly \$349,000 in housing assistance and utility allowances and was unable to support its use of nearly \$300,000 in housing assistance and utility allowances. We estimate that over the next 12 months the Authority will improperly spend more than \$203,000 in program funds for its project-based program.

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#### **The Authority Inappropriately Administered its Project-Based Voucher Program**

The Authority inappropriately administered its project-based program when it failed to ensure that the following requirements were followed before approving and contracting units for housing assistance:

- Select units for participation that were eligible for project-based voucher assistance,
- Properly evaluate project proposals,
- Conduct subsidy layering reviews,
- Perform an analysis to demonstrate how the projects would assist low-income people without unduly concentrating them,
- Ensure that environmental reviews were conducted,
- Conduct housing quality standards inspections, and
- Conduct rent reasonableness determinations.

The Authority paid \$348,690 (\$318,649 in housing assistance plus \$30,041 for utility allowances) for inappropriate units between June 2005 and July 2008. The Authority paid assistance for

- 24 units that were in multifamily housing projects that exceeded HUD's limit of 25 percent of the projects' total units,
- 22 units that were not under a housing assistance payments contract, and
- 18 units that were not eligible housing types according to HUD's regulations.

It also incorrectly contracted to assist units that were not available to house families due to ongoing construction and units occupied by families that were not eligible for project-based voucher assistance.

### **The Authority Did Not Properly Evaluate Project Proposals**

The Authority violated HUD's regulations and its administrative plan when soliciting proposals for project-based voucher assistance. It failed to provide broad public notice of its request for project-based voucher proposals, thereby excluding owners from submitting proposals. The Authority only sent requests for proposals to agencies selected by the Authority's previous executive director. Additionally, the request for proposals did not require owners to provide sufficient information to determine their eligibility.

The Authority also failed to select project-based voucher owners according to its agreement with HUD, its administrative plan, and HUD's requirements. Its administrative plan and/or the agreement stated that it would verify the ownership of projects, select nonprofit owners that provided supportive services to their residents, and verify the eligibility of owners before approving project-based voucher assistance. However, the Authority failed to verify

- Ownership of the projects,
- Nonprofit status of project owners, and
- Owners provided supportive services to families.

As a result, the Authority contracted with four project owners that operate as for-profit entities. It also contracted with the wrong owner for three of 10 housing assistance payments contracts. Although these ineligible owners were affiliated with eligible, nonprofit entities, the Authority did not obtain a management agreement or other form of statement from an eligible owner that allowed the affiliated company to operate the projects.

In addition, the supportive services offered by three project owners were not targeted to the populations living at the projects and/or did not provide families with services that were not already available in the community. The Authority failed to completely meet one of its Project-Based Voucher program's purposes, to assist the special-needs populations of its community when contracting with the owners of three projects.

The Authority failed to properly evaluate proposed projects before approving and contracting to provide project-based assistance for 130 units. Specifically, it failed to

- Evaluate proposed projects according to HUD's site selection standards, which included ensuring that projects were not located in areas of concentrated poverty;
- Conduct subsidy layering reviews to ensure that projects did not receive excess government assistance;
- Conduct environmental reviews to ensure that projects were not located in areas prohibited by environmental laws; and
- Perform housing quality standards inspections of units to ensure that they were decent, safe, and sanitary.

The Authority also did not follow HUD's requirements and its administrative plan when determining the contract rents for project-based units. It failed to ensure that

- 108 units had a rent reasonableness determination before executing a housing assistance payments contract for set rent amounts,
- 82 units had rent reasonableness studies conducted that compared an adequate number of comparable units,
- 82 units had gross rents that did not exceed HUD-imposed limits, and
- 24 units obtained HUD's approval of rents charged at a project already receiving federal subsidies.

### **The Authority Executed Improper and Invalid Program Contracts**

The Authority failed to properly execute the housing assistance payments contracts for its 10 project-based projects when it

- Used the incorrect HUD contract form for 10 contracts,
- Incorrectly executed six contracts up to two and one-half years after the contract effective date to replace the tenant-based voucher contracts incorrectly used to lease units,
- Did not state the date of the contract execution for four contracts,
- Used invalid terms for four contracts, including start dates for housing assistance payments that preceded the contract approval date, and
- Executed one invalid contract for units that did not exist at the time of contract execution.

After realizing that it had executed tenant-based voucher contracts for its project-based voucher projects, the Authority contacted a neighboring housing authority for assistance. As a result, the Authority again executed incorrect contracts with its project owners that lacked all of the required project-based voucher provisions. The correct HUD form was available from HUD since September 2001 and was

provided via electronic communication by HUD's Cleveland Office of Public Housing to all housing authorities in Ohio.

Contrary to HUD's requirements and the contract's provisions, the Authority also executed changes to its project contracts that lacked the signatures of both an Authority official and the project owner when making contract changes, such as adding and removing units.

From November 2002 to June 2008, the Authority executed 10 project-based housing assistance payments contracts with 6 owners to assist 130 housing units. As of July 2008, the Authority was providing project-based assistance to 105 units.

### **The Authority Did Not Adequately Monitor Its Project-Based Voucher Program**

The Authority violated HUD's regulations and its housing assistance payments contracts when it failed to properly lease and monitor the occupancy of its project-based contract units. During the five-year contract term of its 10 project-based contracts, the Authority monitored the occupancy of program units only three times. During this time, it allowed contract units to remain vacant and/or house unassisted households for six months to three years without removing the units from the program.

The Authority's program manager said that the Authority could not control lease-up rates despite existing provisions in HUD's regulations and its program contracts that require it to refer eligible tenants for lease-up and to enforce owner obligations to monitor vacancies. According to internal electronic communication, the Authority was not aware of the requirements until March 2008, more than five years after it initiated its project-based program. Although it notified the owners of its right to remove vacant units from a program contract, it did not enforce the owner's obligations to notify it of all vacancies.

The Authority also improperly leased program units to households with a tenant-based voucher for periods of one and one-half to five years. When its program manager appointed an assistant manager to oversee its project-based program in September 2007, the Authority improved its monitoring process, removing from the program 23 units that housed families with a tenant-based voucher and 19 units that housed unassisted families. As of August 2008, the Authority continued to lease three program units to households with tenant-based vouchers, and four units had remained vacant for 7 to 30 months, well beyond HUD's recommended allowance of 120 days.



## Conclusion

According to the Authority's administrative plan, it elected to operate a Project-Based Voucher program to assist the special needs population of its community. However, the Authority failed to fully achieve this goal by allowing its projects to have high vacancy rates and assist households that were not appropriate or did not have defined special needs. It also disbursed \$646,868 in housing assistance and utility allowance payments for units that were not properly determined appropriate or were inappropriate for project-based voucher assistance. Additionally, it executed incorrect and invalid housing assistance payments contracts with owners and approved projects without evaluating whether the units were appropriate for project-based voucher assistance.

Between January 1, 2007, and July 31, 2008, the Authority received \$65,055 in Section 8 administrative fees while inappropriately administering its Section 8 Project-Based Voucher program. In accordance with 24 CFR [*Code of Federal Regulations*] 982.152(d), HUD may reduce or offset any administrative fee to a public housing authority, in the amount determined by HUD, if the public housing authority fails to perform its administrative responsibilities correctly or adequately under the program. Given the Authority's substantial noncompliance with HUD's requirements, we recommend that HUD pursue reimbursement of the administrative fees related to the operation of its Project-Based Voucher program.

The Authority should implement adequate procedures and controls to ensure compliance with all requirements for the operation of its Project-Based Voucher program to prevent \$203,852 in program funds from being spent over the next 12 months for units that do not meet the program's requirements. Our methodology for this estimate is explained in the Scope and Methodology section of this audit report.

## Recommendations

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

- 1A. Reimburse its program \$348,690 (\$318,649 in housing assistance plus \$30,041 for utility allowances) from nonfederal funds for the improper payments cited in this finding.
- 1B. Provide supporting documentation or reimburse its program \$298,178 from nonfederal funds for the housing assistance and utility allowance payments related to the projects lacking evidence of an environmental review and a subsidy layering review.

- 1C. Reimburse its program \$65,055 from nonfederal funds for the Section 8 administrative fees received related to its inadequate program operations cited in this finding.
- 1D. Execute the correct housing assistance payments contracts for existing structures.
- 1E. Remove inappropriate project-based voucher units from its housing assistance payments contracts.
- 1F. Remove units from its housing assistance payments contracts that house inappropriate families.
- 1G. Terminate its housing assistance payments contracts at term-end for projects not meeting the requirements of its agreement with HUD or revise its agreement to allow the projects to receive assistance under its program.
- 1H. Evaluate current projects for compliance with federal requirements regarding site standards, subsidy layering, and environmental standards.
- 1I. Implement adequate procedures and controls to ensure compliance with all applicable requirements for the operation of its Project-Based Voucher program to prevent \$203,852 in program funds from being spent over the next 12 months for units that do not meet the program's requirements.

We also recommend that the Director of HUD's Cleveland Office of Public Housing

- 1J. Require the Authority to obtain HUD's approval before contracting for any additional project-based program assistance until the Authority substantially improves its program administration to ensure compliance with applicable requirements based upon the information cited in this finding, absent sufficient documentation that may be provided by the Authority.

## Finding 2: The Authority's Section 8 Units Did Not Meet HUD's Housing Quality Standards

The Authority failed to maintain program units in compliance with HUD's and its housing quality standards. Of the 58 program units statistically selected for inspection, 42 did not meet minimum housing quality standards, and 32 had material violations that existed before the Authority's previous inspections. The violations existed because the Authority lacked adequate procedures and controls to ensure that the inspections performed by its contractor, Housing Authority Services, were adequate. As a result, more than \$35,000 in program funds was spent on units that were not decent, safe, and sanitary. Based on our statistical sample, we estimate that over the next year, HUD will pay more than \$1 million in housing assistance on units with material housing quality standards violations.

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### HUD's Housing Quality Standards Were Not Met

The Authority contracted with Housing Authority Services in 2003 to perform housing quality standards inspections of its program units. From the 409 program units that passed the inspections performed by the contractor between January 15 and March 31, 2008, we statistically selected 58 units for inspection by using data mining software. The 58 units were inspected to determine whether the Authority ensured that its program units met HUD's and its housing quality standards. Our appraiser inspected the 58 units between April 28 and May 8, 2008.

Of the 58 units inspected, 42 (72 percent) failed to comply with housing quality standards with a total of 259 violations, and 217 (83 percent) of the violations predated the contractor's last inspections. In addition, 32 units were considered to be in material noncompliance. Materially failed units were those units with one or more health and safety violations that predated the Authority's most recent inspection reports, or a unit with a violation that was identified but not corrected at the time of the Authority's most recent inspection report. The following table categorizes the 259 housing quality standards violations in the 58 units.

Category of violations	Number of violations
Electrical hazard	53
Window condition	43
Wall condition	20
Security	19
Exterior surfaces	13
Interior stairs	12
Other interior hazards	11
Stove	10
Sink	9
Floor condition	8
Smoke detector	8
Roof and gutters	5
Safety of heating equipment	5
Stairs/rails/porches	5
Ceiling condition	4
Foundation	3
Lead-based paint	3
Refrigerator	3
Sewer connection	3
Water heater	3
Tub	3
Chimney	2
Electricity	2
Garbage and debris	2
Interior air quality	2
Site conditions	2
Toilet	2
Ventilation	2
Adequacy of heating equipment	1
Lead-based paint-exterior surfaces	1
Total	<u>259</u>

We provided our inspection results to the Authority's executive director on July 9, 2008, and the Director of HUD's Cleveland Office of Public Housing on July 29, 2008.

### Electrical Hazards Were Noted

Fifty-three electrical hazard violations were present in 20 of the Authority's units inspected. These defects included exposed electrical wiring, improperly wired outlets, and broken outlet covers. The following picture is an example of an electrical-hazard.

Unit #2248: Broken outlet near kitchen floor poses a risk of electrocution.



### Wall-Related Violations Were Noted

Twenty wall-related violations were present in 13 of the Authority's program units inspected. The following items are examples of wall-related violations listed in the table: holes in walls, large gaps between doors and walls that allow air and vermin infiltration, and missing or damaged door knobs and jambs. The following picture is an example of a wall-related violation.

Unit #864: A one-inch gap under the living room door to the outside allows air and vermin infiltration.



## Security Violations Were Noted

Nineteen security violations were present in 10 of the Authority's program units inspected. The security violations included missing or broken window and door locks. The following picture is an example of a security violation.

Unit #2709: The only lockable door on the rear of the house can be pushed open after it is locked because the latch bolt was installed backwards.



## Adequate Procedures and Controls Were Lacking

The housing quality standards violations existed because the Authority lacked adequate procedures and controls over its program unit inspections. Its inspection contractor, Housing Authority Services, also lacked adequate controls to ensure that it met its contract requirements to inspect program units in accordance with HUD's and the Authority's housing quality standards.

The Authority contracted with Housing Authority Services in November 2003, but it failed to communicate the results of its yearly quality control inspections to the contractor until December 2007 after we informed the Authority of deficiencies with its contractor's inspections. At that time, it reported that 90 percent of the units had failed its quality control inspections, and 68 violations had been missed by the contractor at the last regular inspections. Because of its past failures to provide timely corrective feedback to the contractor, the Authority allowed the contractor to conduct a number of inadequate inspections without penalty for violating the contract. As a result, households resided in units that were not decent, safe, and sanitary.

After the Authority notified the contractor of its inadequate inspections, the contractor failed to make improvements, which we determined during our 58 inspections. The contractor's deputy director admitted that the contractor had not

conducted internal quality control inspections to monitor staff performance or verify that improvements were made. After the results of our inspections were shared with the Authority and its contractor, the contractor's deputy director said that the contractor would begin conducting internal quality control inspections.

We cited the Authority's inadequate controls over the timeliness of the contractor's inspections in our first audit report (see finding 3 in report #2008-CH-1011).

## Conclusion

The Authority's households were subjected to health-and-safety related violations and the Authority did not properly use its program funds when it failed to ensure that units complied with HUD's and its housing quality standards. In accordance with 24 CFR 982.152(d), HUD is permitted to reduce or offset any program administrative fees paid to a public housing agency if it fails to enforce HUD's housing quality standards. The Authority disbursed \$35,116 in housing assistance payments for the 32 units that materially failed to meet HUD's housing quality standards and received \$3,041 in Section 8 administrative fees.

If the Authority implements adequate procedures and controls over its unit inspections to ensure compliance with HUD's and its housing quality standards, we estimate that HUD will avoid spending \$1,022,304 in future housing assistance payments on units that are not decent, safe, and sanitary. Our methodology for this estimate is explained in the Scope and Methodology section of this audit report.

## Recommendations

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

- 2A. Certify, along with the owners of the 42 program units cited in this finding, that the applicable housing quality standards violations have been repaired. If the necessary repairs have not been made, the Authority should abate housing assistance payments to landlords as appropriate.
  
- 2B. Reimburse its program \$38,157 (\$35,116 in housing assistance payments plus \$3,041 in associated Section 8 administrative fees) for the 32 units that materially failed to meet HUD's and its housing quality standards.

- 2C. Implement adequate procedures and controls to ensure that all units meet HUD's and its housing quality standards to prevent \$1,022,304 in program funds from being spent on units that are in noncompliance with the standards.
  
- 2D. Implement adequate procedures and controls to ensure that the results of its quality control inspections are consistently provided to its inspection contractor to prevent recurring inspection deficiencies.



## SCOPE AND METHODOLOGY

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To accomplish our objectives, we reviewed

- Applicable laws and regulations; HUD's program requirements at 24 CFR Parts 982 and 983; HUD's housing assistance payments contracts for new construction and rehabilitation and existing housing; *Federal Register* Notice, Volume 66, Number 10, dated January 16, 2001--Revisions to PHA [public housing agency] Project-Based Assistance Program -- Initial Guidance; and the June 27, 2007, memorandum from HUD to Moving to Work agencies.
- The Authority's accounting records, organizational chart, program household files, internal program reference files, program annual contributions contract with HUD, Moving to Work agreement and amendments effective from March 1999 through March 2006, program administrative plan and amendments effective October 2006 through August 2008, and contracts with its inspection contractor and project-based voucher owners.

We also interviewed the Authority's employees, HUD staff, program households and landlords, and the inspection contractor.

### **Finding 1**

We identified 38 units that inappropriately housed project-based assisted families as of July 2008, determined the total amount of the housing assistance and utility allowance payment made to each family in July 2008 (\$15,052) and multiplied the total monthly amount by 12 months (\$180,624). We then multiplied the 38 units by the average administrative fee received in 2008 for project-based assisted units (\$50.94) and by 12 months (\$23,228).

We estimate that over the next 12 months, the Authority will spend \$203,852 (\$180,624 plus \$23,228) in program funds for inappropriate housing assistance and utility allowance payments and Section 8 administrative fees. This estimate is presented solely to demonstrate the annual amount of program funds that could be put to better use on eligible project-based voucher housing if the Authority implements our recommendation. While these benefits would recur indefinitely, we were conservative in our approach and only included the initial year in our estimate.

### **Finding 2**

We statistically selected 58 of the Authority's program units from the 409 tenant-based program units that passed inspection by the Authority's inspection contractor between January 15 and March 31, 2008, using data mining software. The 58 units were inspected to determine whether the Authority ensured that its program units met HUD's and its housing quality standards. Our sampling criteria used a 90 percent confidence level with a 50 percent estimated error rate and precision level of plus or minus 10 percent.

Our sampling results determined that 32 of 58 units (55 percent) materially failed to meet HUD's housing quality standards. Materially failed units were those units with one or more health and safety violations that predated the Authority's most recent inspection reports, or a unit with a violation that was identified but not corrected at the time of the Authority's most recent inspection report. All units were ranked, and we used auditors' judgment to determine the material cutoff point.

Reports from HUD's Voucher Management System for the 12-month period April 2007 to March 2008 showed that the Authority's average monthly housing assistance payment was \$463. Projecting our sampling results of the 32 units that materially failed to meet HUD's housing quality standards and/or the Authority's housing standards to the population indicates that 226 units or 55.17 percent of the population contains the attributes tested (would materially fail to meet HUD's housing quality standards and/or the Authority's housing standards). The sampling error was plus or minus 9.95 percent. In other words, we are 90 percent confident that the frequency of occurrence of the attributes tested lies between 45.22 and 65.12 percent of the population. This equates to an occurrence of between 184 and 266 of the 409 units in the population.

- The lower limit is 45.22 percent times 409 units equals 184 units that materially failed to meet HUD's housing quality standards and/or the Authority's housing standards.
- The point estimate is 55.17 percent times 409 units equals 226 units that materially failed to meet HUD's housing quality standards and/or the Authority's housing standards.
- The upper limit is 65.12 percent times 409 units equals 266 units that materially failed to meet HUD's housing quality standards and/or the Authority's housing standards.

Using the lower limit of the estimate of the number of units and the average housing assistance payment, we estimate that the Authority will annually spend \$1,022,304 (184 units times \$463 average payment times 12 months) for units that materially failed to meet HUD's housing quality standards and/or the Authority's housing standards. This estimate is presented solely to demonstrate the annual amount of program funds that could be put to better use on decent, safe, and sanitary housing if the Authority implements our recommendation. While these benefits would recur indefinitely, we were conservative in our approach and only included the initial year in our estimate.

We performed our on-site audit work between April and October 2008 at the Authority's program office located at 2832 State Route 59, Ravenna, Ohio. The audit covered the period January 1, 2007, through March 31, 2008, but was expanded as necessary.

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

# INTERNAL CONTROLS

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Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are achieved:

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

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. They 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:

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

We assessed the relevant controls identified above.

A significant weakness exists if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

## Significant Weakness

Based on our audit, we believe that the following item is a significant weakness:

- The Authority lacked adequate procedures and controls to ensure compliance with HUD's requirements and its administrative plan regarding managing the day-to-day operations of its program, including the operation of its project-based program and housing unit conditions (see findings 1 and 2).

## APPENDIXES

### Appendix A

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

Recommendation number	Ineligible 1/	Unsupported 2/	Funds to be put to better use 3/
1A	\$348,690		
1B		<u>\$298,178</u>	
1C	65,055		
1I			\$203,852
2B	<u>38,157</u>		
2C			<u>1,022,304</u>
Totals	<u>\$451,902</u>	<u>\$298,178</u>	<u>\$1,226,156</u>

- 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.
- 3/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest subsidy costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In these instances, if the Authority implements recommendations 1I and 2C, it will cease to incur program costs for units that are not eligible or decent, safe, and sanitary and, instead, will expend those funds in accordance with HUD's requirements. Once the Authority successfully improves its procedures and controls, this will be a recurring benefit. Our estimate reflects only the initial year of this benefit.

## Appendix B

# AUDITEE COMMENTS AND OIG'S EVALUATION

### Ref to OIG Evaluation

### Auditee Comments



## Portage Metropolitan Housing Authority

January 26, 2009

Mr. Ronald Ferrell  
Assistant Regional Inspector General for Audit  
U.S. Department of HUD – Office of Inspector General  
200 North High Street, Room 334  
Columbus, OH 43125

Dear Mr. Ferrell:

Re: Audit Report Number 2009-CH-100X

Portage Metropolitan Housing Authority is addressing the findings and recommendations expressed in Audit Report Number 2009-CH-100X, particularly related to the administration of the Project-Based Voucher program.

#### Background of the Project-Based Voucher Program

As described in the audit report, Portage Metropolitan Housing Authority (PMHA) participates in the Moving To Work Demonstration program. It was in the application stage of this demonstration, which was designed to include the purposes of increasing housing choice and administrative efficiency in providing housing assistance, that PMHA expressed to the Department of Housing and Urban Development (HUD) a desire to offer a project-based voucher program to non-profit organizations providing supportive services to low-income residents of their housing. The goal of this effort was to assist non-profits in developing housing, to help special needs households obtain affordable housing and to increase utilization of Section 8 assistance. The project-based program was accepted as part of HUD's overall acceptance into the Moving To Work (MTW) Demonstration in 1999.

In June 2004, the previous PMHA executive director submitted a MTW Transition Plan to Abt Associates, a contractor servicing the MTW program, describing the plans for a transition in advance of the end of the original 5-year term granted under the Demonstration. The plan included a description of the Project-Based Voucher program, and the desire to retain those policies through waivers to be requested from HUD.

The director's request acknowledged a facet mentioned in the report, that the MTW program is "more restrictive than the regulations governing the Housing Choice Voucher Program, with regard to the eligibility of participating owners and tenants." By specifically identifying and limiting to participation to non-profit owners, PMHA developed policies that were more stringent than Federal law and regulation. Ironically, it would prove to be a factor in the Inspector General's audit, as although PMHA was not in violation of Federal regulation or statute on this

point, it had not adequately ensured it was following the stricter requirements of its own locally-determined Administrative Plan.

The transition plan letter also hinted at what PMHA today thinks was a fundamental misinterpretation of the latitude granted under Moving To Work. "In addition," the letter continued, "the HCV regulations are much more restrictive than the MTW requirements and would more than likely prevent some nonprofits from applying due to fear of having to navigate through a maze of new requirements." In hindsight, it appears that PMHA considered MTW approvals permitted greater regulatory relief than what was specifically granted. An October 2004 letter to a local Legal Aid attorney indicated that the MTW agreement was extended by HUD in its entirety, and as a result PMHA did not receive a response to the transition plan submission.

In April 2005, PMHA submitted a letter and documents to the HUD Assistant Secretary for Public and Indian Housing in Washington D.C., requesting continuation of the Project-Based Voucher program, in the event of the scheduled end of the MTW demonstration. In this letter, PMHA describes that the practice, besides meeting the housing needs of special needs households, also was going to non-profits that use project-based units to "promote homeownership," a goal of both the housing authority and HUD. The package specified that 39 project-based vouchers went for families residing in lease/purchase homes. Also, the information identified 23 project-based vouchers for homeless households enrolled in transitional housing offering on-site supportive services. This is notable in that the audit identifies transitional housing as an ineligible housing type under 24 CFR 983.53, due to a change in regulations following the original implementation of the PMHA Project-Based Voucher program. Once again, the entirety of the PMHA Moving To Work Demonstration was extended, and no specific waivers for any project-based vouchers were thought to be needed.

It is clear PMHA intended to work specifically with non-profit owners and erred in not effectively verifying the ownership of entities known to be affiliated with non-profits. The assumption that an affiliate of a non-profit would also be a non-profit organization eligible to participate in the Project-Based Voucher program was significant in this error. It also appears evident that PMHA incorrectly assumed that, through the scrutiny provided through hours of technical assistance and monitoring of all elements of the local MTW demonstration from MTW contractors, that PMHA was not deviating from what it interpreted as permitted authority under the demonstration. Clearly, in discussing the Project-Based Program with the Assistant Secretary of HUD, PMHA provided information about the program and appears to have concluded the lack of feedback was implicit approval of the program.

**Audit Findings**

PMHA agrees that administration of the Project-Based Voucher program must improve. The program is critical to addressing housing needs in Portage County, particularly for households who may otherwise have difficulty obtaining housing and the supportive services needed to be successful. Regardless of the misinterpretation of the authority to set program policies described above, elements such as unit contracting, housing quality inspections and rent reasonableness determinations must be performed better and with each unit. This section will address issues identified in the two findings.

- **Selecting Units for Participation**  
The audit identifies 24 units deemed inappropriate due to exceeding HUD's limit of 25 percent of a multi-family projects' total units. Although PMHA did not assess this situation at the time

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 1**

of contract execution, PMHA nevertheless believes the case can be made that the properties discussed could have been considered excepted under 24 CFR 983.56. The units in the project-based program required that supportive services be provided to residents at the units, and the code provides for an exception related to supportive services. PMHA acknowledges not effectively implementing the requirements under this section, but takes the supportive services offered and accepted, particularly for transitional housing units, to satisfy this section.

- **The Authority Did Not Properly Evaluate Project Proposals**  
PMHA acknowledges that it did not follow HUD regulations for soliciting proposals by providing broad public notice in local newspapers. The Authority also acknowledges to failing to adequately verify ownership and non-profit status on all contracts, instead wrongly assuming that affiliates of qualifying non-profit organizations were also organized as non-profits.

**Comment 2**

PMHA does take small issue with the statement that the solicitation of proposals did not follow the local Administrative Plan. The plan identifies outreach efforts as targeting all Portage County non-profits owning rental housing by direct contact and through United Way referral agencies. Proposals were accepted on an on-going basis as funding was available. PMHA recognizes that this method of solicitation was not formally or specifically approved by HUD, but this approach was described in the Administrative Plan.

- **The Authority Executed Improper and Invalid Program Contracts**  
PMHA acknowledges that it was not authorized to use an alternative program contract through the waivers granted by Moving To Work. The correct form for the contract was not available on the Internet through the normal repository of forms at HUDCLIPS, and as a result the agency first attempted to operate the program using its best attempt to have a contract between the agency and owner. Later, rather than contact the Field Office, it attempted to repair an identified issue by contacting another agency. Both of these acts proved to be errors. The Authority is now prepared to use the HUD-approved contract form provided from the Field Office, once environmental reviews and subsidy-layering requirements are met.

- **The Authority Did Not Adequately Monitor Its Project-Based Voucher Program**  
PMHA's initial program reporting relied too heavily on the periodic reporting of unit occupancy status, and improperly considered lease-up of vacant units as solely the owner's obligation. Under a reorganization of duties by the current Section 8 Program Manager, the Authority has improved and continues to improve its monitoring process.

**Comment 3**

- **The Authority's Section 8 Units Did Not Meet HUD's Housing Quality Standards**  
The Authority intends to address the two primary issues addressed in this Audit Report: the quality of the inspections by the firm providing this function must be improved, as documented through the Audit Report narrative, and the communications that relay results of quality control efforts to the person performing the initial inspection.

**Future Program Activities**

PMHA has, effective January 1, 2009, received permission from the Department of Housing and Urban Development to consider transitional housing an eligible housing unit under the Moving To Work program. As a result, PMHA asks that the Office of Inspector General to understand that future PBV activities will include this housing form. It is unfortunate that that PMHA cannot receive consideration for past approvals of what is now a clearly approved program activity.



**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 3**

Likewise, HUD in the approval of the 2009 Annual Plan recognizes and approves the PMHA plan to permit for-profit housing entities offering housing and supportive services to participate in the project-based program. This change is a return to one aspect of conventional regulations and away from the self-imposed limitation to non-profit organizations, which has cost PMHA in findings for its non-compliance, not with Federal regulations but with its own locally-determined policies. The key is to obtain special needs housing with accompanying supportive services, regardless of the ownership type. As above, it is unfortunate that PMHA's non-Federal housing activities will be hampered by findings made for a violation of local policy and not Federal regulation or law.

PMHA will be developing a much more comprehensive and thorough Administrative Plan for the Project-Based Voucher program, incorporating changes called for in the audit report and others identified by PMHA. The current Administrative Plan section is only 2 pages, while PMHA found over 30 pages of regulatory description and examples of other agencies' administrative plans covering over 60 pages of descriptive policy to implement the program. Following this development, PMHA will thoroughly train on the PBV, both in conventional rules and the MTW-unique policies.

I regret that what was an effort to broaden access to housing and supportive services for persons with special needs has not been adequately implemented by PMHA, but am determined that the necessary changes will be made as quickly as possible to better meet the regulatory and statutory requirements of the Voucher Program, as well as locally established policies governing the program. In this way, we will assure efficient use of Federal voucher funds and fully meet the mission of the agency of providing access to housing for all Portage County residents.

Sincerely,



Fred Zawilinski  
Executive Director

2832 State Route 59, Ravenna, Ohio 44266 Phone 330-297-1489 Fax 330-297-6295

\* Equal Housing Opportunity\*

### **OIG Evaluation of Auditee Comments**

- Comment 1** We disagree with the Authority's position that the supportive services offered and accepted satisfies the requirements of 24 CFR 983.56. In fact, 24 CFR 983.56(b) requires that in order to be excepted from the 25 percent limit, housing authorities must identify the types of supportive services that would qualify a family for the exception, require the family and the housing authority to sign a statement of family responsibility, and require the housing authority to monitor the family's receipt of the supportive services during its tenancy in the project-based unit.
- Comment 2** The Authority followed only part of its administrative plan when it disregarded the requirement to advertise in the local newspaper, which excluded potential owners from submitting proposals. Its planned revisions to its administrative plan should improve the solicitation of proposals process if fully implemented.
- Comment 3** The Authority's proposed actions should greatly improve its program operations if fully implemented.

## Appendix C

# FEDERAL REQUIREMENTS AND THE AUTHORITY'S ADMINISTRATIVE PLAN

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### Finding 1

The Moving to Work Demonstration agreement, effective March 15, 1999, article 1, section A, states that the agreement supersedes the terms and conditions of the annual contributions contracts and the provisions of the United States Housing Act of 1937 (1937 Act) and HUD requirements to the extent necessary for the Authority to implement its Moving To Work demonstration as approved by HUD in this agreement. All authorizations contained in the agreement are for the length of the demonstration only, unless otherwise specified. Except as necessary to implement the Authority's activities described in the statement of authorizations, the Authority is subject to the requirements of the annual contributions contracts, the 1937 Act, and other HUD requirements. Article III, section A, states that the definition of default is the use of funds subject to the agreement for a purpose other than authorized by the agreement; noncompliance with legislative, regulatory, or other requirements applicable to the agreement; other material breach of the agreement; or a material misrepresentation in the Moving To Work plan submission by the Authority shall be a default under the agreement. Section C states that the corrective or remedial actions HUD may require or order under the agreement for Authority default include, but are not limited to the following: canceling or revising the affected activities, revising the budget for activities as necessary, and substituting other eligible activities; prohibiting payment or reimbursement for any Moving To Work demonstration activities or for those activities affected by the default; and requiring reimbursement by the Authority to HUD for amounts used improperly. Section 2, part D(3), states that subject to applicable federal procurement rules, to save the administrative burden of processing and reviewing applications annually, the Authority may project-base up to 15 percent of its Section 8 certificates and vouchers for a five-year term to non-profit providers that own rental housing and provide supportive services.

The housing assistance payments contract for new construction and rehabilitation, part 2, section 10(b), states that the owner must promptly notify the housing authority of any vacancy in a contract unit. After receiving the owner notice, the housing authority shall make every reasonable effort to refer a sufficient number of families for the owner to fill the vacancy. The owner must rent vacant contract units to eligible families on the housing authority waiting list referred by the housing authority. The housing authority and the owner must make reasonable good faith efforts to minimize the likelihood and length of any vacancy. If vacancies occur, the housing authority may give notice to the owner amending exhibit A of the housing assistance payments contract to reduce the number of contract units by subtracting the number of contract units (by number of bedrooms) that have been vacant for a period of 120 or more days since owner notice of vacancy. These provisions are also present in the housing assistance payments contract for existing housing, part 2, section 9(b). Section 14, states that if HUD determines that the housing authority has failed to comply with the housing assistance payments contract, or has

failed to take appropriate action to HUD's satisfaction or as directed by HUD for enforcement of the housing authority's rights under the housing assistance payments contract, HUD may assume the housing authority's rights and obligations under the housing assistance payments contract and may perform the obligations and enforce the rights of the housing authority under the housing assistance payments contract. Section 15 states the circumstances in which an owner is in default under the housing assistance payments contract. The housing authority's rights and remedies under the housing assistance payments contract include recovery of overpayments, termination or reduction of housing assistance payments, and termination of the housing assistance payments contract. These provisions are also present in the housing assistance payments contract for existing housing, part 2, sections 13 and 14. Section 26 states that the agreement to enter into a housing assistance payments contract and the housing assistance payments contract, including the exhibits, is the entire agreement between the housing authority and the owner. No changes in the housing assistance payments contract may be made except in writing, signed by both the owner and a housing authority official. These provisions are also present in the housing assistance payments contract for existing housing, part 2, section 24.

*Federal Register* Notice, Volume 66, Number 10, dated January 16, 2001, states that the notice remains in effect until the new project-based voucher changes in law have been fully implemented through a new regulation and that HUD will issue a new required housing assistance payments contract for the project-based voucher program as implemented by the notice. Section II permitted housing authorities to enter into housing assistance payments contracts that attach project-based voucher assistance to existing housing units that fully meet the Housing Choice Voucher program housing quality standards as required by 24 CFR 983.104(c), effective September 15, 1999, through October 12, 2005, which required housing agencies to inspect each proposed project-based voucher unit to determine that they fully complied with HUD's housing quality standards before executing a housing assistance payments contract. Effective October 13, 2005, 24 CFR 983.103(b), 983.204(a), and 983.57(b) requires that all units pass a housing quality standards inspection before contract approval.

Section II, part L, of the notice states that if no eligible family rents a vacant unit within 120 days (commencing on the first day of the month when the vacancy occurs), the housing authority may terminate its commitment to make any additional housing assistance payments for the unit for the balance of the housing assistance payments contract term. The housing authority may use the amounts so saved to provide other voucher assistance. Regulations at 24 CFR 983.254, effective October 13, 2005, require the owner to promptly notify the housing authority of any vacancy or expected vacancy in a contract unit. After receiving the owner notice, the housing authority must make every reasonable effort to refer promptly a sufficient number of families for the owner to fill such vacancies. The housing authority and the owner must make reasonable good faith efforts to minimize the likelihood and length of any vacancy. If any contract units have been vacant for a period of 120 or more days since owner notice of vacancy (and notwithstanding the reasonable good faith efforts of the housing authority to fill such vacancies), the housing authority may give notice to the owner amending the housing assistance payments contract to reduce the number of contract units by subtracting the number of contract units (by number of bedrooms) that have been vacant for such period.

Section II, part B, of the notice requires that public housing authorities follow 24 CFR 983.51 when advertising the availability of project-based assistance to projects that may have more than 25 percent program units. Regulations at 24 CFR 983.51, effective April 30, 1998, through October 12, 2005, require that the housing authority follow its written selection policy that is approved by HUD. The housing authority must advertise in a newspaper of general circulation that the housing authority will accept applications for assistance for existing housing projects. The advertisement must be published once a week for three consecutive week,; specify an application deadline of at least 30 days after the date the advertisement is last published, specify the number of units the housing authority estimates that it will be able to assist under the funding the housing authority is making available for this purpose, and state that only applications submitted in response to the advertisement will be considered. The housing authority advertisement must also state the housing authority's selection policies. The owner's application also must contain required information, as stated in paragraph (d). These requirements changed effective October 13, 2005, in 24 CFR 983.51, which no longer required HUD approval of the housing authority's selection policy and applied the requirements to all project proposals. The housing authority must provide broad public notice of the opportunity to offer project-based proposals for consideration and broad notice of the selection of proposals and must not limit proposals to explicitly or practically preclude owner submission of proposals for project-based housing on different sites. The housing authority must follow its selection procedures outlined in its administrative plan.

Section II, part E, of the notice requires that a contract for project-basing under the voucher program be consistent with the goals of deconcentrating poverty and expanding housing opportunities and that all new project-based assistance agreements or housing assistance payments contracts be for units in census tracts with poverty rates of less than 20 percent unless HUD specifically approves an exception. Regulations at 24 CFR 983.57(b), effective October 13, 2005, state that a housing authority may not select a proposal for existing, newly constructed, or rehabilitated project-based voucher housing on a site or enter into an agreement or housing assistance payments contract for units on the site, unless the housing authority has determined that project-based assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. Paragraph (d) also requires that a site for existing or rehabilitated housing meet certain site and neighborhood standards, as listed in the CFR.

Section II, part F, of the notice states that a housing authority may not enter into a housing assistance payments contract or other binding commitment to provide project-based voucher assistance for more than 25 percent of the units in any one building, except for single-family dwellings and projects for elderly families and disabled families. In accordance with existing program use single-family dwellings refer to one to four family dwellings. Effective October 13, 2005, 24 CFR 983.56 extended these requirements but expanded the exception for projects to house over 25 percent project-based units to units housing families receiving supportive services. Paragraph (b) requires the housing authority to identify the types of supportive services that would qualify a family for the exception, requires the family and the housing authority to sign a statement of family responsibility, and requires the housing authority to monitor the family's receipt of the supportive services during its tenancy in the project-based unit.

Section II, part I, of the notice requires the housing assistance payments contract to establish gross rents (rent to owner plus the allowance for tenant-paid utilities) that do not exceed 110 percent of the established fair market or any HUD-approved exception payment standard for the area where the housing is located. Effective October 13, 2005, 24 CFR 983.301(b) states that except for certain tax credit units as provided in paragraph (c) of this section, the rent to owner must not exceed the lowest of (1) an amount determined by the housing authority, not to exceed 110 percent of the applicable fair market rent (or any exception payment standard approved by the Secretary of HUD) for the unit bedroom size minus any utility allowance; (2) the reasonable rent; or (3) the rent requested by the owner. Part I also states that the determination of whether rent is reasonable in relation to comparable units shall be governed by 24 CFR 983.256. Effective October 12, 2005, 24 CFR 983.256 states that a housing authority may not enter an agreement to enter into a housing assistance payments contract until the housing authority determines that the initial rent to owner under the housing assistance payments contract is a reasonable rent and that rents must be compared with rents of at least three comparable unassisted units. Effective October 13, 2005, 24 CFR 983.303(d) also requires housing agencies to conduct rent reasonableness reviews using three comparable unassisted units.

HUD regulations at 24 CFR 983.2(a) state that Part 982 is the basic regulation for the tenant-based voucher program. However, paragraph (b) and (c) of this section describe the provisions that do not apply to the project-based program. The rest of Part 982 applies to the project-based program. Regulations at 24 CFR 982.152(d) are applicable to the project-based program based upon its exclusion in either paragraph (b) or (c).

HUD regulations at 24 CFR 983.151, effective April 30, 1998, to October 12, 2005, state that the housing authority must enter into a housing assistance payments contract with the owner in the form prescribed by HUD for assistance provided under the part 983. Paragraph (d) states that the effective date of the housing assistance payments contract may not be earlier than the date of the housing authority inspection and acceptance of the unit(s). Regulations at 24 CFR 983.202(a), effective October 13, 2005, also required that the housing assistance payments contract be in the form required by HUD headquarters.

HUD regulations at 24 CFR 983.206(a), (b), and (c), effective October 13, 2005, state the requirements for making housing assistance payments contract amendments to add or substitute contract units. A contract may be amended during the three-year period immediately following the execution date of the housing assistance payments contract to add additional project-based voucher contract units in the same building.

HUD regulations at 24 CFR 983.151(e), effective April 30, 1998, to October 12, 2005, state that after commencement of the housing assistance payments contract term, the housing authority must make the monthly housing assistance payments in accordance with the housing assistance payments contract for each unit occupied under lease by a family. Effective October 13, 2005, 24 CFR 983.202(b)(2) and 983.351(a)(1) expand the requirement to specify that a housing authority must pay housing assistance for contract units leased and occupied by eligible families during the housing assistance payments contract term.

HUD regulations at 24 CFR 983.152(a), effective July 3, 1995, to October 12, 2005, state that the owners must lease all assisted units under a housing assistance payments contract to eligible families. Leasing of vacant, assisted units to ineligible tenants is a violation of the housing assistance payments contract and grounds for all available legal remedies, including suspension or debarment from HUD programs and reduction of the number of units under the housing assistance payments contract as set forth in paragraph (b) of this section. Once the housing authority has determined that a violation exists, the housing authority must notify the HUD field office of its determination and the suggested remedies. At the direction of the HUD field office, the housing authority must take the appropriate action. Regulations at 24 CFR 983.253(a) and 983.254(a)(2), effective October 13, 2005, also state that the owner must lease contract units only to eligible families selected and referred by the housing authority from the housing authority waiting list.

HUD regulations at 24 CFR 983.7(b), effective April 30, 1998, to October 12, 2005, state that the Authority cannot pay assistance to a Section 236 project (insured or noninsured) or a unit subsidized with Section 236 rental assistance payments. Regulations at 24 CFR 983.54(e), effective October 13, 2005, removed this requirement to allow assistance to be attached to projects subsidized with Section 236 interest reduction payments.

HUD regulations at 24 CFR 983.203(b), effective September 15, 1999, to October 12, 2005, state that before a housing authority selects a specific unit to which assistance is to be attached, the housing authority must determine whether the unit is occupied and if occupied, whether the unit's occupants are eligible for assistance. If the unit is occupied by an eligible family (including a single person) and the housing authority selects the unit, the family must be afforded the opportunity to lease that unit or another appropriate size, project-based assisted unit in the project without requiring the family to be placed on the waiting list. A housing authority may not select a unit or enter into an agreement with respect to a unit if the unit is occupied by persons who are not eligible for participation in the program. These requirements were also provided in 24 CFR 983.53(d), effective October 13, 2005.

HUD regulations at 24 CFR 983.257(b), effective from July 3, 1995, through October 12, 2005, required housing agencies to only approve or assist a project in accordance with HUD regulations and guidelines designed to ensure that participants do not receive excessive compensation by combining HUD program assistance with assistance from other federal, state or local agencies or with low-income housing tax credits, according to 42 U.S.C. [*United States Code*], 3545(d) and 3545 note.

HUD regulations at 24 CFR 983.55(a), (b), and (c), effective October 13, 2005, require that a housing authority not enter into a housing assistance payments contract until HUD or an independent entity approved by HUD has conducted any required subsidy layering review and determined that the project-based voucher assistance is in accordance with HUD subsidy layering requirements.

HUD regulations at 24 CFR 983.11(b), effective July 3, 1995, through October 12, 2005, and 983.58(d), effective October 13, 2005, require compliance with HUD's environmental regulations. Housing agencies may not enter into housing assistance payments contracts unless

an environmental review has been completed and HUD has approved the environmental certification or it was determined that the project was exempt from environmental laws.

HUD regulations at 24 CFR 983.253(b), effective July 3, 1995, through October 12, 2005, state that for housing authority-owned project-based certificate units or project-based certificate units financed with a HUD-insured multifamily mortgage, the initial rents must be approved by HUD. HUD regulations at 24 CFR 983.53(a)(7), effective October 13, 2005, state that the Authority may not attach or pay project-based voucher assistance for units in transitional housing.

HUD regulations at 24 CFR 983.302(b), effective October 13, 2005, state that the housing authority may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with all requirements of the housing assistance payments contract, including compliance with the housing quality standards. The owner may not receive any retroactive increase of rent for any period of noncompliance.

HUD regulations at 24 CFR 983.202, effective April 30, 1998, through October 12, 2005, state that the regulations at 24 CFR 982.452 apply to owners. The owner is also responsible for performing all of the owner responsibilities under the housing assistance payments contract, providing the housing authority with a copy of any termination of tenancy notification, and offering vacant, accessible units to a family with one or more members with a disability requiring accessibility features of the vacant unit and occupying an assisted unit not having such features. These requirements are also stated at 24 CFR 983.208, effective October 13, 2005.

HUD Regulations at 24 CFR 982.452, effective May 14, 1999, state that the owner is responsible for performing all of the owner's obligations under the housing assistance payments contract and the lease and preparing and furnishing to the housing authority information required under the housing assistance payments contract.

HUD regulations at 983.209(c), effective October 13, 2005, state that by execution of the housing assistance payments contract, the owner certifies that at such execution and at all times during the term of the housing assistance payments contract, each contract unit for which the owner is receiving housing assistance payments is leased to an eligible family referred by the housing authority, and the lease is in accordance with the housing assistance payments contract and HUD requirements.

The Authority's administrative plan states the following:

Chapter 21, Introduction, states that in accordance with the March 1999 Moving to Work agreement, the Authority has been granted authority to implement a Section 8 project-based program for non-profit owners of rental housing. The purpose of this feature is to increase the supply of rental units and to assist the special needs populations of the county.

Chapter 21, section A, states that to be eligible for participation, the nonprofit must be based in Portage County and predominately serve Portage County residents. The nonprofit owner must make a commitment to provide both housing and supportive services to the residents to receive the Section 8 project-based commitment from the Authority.



Chapter 21, Section B, states that the Authority and the owner will execute a housing assistance payments contract for a five-year term that is dependent upon the Authority's commitment for Section 8 funding from HUD. The housing assistance payments contract establishes the initial rents, term, and responsibilities of the Authority and the owners. Housing assistance payments contracts can be adjusted annually based on HUD regulations.

Chapter 21, part C, states that rents will be set based upon market comparables and may not exceed 110 percent of the published existing fair market rents. All standard Section 8 program requirements, including but not limited to client Section 8 eligibility, housing quality standards compliance, rent reasonableness, and fair housing requirements, will apply to project-based owners.

Chapter 21, part D, states that outreach efforts will be targeted to all Portage County nonprofits owning rental housing, based on the Yellow Pages directory published by Portage County First Call for Help. Outreach will consist of letters to each known local nonprofit that is potentially eligible to participate and also through newspaper notices in the *Record-Courier*.

Chapter 21, section E, states that proposals will be solicited by the Authority using a format developed by the Authority. The nonprofit owner will be required to provide documentation of eligibility for the program, ownership of the housing, eligibility of clients for Section 8, and supportive services to be offered.

## **Finding 2**

HUD's regulations at 24 CFR 982.152(d) state that HUD may reduce or offset any administrative fee to a public housing authority in the amount determined by HUD, if the authority fails to perform its administrative responsibilities correctly or adequately under the program, such as not enforcing HUD's housing quality standards.

HUD's regulations at 24 CFR 982.305(a) state that the public housing authority may not give approval for the family of the assisted tenancy or execute a housing assistance contract until the authority has determined that the following meet program requirements: (1) the unit is eligible, and (2) the unit has been inspected by the authority and meets HUD's housing quality standards.

HUD's regulations at 24 CFR 982.401 require all program housing to meet HUD's housing quality standards performance requirements both at commencement of assisted occupancy and throughout the tenancy.

HUD's regulations at 24 CFR 982.404 require owners of program units to maintain the units in accordance with HUD's housing quality standards. If the owner fails to maintain the dwelling unit in accordance with HUD's housing quality standards, the authority must take prompt and vigorous action to enforce the owner's obligations. The authority's remedies for such breach of housing quality standards include termination, suspension, or reduction in housing assistance payments and termination of the housing assistance payments contract. The authority must not make any housing assistance payments for a dwelling unit that fails to meet housing quality

standards unless the owner corrects the defect within the period specified by the authority and the authority verifies the correction. If a defect is life threatening, the owner must correct the defect within 24 hours. For other defects, the owner must correct them within 30 calendar days.

The Authority's administrative plan requires the following:

Chapter 10, section B, states that the Authority follows the acceptability criteria in the program regulations, HUD Inspection Booklet, and the housing codes for the City of Kent, Ravenna, and the Village of Windham. The Authority has additions to HUD's housing quality standards for the following categories: walls, windows, doors, sinks, security, bedrooms, modifications, and infestation.

Chapter 10, section D, states that the following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the inspector:

- Lack of security for the unit,
- Natural gas leak or fumes,
- Electrical problem which could result in shock or fire,
- No running hot water,
- Broken glass where someone could be injured, and
- Obstacle which prevents tenant's entrance or exit.

The contract and addendum between Housing Authority Services (contractor) and the Authority, effective July 1, 2006, states that Housing Authority Services will perform and complete all of the work required for completion of housing quality standards inspections, in strict accordance with the following "scope of work" in which the specifications are incorporated.

Scope of Work:

- Annual housing quality standards inspections, part 4, states that the contractor will conduct the physical inspection in accordance with housing quality standards, all applicable federal, state, local, and the Authority's standards.
- Initial housing quality standards inspections, part 4, states that the contractor will conduct the physical inspection in accordance with housing quality standards, all applicable federal, state, local, and the Authority's standards.
- Independent contractor status, part 6, states that the contractor agrees and represents that all individuals performing work under this agreement will have received all required training and possess all required certifications.