



Issue Date	September 30, 2009
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Audit Report Number	2009-CH-1019
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TO: Tom Lacey, Acting Director of Public Housing Hub, 5FPH

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

SUBJECT: The Michigan State Housing Development Authority, Lansing, Michigan, Failed to Operate Its Section 8 Project-Based Voucher Program According to HUD's and Its Requirements

## **HIGHLIGHTS**

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

We audited the Michigan State Housing Development Authority's (Authority) Section 8 Project-Based Voucher program (program). The audit was part of the activities in our fiscal year 2009 annual audit plan. We selected the Authority's program based upon our internal audit survey of the U.S. Department of Housing and Urban Development's (HUD) oversight of the program and our analysis of risk factors relating to the housing agencies in Region V's jurisdiction. Our objectives were to determine whether (1) the Authority effectively administered its program in accordance with HUD's and its own requirements and (2) the Authority's project-based unit inspections were sufficient to detect housing quality standards violations and provide decent, safe, and sanitary housing to its residents. This is the first of two planned audit reports of the Authority's program.

### **What We Found**

The Authority lacked documentation to support its selection and approval of program projects. As a result, it could not support that any of the five projects it had approved since January 1, 2007, were eligible for more than \$1 million in

program assistance and nearly \$85,000 in program administrative fees received by the Authority were appropriate. We estimate that over the next 12 months, the Authority will receive more than \$70,000 in program funds for improper administrative fees.

The Authority's program units generally met HUD's housing quality standards. Of the 60 program units selected for inspection, 23 did not meet minimum housing quality standards, and four (7 percent) materially failed due to 24-hour exigent health and safety hazards that predated the Authority's previous inspections. As a result, more than \$5,700 in program funds was spent on units that were not decent, safe, and sanitary.

We informed the Agency's executive director and the Acting Director of HUD's Detroit Office of Public Housing of a minor deficiency through a memorandum, dated September 29, 2009.

### **What We Recommend**

We recommend that the Acting Director of HUD's Detroit Office of Public Housing require the Authority to reimburse its program from nonfederal funds for the improper use of more than \$85,000 in program funds, provide documentation or reimburse its program more than \$1 million 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 \$93,000 in program funds from not being used over the next year to house needy families.

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 Acting Director of HUD's Detroit 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 September 15, 2009.

We asked the executive director to provide comments on our discussion draft audit report by September 25, 2009. The executive director provided written comments, dated September 25, 2009. The executive director disagreed 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 except for 922 pages of documentation that was not necessary for understanding the Agency's comments. A complete copy of the Authority's comments plus the documentation was provided to the Acting Director of HUD's Detroit Office of Public Housing.

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## **BACKGROUND AND OBJECTIVES**

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The Michigan State Housing Development Authority (Authority) is a nonprofit governmental Authority created by the Michigan State Housing Development Act of 1966 to provide decent, safe, and sanitary housing for low-income people. The Authority operates with oversight by the Michigan Department of Commerce. The Authority's jurisdiction includes the entire state of Michigan. An eight-member board of commissioners governs the Authority. The board members consist of the director of Michigan's Department of Labor and Economic Growth, the director of Michigan's Department of Human Services, the Michigan state treasurer, and four persons appointed by the governor, which include one tenant representative. 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.

The Authority administers a Section 8 Housing Choice Voucher program funded by the U.S. Department of Housing and Urban Development (HUD). The Authority provides assistance to low- and moderate-income individuals seeking decent, safe, and sanitary housing by subsidizing rents with owners of existing private housing. As of July 31, 2009, the Authority had 24,056 units under contract with annual housing assistance payments totaling more than \$141 million in program funds. Of the 24,056 units, 465 were assisted under the Authority's Section 8 Project-Based Voucher program (program).

This is the first audit report on the Authority's program. Our objectives were to determine whether (1) the Authority administered its program in accordance with HUD's and its own requirements and (2) the Authority's project-based unit inspections were sufficient to detect housing quality standards violations and provide decent, safe, and sanitary housing to its residents.

## RESULTS OF AUDIT

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### Finding 1: The Authority Inappropriately Approved Contracts for Its Program

The Authority lacked documentation to support its selection and approval of its program projects. The problems occurred because the Authority failed to exercise proper supervision and oversight of the program and also lacked adequate procedures and controls to ensure that HUD's requirements were appropriately followed. As a result, it was unable to support more than \$1 million in housing assistance and utility allowance payments and that \$84,509 in administrative fees paid to the Authority was appropriately earned.

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#### **The Authority Lacked Documentation to Support That HUD's Requirements Were Followed**

We reviewed the Authority's files for its five Section 8 project-based projects approved after January 1, 2007. The five projects contained 114 units. The program project files were reviewed to determine whether the Authority maintained documentation to support that its projects were eligible. Our review was limited to the information maintained by the Authority in its program project files. The Authority failed to ensure that

- 114 units in five projects had an initial housing quality standards inspection conducted,
- 114 units in five projects had a proper rent reasonableness determination,
- 30 units in one project had an analysis conducted to demonstrate how the projects would assist low-income people without unduly concentrating them, and
- one project was handicapped accessible.

In response to our discussion draft audit report, the Authority provided documentation to support that the initial housing quality standards inspections were conducted.

There was correspondence in the Authority's files for four (project numbers 924, 1118, 3037, and 3062) of the five projects that requested the Authority's contract housing agents to provide comparable properties for rent reasonableness studies that supported the owners' proposed rents. Comparable properties for project numbers 924 and 3037 were for properties located from 25 to 41 miles from the respective properties. Project number 924 is located in Detroit and according to

subsection 1437f(o)(10)(A) of the *United States Code*, rent for dwelling units for which a housing assistance payments contract is established under this subsection shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted local market. Comparables in the same city were used for project number 3062, but documentation in the Authority's project file raised questions about the validity of the reasonableness determination. The following definition was in documentation from the consultant that performed the rent reasonableness determination. "Comparability is defined as the following: gross rents at comparable properties must be equal or greater than gross rents at the proposal." The Authority also lists this definition on its Web site in a January 2009 market study addendum regarding rent reasonableness information for project-based vouchers. This definition gives the appearance that comparables with rents equal to or greater than the rents for a proposed project-based unit should be sought when determining the reasonable rent.

The Authority provided the environmental reviews for four of the projects. It located the documentation in another department's files. The Authority's director of housing voucher programs told us that she believed that HUD's requirements were met and the documentation was misplaced.

As a result, the projects were inappropriately selected and approved for project-based assistance and were ineligible to receive the assistance. Based on actual housing assistance payments and administrative fees earned from January 1, 2007, through July 31, 2009, we calculated that the Authority paid \$1,047,691 in housing assistance and inappropriately earned \$84,509 in administrative fees for the five projects improperly selected.

## Conclusion

As a result of its procedural and control weaknesses, HUD and the Authority lacked assurance that program funds were used efficiently and effectively. The Agency did not properly use program funds when it failed to comply with HUD's requirements. The Agency disbursed more than \$1 million in program housing assistance payments for program units without proper documentation.

In accordance with HUD's regulations at 24 CFR (*Code of Federal Regulations*) 982.152(d), HUD may reduce or offset any administrative fee to a public housing agency, in the amount determined by HUD, if the public housing agency fails to perform public housing agency administrative responsibilities correctly or adequately under the program. The Agency received \$84,509 in administrative fees from January 1, 2007, to July 31, 2009, while not adequately supporting its selection and approval of its program projects.

## Recommendations

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

- 1A. Provide supporting documentation or reimburse its program \$1,132,200 (\$1,047,691 in housing assistance and utility allowance payments plus \$84,509 in administrative fees) from nonfederal funds for the housing assistance payments to the five program projects cited in this finding.
- 1B. Implement adequate procedures and controls to ensure compliance with all federal requirements for the operation of its program.



## Finding 2: The Authority's Program Units Generally Met HUD's Housing Quality Standards

The Authority's contract housing agents did not adequately enforce HUD's housing quality standards. Of the 60 program units selected for inspection, 23 (38 percent) did not meet minimum housing quality standards. However, only four units (7 percent) had material violations that predated the Authority's previous inspections. The violations existed because the Authority failed to exercise proper supervision and oversight of its program unit inspections conducted by contract housing agents. As a result, \$6,399 in program funds (\$5,783 in housing assistance and \$616 in administrative fees) was spent on units that were not decent, safe, and sanitary.

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

Based upon our review, the Authority's program units were generally well maintained by the owners and met HUD's housing quality standards. As of April 30, 2009, the Authority had 451 program units under contract. The Authority or its contract housing agents inspected 60 of these units between February 1 and May 8, 2009, and passed all 60 of the units. We selected all 60 of these units for inspection.

We inspected the 60 units between May 26 and June 10, 2009. Twenty-three (38 percent) of the units did not meet HUD's housing quality standards, and four (7 percent) had material violations, 24-hour exigent health and safety deficiencies, that predated the Authority's previous inspections. Of the 60 units inspected, 23 had 40 violations, and 10 had 11 violations that existed when the Authority or its contract housing agents last inspected and passed the units.

For the four materially failed units, we calculated that from the time the Authority or its agents should have identified, cited, and obtained correction or abated the units' housing assistance until June 30, 2009, the Authority inappropriately paid \$5,783 in housing assistance and improperly received \$616 in program administrative fees. We also estimate that if the Authority fails to make corrections to its inspection process, it will pay \$22,956 in housing assistance over the next year for the four units that do not meet HUD's housing quality standards.

The following table categorizes the 40 violations in the 23 units.

Category of violations	Number of violations
Electrical	11
Windows	7
Floors	5
Walls	4
Security	3
Range/refrigerator	2
Other interior defect	2
Ceiling	1
Sinks	1
Food preparation/ storage	1
Ventilation	1
Heating	1
Stairs/rails/porches	<u>1</u>
Total	<u>40</u>

We provided our inspection results to the Authority's executive director on July 15, 2009, and to the Acting Director of HUD's Detroit Office of Public Housing on July 20, 2009.

### Examples of Violations

Eleven electrical violations were present in eight of the Authority's units inspected. The electrical violations consisted of missing switch or outlet cover plates, defective ground fault interruptor circuits, and loose light switches or electrical service boxes. Seven window violations were present in seven of the Authority's units inspected. These defects included windows that provided an alternative egress would not open, windows that would not stay open and slammed shut when released, and windows with loose locking hardware.

The Authority's inspections were not performed at a standard sufficient to fully meet HUD's housing quality standards due to a lack of understanding of the housing quality standards by the Authority's contract housing agent inspection staff. The Authority contracted with various housing agents, which were each assigned territories in the state of Michigan. These housing agents took applications, maintained waiting lists, approved leases, determined assistance payments for tenants, and performed the required housing quality standard inspections. The Authority only oversaw activities of the housing agents by performing quality assurance reviews or inspections on a test basis. The Authority selected units for inspection randomly from all program units and did not ensure that program units were included in each review.

## Conclusion

The housing quality standards violations existed because the Authority failed to exercise proper supervision and oversight of its program unit inspections. It also lacked adequate procedures and controls to ensure that its program units met HUD's housing quality standards. 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 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 \$5,783 in housing assistance payments for the four units that materially failed to meet HUD's housing quality standards and received \$616 in program administrative fees. Our methodology for this estimate is explained in the Scope and Methodology section of the audit report.

## Recommendations

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

- 2A. Certify that the housing quality standards violations cited in this finding have been repaired. If the necessary repairs have not been made, the Authority should abate housing assistance payments to the landlords as appropriate.
- 2B. Reimburse its program \$6,399 from nonfederal funds (\$5,783 for program housing assistance payments plus \$616 in associated administrative fees) for the four units that materially failed to meet HUD's housing quality standards.
- 2C. Implement adequate procedures and controls to ensure that all units meet HUD's housing quality standards.

## SCOPE AND METHODOLOGY

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To accomplish our objectives, we reviewed

- Applicable laws; HUD's program requirements at 24 CFR Parts 5, 58, 903, 908, 982, and 983; HUD's Public and Indian Housing Notices 2001-4, 2005-1, 2005-9, 2005-29, 2006-16, 2007-27, 2008-14, 2008-39, and 2009-11; and HUD's Housing Choice Voucher Guidebook 7420.10.
- The Authority's program project and environmental review files for projects approved after January 1, 2007; the Authority's program administrative plan, effective February 2008; annual audited financial statements for 2007 and 2008; program household files; computerized databases; policies and procedures; organizational chart; board minutes; and program annual contributions contract.
- HUD's files for the Authority.

We also interviewed the Authority's employees, HUD staff, and program households. We reinspected all 60 project-based units that had been inspected by the Authority or its contract housing agents between February 1 and May 8, 2009.

### **Finding 1**

We used computerized data and project listings provided by the Authority to identify the five projects that had project-based contracts approved since January 1, 2007. We reviewed the Authority's program files for the five owners to determine whether the Authority followed HUD's requirements for its selection of the projects and approval for project-based housing assistance payments contracts. We used actual housing assistance payments and administrative fees earned as reported by the Authority in HUD's Voucher Management System and confirmed by the Authority's staff to compute the average housing assistance payments and administrative fee per unit for each month.

We obtained the actual assistance payments made for the program households in the five projects. For each of the households, we identified the associated average administrative fee each month. Based on the actual housing assistance payments and calculated administrative fees earned from January 1, 2007, through July 31, 2009, we calculated that the Authority paid \$1,047,691 in assistance payments and earned \$84,509 in administrative fees during that period for the program units.

### **Finding 2**

Based on our inspections of the 60 project-based units inspected and passed by the Authority or its agents between February 1 and May 8, 2009, we determined that 23 units had violations of HUD's housing quality standards. We considered only four of the units to be material failures due to their having at least one 24-hour exigent health and safety hazard that was determined to

have existed when the Authority's inspection passed the unit. All units were ranked, and we used auditor's judgment to determine the material cutoff line.

We used actual housing assistance payments and administrative fees earned as reported by the Authority in HUD's Voucher Management System and confirmed by the Authority's staff to compute the average administrative fee per unit for each month.

For the four materially failed units, we determined when the Authority or its agents should have identified the defects and abated the units. We calculated the improper housing assistance payments by using the actual assistance payments made from the date the units should have been abated through June 2009. We calculated inappropriate housing assistance for these four units by using the calculated administrative fee for each of those same months.

Between January 1 and July 31, 2009, the Authority received an average administrative fee of \$51.32 per unit each month for its program units while administering an average of 448 units for the same period. To estimate benefits of correcting the defects for these four units, we used the latest monthly assistance payment for each of the four units, which totaled \$1,913, and multiplied by 12 to calculate an assistance savings of \$22,956. We multiplied the average administrative fee of \$51.32 per unit times four units times 12 to calculate \$2,463 in potential improper administrative fees than could be avoided.

We performed our on-site audit work from February through August 2009 at the Authority's central office located at 735 East Michigan Avenue, Lansing, Michigan. The audit covered the period January 1, 2007, through December 31, 2008, but was expanded when necessary to include other periods.

We performed our 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 an integral component of an organization's management that provides reasonable assurance that the following objectives are achieved:

- Program operations,
- Relevance and reliability of information,
- Compliance with applicable laws and regulations, and
- Safeguarding of assets and 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 review, we believe the following item is a significant weakness:

- The Authority lacked adequate procedures and controls to ensure compliance with federal requirements and/or its policies by failing to support its selection and approval of its program projects (see finding 1).

### **Separate Communication of a Minor Deficiency**

We informed the Agency's executive director and the Acting Director of HUD's Detroit Office of Public Housing of a minor deficiency through a memorandum, dated September 29, 2009.

## APPENDIXES

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### Appendix A

#### SCHEDULE OF QUESTIONED COSTS

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Recommendation number	Ineligible 1/	Unsupported 2/
1A		<u>\$1,132,200</u>
2B	<u>\$6,399</u>	
Totals	<u>\$6,399</u>	<u>\$1,132,200</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.




## Appendix B

# AUDITEE COMMENTS AND OIG'S EVALUATION

### Ref to OIG Evaluation

### Auditee Comments

  
STATE OF MICHIGAN  
JENNIFER M. GRANHOLM GOVERNOR    MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY    KEITH MOLIN EXECUTIVE DIRECTOR  
LANSING

September 25, 2009

Heath Wolfe  
Regional Inspector General for Audit, Region V  
HUD Office of Inspector General

Ronald Ferrell  
Assistant Regional Inspector General for Audit, Region V  
HUD Office of Inspector General

Douglas Taylor  
Auditor, Region V  
HUD Office of Inspector General  
Auditor in Charge of Phase 1 Audit

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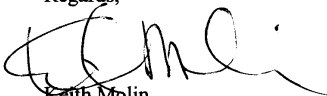
Re: Michigan State Housing Development Authority Response to HUD's Office of Inspector General Phase 1 Draft Audit Report of the Michigan State Housing Development Authority's Section 8 Project-Based Voucher Program


Dear Sirs:

Please see the attached document for the Michigan State Housing Development Authority's initial written comments and written response to the Phase 1 Draft Audit Report.

Thank you for your time, counsel and participation in and during the audit process.

We look forward to concluding the audit process with you at your earliest convenience.

Regards,  
  
Keith Molin  
Executive Director  
Michigan State Housing Development Authority

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**Ref to OIG Evaluation**

**Auditee Comments**

**MSHDA RESPONSES TO HUD OIG AUDIT REPORT**

**Finding #1: The Authority inappropriately approved contracts for its program.**

**Housing Quality Standards (HQS):**

The HUD OIG Audit Report finds that MSHDA's files failed to document that 114 units in five MSHDA projects had initial HQS inspections conducted.

**Comment 1**

The Authority disagrees with the finding that MSHDA failed to ensure that initial HQS inspections were conducted on 114 units in five projects. Enclosed are copies of the 114 initial HQS inspection reports. (See Attachment A)

**Comment 2**

The Authority acknowledges that for project #3022 (Ottawa County Supportive Housing) the HAP contract was executed prior to all units across all three building locations passing HQS inspection. This project was completed in stages as it was a scattered site supportive housing project with units in Grand Haven, Zeeland and Holland, Michigan. However, and most importantly, the Authority did not issue Housing Assistance Payments to the owner until: (i) the units had completed construction; (ii) the units had passed the initial HQS Inspection; and (iii) eligible families were contracted as tenants in the units. Given this, the Authority feels the applicable program regulations and requirements were met.

**Comment 3**

While the Authority disputes the finding and believes that MSHDA has substantially complied with HUD requirements in this regard, the Authority has agreed that it will implement a new file system for its Project Based Voucher project files. From this point forward, new project files will include copies of all initial HQS inspections in the project file. This new requirement is in addition to an existing requirement that a copy of the initial HQS inspection is retained in the tenant file.

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 4**

**Rent Reasonableness:**

The HUD OIG Audit Report finds that MSHDA's files failed to document that 114 units in five MSHDA projects had appropriate rent reasonableness determinations conducted with regard to the contract units.

The Authority disagrees with the finding that MSHDA failed to ensure that 114 units in five projects had a proper rent reasonableness determination. Enclosed are copies of 112 Rent Reasonableness Certificates related to this finding. (See Attachment B) For project #1118 (Verne Barry), units 201 and 205 have yet to be contracted; therefore, Rent Reasonable Certificates for these 2 units have not been completed.

While the Authority disputes the finding and believes that MSHDA has substantially complied with HUD requirements in this regard, the Authority has agreed that it will implement a new file system for its Project Based Voucher project files. From this point forward, new project files will include copies of the Authority's initial rent reasonableness test (MSHDA Form 37) in the project file. This requirement is in addition to an existing requirement that a copy of the initial Rent Reasonableness Certificate is retained in the tenant file.

The HUD OIG Audit Report goes on to dispute the choice of the comparable units and to question the validity of the Authority's rent reasonableness determinations. The Authority's policies regarding market analysis and rent reasonableness determinations require those analyzing these issues to review a number of unit and project characteristics to determine which units in the primary market area surrounding a project and/or adjacent areas are comparable units for rent reasonableness determinations. In the event that the primary market area does not contain sufficient numbers of comparable units to allow for a complete rent reasonableness determination, the Authority policies allow for the review of comparables otherwise in the county or in a designated group of similar counties individually or collectively consisting of a survey area. The Authority believes that the rent reasonableness determinations at issue fully comply with the both the Authority's and HUD's standards applicable to these determinations.

**Comment 5**

Additionally, the HUD OIG Audit Report suggests that the Authority rent reasonableness determinations are invalid or defective because of language contained in various Authority guidance implying, in the Auditor's opinion, that the voucher or marketing agent must only use units as comparables for rent reasonableness survey determinations if the gross rents associated with the comparable units are equal or greater to the rents associated with the assisted or contract units. While the HUD OIG Audit Report seems to suggest that the above language is inappropriate given the applicable HUD regulations, the Authority believes that the above language is simply a restatement of provisions of the regulations related to a valid rent reasonableness determination – e.g. if the rents of the comparable units are not in excess of the contract unit rents – then the contract unit rents are by definition unreasonable.

**Comment 6**

Finally, the Authority would suggest that the HUD OIG Audit Report references to federal regulations located in 24 CFR 983.301(c)(2) and 24 CFR 983.301(b) with regard to the requirements related to rent reasonableness are incorrect references. The above regulations address rent determinations for either tax credit units or other non-tax credit units respectively. While these rent determination standards reference the reasonable

**Ref to OIG Evaluation**

**Auditee Comments**

rent related to a particular unit as a factor to be considered in establishing the applicable rent payable to the unit owner, the regulations governing the rent reasonableness determination are actually located in 24 CFR 983.303. The Authority reiterates that it believes that our activities related to rent reasonableness determinations are fully consistent with both Authority policy and the federal regulations contained in 24 CFR 983.303.

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 7**

**Environmental Reviews:**

The HUD OIG Audit Report finds that MSHDA's files failed to document that 84 units in four MSHDA projects had appropriate environmental reviews conducted with regard to the contract units before project approval.

The Authority disagrees with the Finding that MSHDA failed to ensure environmental reviews were completed. Heath Wolfe, Regional Inspector General for Audit, HUD Office of Inspector General, agreed to withdraw this finding due to the fact that the Authority can provide documentation that the environmental reviews were appropriately completed.

**Comment 8**

**Handicapped Accessible Units:**

The HUD OIG Audit Report finds that MSHDA's files failed to document that 40 units in two MSHDA projects were handicapped accessible.

The Authority disagrees with the Finding that MSHDA failed to ensure that 40 units in two projects were handicapped accessible. The Authority would initially respond by disputing that 40 units across the two projects must be designated as and be handicapped accessible units. HUD OIG staff noted that the HAP contract would specify the number of handicapped accessible units required in each property. The Authority would note that pursuant to Exhibit A of the applicable HAP contract, Project #924 (Lakewood Manor) has two units (Unit #205 & #210) designated as handicapped accessible units. (See Attachment C) The Authority would additionally note that pursuant to page 6 of the applicable HAP contract, Project #3037 (Emerald Woods) is serving families receiving supportive services (See Attachment D) As a whole, Project #3037 (Emerald Woods) has a total of three handicapped accessible units; however, the owner and their supportive services partners did not elect to include any handicapped accessible units as units to be assisted under the applicable HAP contract.

The Authority contends that both Project #924 (Lakewood Manor) and Project #3037 (Emerald Woods) contained the required number of handicapped accessible units based on the applicable local, state, and federal laws, rules and regulations, including, but not limited to the following: the Americans with Disabilities Act, Uniform Federal Accessibility Standards, Section 504 of the Federal Rehabilitation of Act of 1973, the Federal Fair Housing Act, and the Michigan Construction Code. Finally, the Authority's files contain appropriate documentation regarding the handicapped accessible designation of these units.

**Comment 9**

**Subsidy Layering Reviews:**

The HUD OIG Audit Report finds that MSHDA's files failed to document that 40 units in two MSHDA projects had appropriate subsidy layering reviews conducted with regard to the contract units.

The Authority disagrees with the finding that MSHDA failed to ensure subsidy layering reviews were conducted for 40 units in two projects.

Project #924 (Lakewood Manor) did not have a HUD-performed subsidy layering review conducted. This Existing Project of 30 units was awarded project-based vouchers via a HAP Contract in March 2007; however, the initial application for project-based vouchers was submitted for review and approval in December 2003. The HUD initial guidance for project-based vouchers dated January 16, 2001, which was in effect at that time, does not specify that a subsidy layering review is required for an Existing Project. Since a HUD-performed subsidy layering review was not required at this point in time, a HUD-performed subsidy layering review was not obtained.

Project #3037 (Emerald Woods) also did not have a HUD performed subsidy layering review conducted. The HAP Contract for this Existing Project providing for 10 project-based vouchers was issued effective January 6, 2009. The Housing and Economic Recovery Act (HERA) of 2008, was signed into law in August 2008 but included an effective date of July 30, 2008. Section 2835(a)(1)(F) of HERA, new Section 8(o)(193)(M)(i) of the Housing Act of 1937, does not require the Authority to have a HUD-performed subsidy layering review conducted in the case of a HAP contract for an existing structure or to obtain a HUD-performed subsidy layering review if such a review has been conducted by the applicable state or local agency.

Since this provision was self-implementing for Existing Housing, and given that both projects in question were Existing Projects, and given that MSHDA conducts a tax credit subsidy layering review on all of its projects prior to closing which meet the state agency requirement; the Authority believes each of the projects cited above meets the requirements of HERA with regard to subsidy layering review.

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 10**

**De-concentration Analysis Requirements:**

The HUD OIG Audit Report finds that MSHDA's files failed to document that 30 units in one MSHDA project had appropriate analyses conducted to demonstrate how the project would assist low income people without unduly concentrating them in the project.

The Authority disagrees with the Finding that MSHDA failed to ensure that 30 units in one project (Project #924, Lakewood Manor) had an analysis conducted to demonstrate how the project would assist low-income people without unduly concentrating them in the project. The Authority completed the required analysis of the site selection related to the project and made the determination to proceed with the project based on the following: (i) the project is located adjacent to a HUD designated Enterprise Zone; (ii) the project was receiving significant investments of federal, state and local dollars dedicated to the project's renovation and revitalization; (iii) the project is located in an area with good access to health care services; (iv) the project offers an on-site Head Start Program; (v) the project is located in an area with significant recreational opportunities; (vi) the project is located in close proximity to a variety of different educational institutions and educational opportunities; (vii) the Authority had received documentation that the neighborhood/area was undergoing significant revitalization. (See Attachment E)

**Comment 11**

Additionally, we would note that during a review of Project #924's (Lakewood Manor) application for project-based vouchers an attempt was made to buttress the Authority's conclusions in this regard through the submission of a request for waiver of or clearance under the poverty concentration rule. This request was submitted to Mr. Robert Nelson at the HUD Detroit Field Office on July 22, 2005. (See Attachment F) No response was received from HUD regarding this request. The Authority was subsequently notified by Mr. Nelson in May 2006 that HUD would not be taking action on the request due to a change in applicable regulations made in October 2005.

Finally, the Authority believes that its PHA plan and activities related to site selection are fully and/or substantially consistent with applicable HUD rules and regulations related to site selection applicable to Project Based Voucher Programs.



**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 7**

**Allowable Time Period for HAP Contract:**

The HUD OIG Audit Report finds that MSHDA's files failed to document that 10 units in one MSHDA project had a housing assistance contract approved for an allowable period.

The Authority disagrees with the Finding that MSHDA failed to ensure ten units in one project had a Housing Assistance Payments (HAP) Contract approved for a disallowed period. Project #3062 (Park Meadows of South Haven) had an initial HAP Contract executed on August 1, 2008 for a ten-year term. The Housing and Economic Recovery Act of 2008, signed into law in August 2008 included an effective date of July 30, 2008. Section 2835(a)(1)(C) of HERA amends Section 8(o)(13)(G) of the Housing Act of 1937 to specify the maximum term for an extension of the HAP Contract is 15 years, at the election of the PHA and owner. A PHA may agree to enter into an extension at the time of the initial HAP Contract or any time before expiration of the HAP Contract. The amendment to the HAP Contract, which extended the initial term to fifteen years, was executed on April 8, 2009 and was consistent with the requirements of the Housing Act of 1937 as amended.

**Ref to OIG Evaluation**

**Auditee Comments**

**Comment 12**

**Finding #2: The Authority's Section 8 Project-Based Voucher units did not fully meet HUD's Housing Quality Standards.**

The HUD OIG Audit Report finds that MSHDA failed to ensure that the Authority's Section 8 Project-Based Voucher Units met HUD's Housing Quality Standards (HQS).

On September 15, 2009, the Office of Housing Voucher Programs (OHVP) was provided with the results of the sixty (60) Housing Quality Standards (HQS) inspections that were conducted by the HUD OIG Auditor. The OHVP will provide deficiency notices to the owners and tenants, conduct re-inspections where warranted, and certify that the HQS violations cited in this finding have been repaired or otherwise corrected within the next 90 calendar days.

**Comment 13**

The Authority acknowledges that 40 violations were cited in 38 of the 60 units inspected; however, the Authority would contend that there is no documentation supporting that these deficiencies existed at the time of the last HQS inspection conducted by the MSHDA contracted housing agent. Therefore, the Authority argues that the majority of the purported HQS violations, could have occurred after the last HQS inspection was conducted by the MSHDA contracted Housing Agent.

Additionally, the Authority has procedures in effect that are designed to ensure that its housing agents are able to adequately conduct HQS inspections. HQS Inspection trainings are made available to MSHDA Housing Agents on an average of once a year at three separate locations around the state.

**Comment 14**

Finally, the Authority disagrees with the finding that the 4 units that materially failed to meet HUD's Housing Quality Standards were 24-hour violations. Chapter 10 of the HUD Housing Choice Voucher Program Guidebook states that the PHA administering the vouchers should establish the definition of deficiencies that will be considered emergency failed items. The Authority's Housing Quality Standards manual defines emergency HQS violations as "HQS deficiencies that are life threatening, pose an immediate danger to the health and safety of the family and require the family to vacate the unit." Examples of emergency HQS violations requiring correction within 24-hours include, but are not limited to: (i) furnaces in danger of explosion, (ii) natural gas leaks, (iii) serious sewage back-up, and (iv) imminent structural collapse. (see Attachment G) The units that materially failed the HUD OIG inspection that were cited by HUD OIG as emergency HQS violations were as follows: (i) no cover plate on outlet, (ii) missing 3 fuses in electric panel, (iii) missing fuses in electric panel, (iv) light switch pulls out of box. The Authority is in agreement that these items do fail to meet HQS; however, we disagree that they are or should be considered to be emergency HQS violations that would require repair within 24 hours or alternatively require the tenant to vacate the unit during repair or until the repair had been completed. Furthermore, the Authority believes that the program units in question were substantially well-maintained.

## OIG Evaluation of Auditee Comments

- Comment 1** The Authority provided the initial housing quality standards inspections with its comments. We noted this on page 5 of this report.
- Comment 2** HUD's regulations at 24 CFR 983.103(a) and (b) require the Authority to inspect all units and determine that the proposed project-based units comply with housing quality standards before executing a housing assistance payments contract.
- Comment 3** The Authority's proposed actions should provide for a more efficient means of determining whether a project's units had initial housing quality standards inspections conducted.
- Comment 4** The rent reasonableness certifications were generated for each individual unit when a household was identified and provide three comparable units for each individual unit. These certifications compare contract rents, utility allowances, and gross rents, as well as the number of comparable points given, but no amenities. Of the 112 certifications provided by the Authority, 107 were dated after the housing assistance payments contracts were effective and only five were done on or before the applicable contracts' effective date. In addition, 142 of the 336 comparable units provided were located outside of the community where the projects were located.
- Comment 5** The wording in the Authority's internal guidelines on project market analysis implies that comparables are units with gross rents that are equal to or greater than the assisted contract rents. In addition, the Authority's project files contained electronic correspondence from the Authority to its housing agents requesting comparables that supported the proposed rents.
- Comment 6** HUD's requirements for rent reasonableness are at 24 CFR parts 983.301 and 983.303.
- Comment 7** The report was adjusted.
- Comment 8** We agree that the assistance payments contract for Lakewood Manor shows that two units are handicapped accessible units. The Authority did not provide documentation to support its assertion that the Emerald Woods project's assistance contract as a whole meets the requirement for handicapped accessibility. We adjusted the report to show that the Authority did not provide documentation to support that one project met handicapped accessibility requirements.
- Comment 9** The report was adjusted since no subsidy layering review needs to be conducted for existing projects.

- Comment 10** The project was located in a census tract containing 44.4 percent of families below the poverty level. The Authority rejected this project on March 16, 2004, for various reasons including the need for a HUD waiver of the poverty concentration requirement and 100 percent subsidy. The waiver was requested July 22, 2005, but was not granted by HUD.
- Comment 11** HUD's regulations for the deconcentration of poverty were not revised when it issued changes to the program in the *Federal Register* on October 13, 2005.
- Comment 12** We hand delivered a compact disc containing the results of our housing quality standards inspections to the Authority's executive director on July 15, 2009. We agree with the Authority's proposed actions for notifying the applicable owners and households.
- Comment 13** We did not cite the 40 violations in 38 of the 60 units as a preexisting deficiency because we could not determine when these defects occurred. We cited 10 units as having preexisting defects but only four of the 60 units were material failures since they had 24-hour exigent health and safety violations that were not identified by the Authority's inspectors.
- Comment 14** We do not disagree that the Authority can determine what it deems as a health and safety 24-hour violation. However, its guidelines should be updated at times to coincide with nationally recognized health and safety issues. Both the Occupational Safety and Health Administration and the National Electrical Code National Fire Protection Association 70 require that electrical wiring be kept free from all recognizable hazards. The Code of Federal Regulations and the National Fire Protection Association also both require that live parts of electric equipment operating at 50 volts or more be guarded against accidental contact. Most common hazards include electrical outlets and switches with broken or missing covers.

## Appendix C

### FEDERAL REQUIREMENTS

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#### Finding 1

*United States Code*, title 42, chapter 8, subchapter I, subsection 1437f(o)(13)(H), states that rents established by housing assistance payments contracts pursuant to this paragraph may vary from the payment standards established by the public housing agency pursuant to paragraph (1)(B) but shall be subject to paragraph (10)(A).

*United States Code*, title 42, chapter 8, subchapter I, subsection 1437f(o)(10)(A), states that the rent for dwelling units for which a housing assistance payments contract is established under this subsection shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted local market.

HUD's regulations at 24 CFR 983.301(c)(2) state that for tax credit properties, rent to the owner may not exceed the lowest of (i) tax credit rent minus the utility allowance, (ii) the reasonable rent, or (iii) the rent requested by the owner.

HUD's regulations at 24 CFR 983.301(b) state that for other (non-tax credit) properties, rent to the owner may not exceed the lowest of (i) 110 percent of fair market rent less utility allowance, (ii) the reasonable rent, or (iii) the rent requested by the owner. HUD's regulations at 24 CFR 983.301(b), (c), and (e) and 983.303(c) and (d) require the housing authority to do the rent reasonableness reviews using three comparable unassisted units.

Chapter 9 of HUD's Housing Choice Voucher Program Guidebook provides guidelines for determining rent reasonableness. To determine reasonableness, a housing authority must compare the voucher unit rent to rents for similar unassisted units in the marketplace and also to rents for similar unassisted units on the premises. For comparability, the housing authority must consider location, quality, size, unit type, age, amenities and services.

HUD regulations at 24 CFR 983.101(a) provide that 24 CFR 982.401, housing quality standards, applies to the project-based voucher program.

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

HUD's regulations at 24 CFR 983.103(a) and (b) require the housing authority to inspect all units and determine that the proposed project-based units comply with housing quality standards before executing a housing assistance payments contract.

HUD's regulations at 24 CFR 983.58(a)-(d), state: "activities under the project-based voucher program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. According to

HUD's regulations at 24 CFR Part 58, a unit of general local government, a county or a state is responsible for the federal environmental review. In the case of existing housing under part 983, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not project-based voucher assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5. The public housing agency may not enter into an agreement or housing assistance payments contract with an owner, and the agency, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for project-based voucher activities under this part, until one of the following occurs:

- (i) The responsible entity has completed the environmental review procedures required by 24 CFR Part 58, and HUD has approved the environmental certification and request for release of funds;
- (ii) The responsible entity has determined that the project to be assisted is exempt under 24 CFR 58.34 or is categorically excluded and not subject to compliance with environmental laws under 24 CFR 58.35(b); or
- (iii) HUD has performed an environmental review under 24 CFR part 50 and has notified the agency in writing of environmental approval of the site."

HUD's regulations at 24 CFR 983.102(a) require project-based units to comply with disability accessibility requirements of Section 504 of the Rehabilitation Act of 1973.

HUD's regulations at 24 CFR 983.57(a) and (b) require that project-based assistance be consistent with the goal of deconcentrating poverty and expanding economic opportunity while avoiding undue concentration of low-income persons. If the poverty rate in the proposed project area is greater than 20 percent, the authority should consider whether there has been an overall decline in poverty in the last five years.

## **Finding 2**

HUD regulations at 24 CFR 983.101(a) provide that 24 CFR 982.401, housing quality standards, applies to the project-based voucher program. In general, the same statutory public housing agency inspection requirements apply to project-based voucher assistance as to the tenant-based voucher program (see *United States Code*, title 42, sections 1437f(o)(8) and 1437f(o)(13)(F)).

HUD's regulations at 24 CFR 982.401 require that all Section 8 program housing meet the housing quality standards performance requirements both at commencement of assisted occupancy and throughout the tenancy.

HUD's regulations at 24 CFR 982.404(a) state that the owner must maintain the unit 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 agency must take prompt and vigorous action to enforce the owner's obligations. Remedies for such breach of the housing quality standards include termination, suspension, or reduction of housing assistance payments contract and the termination of the housing assistance payments contract. The agency must not

make any housing assistance payments for a dwelling unit that fails to meet the housing quality standards unless the owner corrects the defect within the period specified by the agency and the agency verifies the correction. If a defect is life threatening, the owner must correct the defect within 24 hours.

HUD's regulations at 24 CFR 982.405(a) require public housing agencies to perform unit inspections before the initial move-in and at least annually. The agency must inspect the unit leased to a family before the term of the lease, at least annually during assisted occupancy, and at other times as needed to determine whether the unit meets housing quality standards.

Chapter 10 of HUD's Housing Choice Voucher Program Guidebook 7420.10G, April 2001, discusses the minimum size of a public housing authority quality control sample. General requirements for Section Eight Management Assessment Program indicator 5 quality control inspections are provided. In addition, it provides information on precontract inspections and annual inspections. Feedback on quality control inspections of inspectors' work, which can be used to determine whether individual performance or general housing quality standards training issues need to be addressed. The public housing authority should maintain a quality control tracking system for each program year, which indicates the address of the units; date of original inspection and inspector; date of the quality control inspection; and the location of the unit by neighborhood, zip code, and census tract.

In accordance with 24 CFR 982.152(d), HUD may reduce or offset any administrative fee to a public housing agency in the amount determined by HUD if it fails to enforce HUD's housing quality standards.