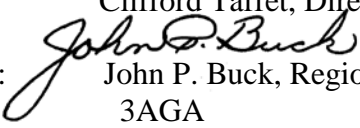




Issue Date October 25, 2010
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Audit Report Number 2011-PH-1001
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TO: Clifford Taffet, Director, Office of Affordable Housing, DGH

FROM:  John P. Buck, Regional Inspector General for Audit, Philadelphia Region,  
3AGA

SUBJECT: The Virginia Housing Development Authority, Richmond, VA, Generally Administered Its Tax Credit Assistance Program Funded Under the Recovery Act in Accordance With Applicable Requirements

## **HIGHLIGHTS**

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

We audited the Virginia Housing Development Authority (Authority) because it received \$44.2 million in Tax Credit Assistance Program (Program) funds under the American Recovery and Reinvestment Act of 2009 (Recovery Act), which was the second largest amount of these funds awarded in Region III<sup>1</sup>. Our objective was to determine whether the Authority administered its Program in accordance with Recovery Act and applicable U.S. Department of Housing and Urban Development (HUD) requirements.

### **What We Found**

The Authority generally administered its Program in accordance with Recovery Act and HUD requirements. Specifically, it (1) met the required fund commitment deadline, (2) selected and funded eligible projects, (3) executed written agreements that complied with requirements, (4) received and disbursed Program funds in a timely manner, (5) ensured that Davis-Bacon prevailing wage requirements were met, (6) completed environmental clearances and obtained

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<sup>1</sup> Region III encompasses Pennsylvania, Virginia, Maryland, West Virginia, Delaware and the District of Columbia.

HUD approval of requests for release of funds before executing written agreements, and (7) met increased transparency and reporting requirements. However, the Authority did not obtain lobbying certifications as required by the Recovery Act.

### **What We Recommend**

We recommend that the Authority obtain lobbying certifications from its Program contractors and subcontractors. It took immediate corrective action during the audit to obtain the required certifications.

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 a discussion draft audit report to the Authority on October 7, 2010, and discussed it with the Authority at an exit conference on October 14, 2010. The Authority provided written comments on the draft audit report on October 20, 2010. It agreed with the audit report. The complete text of the Authority's response can be found in appendix A of this report.

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## **BACKGROUND AND OBJECTIVE**

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The Virginia Housing Development Authority (Authority) is a nonprofit organization created by the Commonwealth of Virginia in 1972. It was established to help Virginians attain quality, affordable housing, and it is responsible for administering the State's Low-Income Housing Tax Credit (LIHTC) program. The Authority's mortgages are funded by bonds, which are available to home buyers and developers of quality rental housing. The Authority also teaches free home ownership classes and helps elderly and disabled people make their homes more livable. It also works with local governments, lenders, developers, and community service organizations to help Virginians find quality housing. Since 1972, the Authority has made financing available for 131,000 single-family homes and 96,000 multifamily apartments.

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act of 2009 (Recovery Act) into law. The purpose of the Recovery Act is to jump-start the Nation's ailing economy, with a primary focus on creating and saving jobs in the near term and investing in infrastructure that will provide long-term economic benefits. The Recovery Act appropriated \$2.25 billion under the HOME Investment Partnerships program (HOME) heading for a Tax Credit Assistance Program (Program) grant to provide funds for capital investments in LIHTC projects. The U.S. Department of Housing and Urban Development (HUD) awarded Program grants to the 52 State housing credit agencies including the District of Columbia and the Commonwealth of Puerto Rico. These 52 agencies are the only eligible grantees for the program.

Although Program funds were appropriated under the HOME heading, these funds are not subject to any HOME requirements other than the environmental review and can only be used in LIHTC projects, which are administered through the U.S. Department of the Treasury. HUD awarded grants to facilitate development of projects that received or will receive LIHTC awards between October 1, 2006, and September 30, 2009. On July 17, 2009, HUD awarded the Authority \$44.2 million in Program funds.

The Recovery Act imposed additional reporting requirements and more stringent obligation and expenditure requirements on the grant recipients. For example, the Authority was required to commit at least 75 percent of its grant funds by February 16, 2010. It was also required to demonstrate that project owners expend 75 percent of the grant funds by February 16, 2011, and expend 100 percent of the grant funds by February 16, 2012. Transparency and accountability are critical priorities in the funding and implementation of the Recovery Act.

Our objective was to determine whether the Authority administered its Program in accordance with the requirements of the Recovery Act and applicable HUD requirements.

## RESULTS OF AUDIT

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### Finding: The Authority Generally Administered Its Program in Accordance With Applicable Requirements

The Authority generally administered its Program in accordance with Recovery Act and HUD requirements. Specifically, it (1) met the required fund commitment deadline, (2) selected and funded eligible projects, (3) executed written agreements that complied with requirements, (4) received and disbursed Program funds in a timely manner, (5) ensured that Davis-Bacon prevailing wage requirements were met, (6) completed environmental clearances and obtained HUD approval of requests for release of funds before executing written agreements, and (7) met increased transparency and reporting requirements. Although the audit disclosed no material deficiencies in the Authority's Program, the Authority did not obtain lobbying certifications as required by the Recovery Act. The Authority took corrective action during the audit and obtained required lobbying certifications from contractors and subcontractors.

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#### **The Authority Met the Required Commitment Deadline**

Under the Recovery Act and HUD's Office of Community Planning and Development (CPD) Notice CPD-09-03-REV,<sup>2</sup> the Authority was required to commit at least 75 percent of its Program grant of \$44.2 million by February 16, 2010. The Authority was able to commit 100 percent of its Program funds by the required deadline. It allocated its grant funds for the acquisition and rehabilitation of 16 projects located in the State of Virginia. As of August 2, 2010, the Authority had also disbursed more than \$26 million, or 60 percent, to 13 projects.

#### **The Authority Selected and Funded Eligible Projects**

HUD Notice CPD 09-03-REV required the Authority to distribute Program funds competitively under the requirements of the Recovery Act and pursuant to its qualified allocation plan. The notice also provides that projects eligible to receive grant funds are rental housing projects that received an LIHTC award under Section 42(h) of the Internal Revenue Code of 1986 during the period October 1, 2006, to September 30, 2009. All of the projects for which the Authority awarded grant funds were eligible to receive Program grant funds, and a competitive process was used in accordance with its qualified allocation plan. The Authority awarded \$44.2

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<sup>2</sup> Revised July 27, 2009

million in Program grant funds to 16 LIHTC projects for eligible activities including rehabilitation of rental units and the acquisition of projects that would provide low-income housing.

### **Written Agreements Complied With Program Requirements**

HUD Notice CPD-09-03-REV required the Authority to execute legally binding written agreements with each project owner. The written agreement was required to set forth all of the Program and crosscutting Federal grant requirements applicable to the funding and make these requirements enforceable through the recordation of a restriction that is binding on all owners. The Authority executed written agreements with all 16 project owners to set forth the requirements of the program. All Program written agreements were signed and dated before any Program funds were disbursed.

### **The Authority Received and Disbursed Funds in a Timely Manner**

The Authority drew down \$26 million in grant funds from HUD's automated Line of Credit Control System and disbursed grant funds for eligible expenses within the 3-day requirement. Under the Recovery Act and HUD Notice CPD 09-03-REV, the Authority was required to disburse funds to eligible activities within 3 days of the receipt of Federal funds. HUD Notice CPD 09-03-REV also required the Authority to disburse funds after a request for release of funds was approved. The Authority disbursed the funds after approval was provided and within 3 working days as required.

### **The Authority Ensured That Davis-Bacon Prevailing Wage Requirements Were Met**

Under the Recovery Act and HUD Notice CPD 09-03-REV, the Authority was required to ensure that contractors and subcontractors hired with Recovery Act funds were paid prevailing wages in compliance with the Davis-Bacon Act. The Davis-Bacon requirements apply prospectively to the construction project as of the date of the Program award. Requirements of 40 U.S.C. (United States Code) Section 3145 and 29 CFR (Code of Federal Regulations) Part 3 state that contractors and subcontractors working on covered projects must submit weekly certified payroll records to the grantee for all laborers and mechanics, identifying their job classifications, rate of pay, and the daily and weekly hours worked. The

Authority adequately ensured that its contractors and subcontractors met this requirement.

**Environmental Clearances  
Were Completed and Requests  
for Release of Funds Were  
Approved as Required**

Under HUD Notice CPD-09-03-REV, the Authority was required to complete an environmental clearance and obtain a HUD-approved request for release of funds before executing written agreements with project owners. We reviewed the environmental clearances for all 16 projects and determined that the Authority ensured that all of the projects had environmental clearances performed before the execution of written agreements and the disbursement of Federal funds.

**The Authority Met Increased  
Transparency and Reporting  
Requirements**

Under the Recovery Act and HUD Notice CPD-09-03-REV, the Authority was required to post on its Web site a description of its competitive selection criteria for awarding Program funds to eligible projects. The Authority was also required to identify all projects selected for funding and post the amount of each Program award on its Web site. The Authority complied with these requirements.

**The Authority Did Not Obtain  
Lobbying Certifications as  
Required**

Under the Recovery Act and HUD Notice CPD 09-03-REV, the Authority was required to follow requirements set forth in 24 CFR Part 87. Regulations at 24 CFR Part 87 require that recipients of Federal contracts, grants, loans, or cooperative agreements certify that they will not use appropriated funds to influence or attempt to influence an officer or employee of the Federal Government. The Authority had not obtained lobbying certifications from its Program contractors or subcontractors as required by 24 CFR Part 87. The Authority acknowledged that it had not obtained the lobbying certifications because it misunderstood the requirements. It believed that lobbying certifications were only required from contractors or subcontractors that had participated in lobbying activities. However, after we brought this matter to the attention of responsible officials, they took immediate corrective action and obtained lobbying certifications from contractors and subcontractors as required by the Recovery Act and 24 CFR Part 87.

## Recommendations

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

- \*1A. Obtain and review the required lobbying certifications from contractors and subcontractors that were paid with Program grant funds.

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\* The Authority took corrective action during the audit and obtained the required lobbying certifications. We reviewed the certifications and confirmed that they met the requirements of 24 CFR Part 87. A management decision, completed action, has, therefore, been entered into the Audit Resolution and Corrective Action Tracking System for recommendation 1A. No further action is required. The audit recommendation is closed.



## SCOPE AND METHODOLOGY

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We conducted the audit from May to September 2010 at the Authority's offices located at 601 South Belvidere Street, Richmond, VA, and our offices located in Richmond, VA. The audit covered the period February 2009 through May 2010 but was expanded when necessary to include other periods.

To achieve our audit objective, we reviewed

- Relevant background information;
- The Recovery Act;
- Section 42 of the Internal Revenue Code pertaining to the LIHTC program;
- Policies and procedures related to the Program's award process, expenditures, and disbursements;
- Written agreements and environmental clearance determinations for Program award recipients; and
- Davis-Bacon wage records and lobbying certifications submitted by Program award recipients.

We conducted interviews with the Authority's staff and officials from HUD's Office of Affordable Housing. We conducted onsite reviews of rehabilitation work in progress for the Twin Canal and Fairhills developments, where grant funds were being used. We selected and reviewed a sample of five projects that received more than \$20.5 million in Program grant funds. The award amounts ranged from approximately \$1.4 million to nearly \$8.6 million.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

# INTERNAL CONTROLS

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

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

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

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## Relevant Internal Controls

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

- Policies, procedures, and other management controls implemented to ensure that the Authority administered Program funds in accordance with the Recovery Act and HUD requirements.

We assessed the relevant controls identified above.

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

We evaluated internal controls related to the audit objective in accordance with generally accepted government auditing standards. Our evaluation of internal controls was not designed to provide assurance regarding the effectiveness of the internal control structure as a whole. Accordingly, we do not express an opinion on the effectiveness of the Authority's internal control.

# APPENDIX

## Appendix A

### AUDITEE COMMENTS



October 20, 2010

Mr. John P. Buck  
Regional Inspector General for Audit  
U.S. Department of Housing and  
Urban Development  
Office of Inspector General  
Wanamaker Building, Suite 1005  
100 Penn Square East  
Philadelphia, PA 19107-3380

Re Draft of HUD OIG Audit of Virginia Housing  
Development Authority's Administration of the  
Tax Credit Assistance Program

Dear Mr. Buck:

Thank you for the opportunity to respond to the Discussion Draft Audit Report dated October 7, 2010 (the "Audit Report"), prepared by the Office of Inspector General (the "OIG") of the Department of Housing and Urban Development ("HUD") with respect to the administration of the Tax Credit Assistance Program ("TCAP") by the Virginia Housing Development Authority ("VHDA"). VHDA has reviewed and agrees with the findings in the Audit Report.

The American Recovery and Reinvestment Act of 2009 (the "Recovery Act") required an aggressive implementation schedule for both HUD (to create policies and procedures that governed the disbursement of TCAP funds) and the TCAP recipients (to craft TCAP selection and disbursement processes that met the commitment and expenditure deadlines of TCAP). The speed in which this daunting challenge has been accomplished by both HUD and VHDA is unprecedented. VHDA is pleased the Audit Report verifies that the TCAP funds in Virginia are being administered in accordance with the Recovery Act and HUD requirements and that the audit recommendation is closed.

VHDA would like to thank HUD for its efforts in establishing the framework for the distribution of TCAP funds. We also appreciate OIG's oversight to ensure the proper use of the taxpayers' money in pursuing the goals of the Recovery Act.

Sincerely,



Susan F. Dewey  
Executive Director

cc: Ms. Kimberly Harrison