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//signed//
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FROM:

SUBJECT: The Shelby County, TN, Housing Authority Mismanaged Its HUD-Funded Programs

HIGHLIGHTS

What We Audited and Why

We audited the Shelby County Housing Authority in Memphis, TN, based upon an audit request from the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General for Investigation. The request included many areas of concern for both public housing operations and Section 8 Housing Choice Voucher program administration. Our objective was to determine whether the Authority complied with HUD requirements for administering its public housing program, including funds received under the American Recovery and Reinvestment Act of 2009, and its Section 8 Housing Choice Voucher program.

What We Found

The Authority failed to administer its HUD-funded programs in accordance with requirements. We found indicators of noncompliance in every program area reviewed.

The Authority did not comply with all requirements of its public housing consolidated annual contributions contract. Specifically, it willfully abandoned its Horton Gardens Apartments site, failed to protect tenants' sensitive personally identifiable information, and failed to maintain complete and accurate records. As a result, the Horton Gardens site appeared to be devalued, and tenants' personal information was unnecessarily placed at risk.

The Authority did not comply with the "buy American" requirement, did not publicly advertise, and did not conduct an independent cost estimate for its only Recovery Act contract. In addition, it did not maintain records supporting fair and open competition for two other procurements. As a result, it expended its entire \$315,372 Recovery Act grant for an ineligible procurement and could not support the eligibility of other expenditures totaling \$13,692.

The Authority could not support that it met its 24-month obligation deadline requirement for \$200,000 in unspent funds for its 2008 annual capital fund grant. As a result, \$450,955 in fiscal years 2010 and 2011 capital funds risk being recaptured by HUD and redistributed to other public housing authorities.

The Authority mismanaged its Section 8 Housing Choice Voucher program. Management failed to ensure that existing internal controls were understood by staff and followed. This failure created an environment resulting in or contributing to significant areas of noncompliance, including (1) failure to support a determination of owner eligibility, (2) miscalculation of tenant income and utility allowances, (3) failure to determine rent reasonableness, (4) incomplete housing quality inspection forms, (5) failure to document head of household's citizenship, and (6) failure to retain a copy of a lease agreement resulting in \$12,679 in unsupported housing assistance payments.

These deficiencies occurred because management was either unaware of HUD regulations and its own procedures or chose to ignore them.

What We Recommend

We recommend that the Director of the Memphis Office of Public Housing (1) determine whether the Authority should be declared in substantial default with its public housing consolidated annual contributions contract, (2) explore the feasibility of possible dissolution of the Authority or absorption of Authority activities by another public housing authority, (3) require the Authority to repay the U.S. Treasury \$315,372 from non-Federal funds due to noncompliance with the "buy American" provision of the Recovery Act, (4) require the Authority to provide documentation to support that \$200,000 in 2008 capital funds was properly obligated, and (5) require the Authority to properly train its staff on HUD Section 8 requirements as well as its own Section 8 policies and procedures.

We recommend that the Director of the Departmental Enforcement Center, in coordination with the Director of HUD's Memphis Office of Public Housing, take appropriate administrative action against the Authority's former executive director for badly mismanaging its operation.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-4. Please furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

We discussed the findings with Authority officials during the audit. We provided a copy of the draft report to the Authority on December 19, 2011, for its comments and discussed the report with Authority officials at an exit conference on January 6, 2012. The Authority provided its written comments to our draft report on January 9, 2012. The Authority generally agreed with the contents of the report.

The complete text of the Authority's response, along with our evaluation of that response, can be found in appendix B of this report.

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BACKGROUND AND OBJECTIVE

The Shelby County Housing Authority was established under the U.S. Housing Act of 1937 for the purpose of providing affordable housing to low- and moderate-income families in Shelby County, TN. The governing body of the Authority is composed of a five-member appointed board of commissioners. The mayor of Shelby County appoints the board, which in turn hires the executive director. The board terminated the executive director's employment during our review.

The Authority owned and managed 175 conventional low-income public housing units, 128 of which had been approved for disposition. The Authority receives operating funds and capital funds from the U.S. Department of Housing and Urban Development (HUD) for the operation and modernization of its low-income public housing units.

Each year, HUD provides funds to public housing agencies for the operation and management of public housing. For fiscal 2011, the Authority had received \$281,127 as of August 31, 2011.

HUD annually provides capital funds to public housing agencies for the development, financing, and modernization of public housing developments and for management improvements. The Authority received capital fund grants of \$249,148 for fiscal year 2008, \$247,847 for fiscal year 2009, \$247,013 for fiscal year 2010, and \$203,942 for fiscal year 2011. The Authority had nearly \$880,000 in available capital funds as of August 31, 2011.

The Authority also received a \$315,372 capital fund grant as part of the American Recovery and Reinvestment Act of 2009. The purpose of the Recovery Act was to jumpstart 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 Authority also managed a Section 8 Housing Choice Voucher program. It began this program to rehouse the public housing tenants that resided in the 128 public housing units approved for disposition. The housing choice vouchers allow very low-income families to choose and lease or purchase safe, decent, and affordable privately owned rental housing. The Authority managed 113 housing choice vouchers and had received program funds from HUD of \$561,989 in fiscal year 2010, \$456,139 in fiscal year 2011, and \$391,827 in fiscal year 2012 as of September 2011.

Our objective was to determine whether the Authority complied with HUD requirements for administering its public housing program, including funds received under the Recovery Act, and its Section 8 Housing Choice Voucher program.

RESULTS OF AUDIT

Finding 1: The Authority Did Not Comply With All Requirements of Its Public Housing Consolidated Annual Contributions Contract

The Authority did not comply with all requirements of its public housing consolidated annual contributions contract¹. Specifically, it (1) willfully abandoned its Horton Gardens Apartments site, (2) failed to protect tenants' sensitive personally identifiable information, (3) did not maintain Authority records in such a manner as to permit timely and effective audit, and (4) could not support that it provided annual operating budget information to its board of commissioners. This condition occurred because management failed to follow through with the approved sale of Horton Gardens Apartments and either was not aware of HUD's requirements or chose to ignore them. As a result, the Horton Gardens site appeared to be devalued, the Authority failed to realize up to \$200,000 from its sale, and tenants' personal information was unnecessarily placed at risk. Additionally, the lack of complete and accurate records could result in inaccurate reports to HUD and the diminished effectiveness of audits. The absence of budgetary information limited the board's effectiveness in contributing to the planning and oversight of the Authority.

Management Willfully Abandoned Its Horton Gardens Apartments Site

Authority management abandoned the Authority's Horton Gardens Apartments site in violation of section 17(B)(4) of its consolidated annual contributions contract, which lists abandonment of any project as an event of substantial default. The Authority applied for approval to dispose of Horton Gardens for its \$200,000 fair market value and received approval from HUD's Special Applications Center² on May 28, 2009. Horton Gardens contained 3 nondwelling buildings including the Authority's former administrative building, 56 dwelling buildings containing 128 dwelling units, 3 nonresidential units, and 24.5 acres of underlying land. The Authority had not received any formal offers for Horton Gardens at the time of our audit.

We performed a site visit of Horton Gardens on September 29, 2011, in response to the former executive director's statement that he had decided to allow the site

¹ A consolidated annual contributions contract is a written contract between HUD and a public housing authority in which the authority agrees to administer its public housing program in accordance with HUD regulations and requirements.

² HUD's Special Applications Center enables the Office of Public Housing to assist public housing agencies to meet the housing needs of their communities by conducting specialized review and approval of non-funded, non-competitive applications including demolition and disposition of public housing units through razing, sale, or lease.

to “go back to nature.” We found the development in deplorable condition. All of the buildings had been vandalized, and nearly everything of value had been stolen. Thieves had gutted the buildings for the copper wiring, lighting fixtures, and most doors and windows. The property appeared to have been untended for quite some time, as vegetation had grown unchecked and was higher than the buildings in some cases.

The former executive director’s “go back to nature” statement indicated a conscious and willful decision to abandon Horton Gardens. Authority staff indicated that the site had been boarded up after the administrative office was moved to its current location during the summer of 2010 and had been untended since that time. As a result of the abandonment, Horton Gardens appeared to be significantly devalued, making it unlikely that the Authority would be able to dispose of the property for the \$200,000 fair market value approved in its disposition application. The Authority will also likely incur additional costs to clean up or demolish the site. The photographs below provide examples of the property conditions at the time of our site visit.



Horton Gardens – Doors and windows missing from the former administration building



Horton Gardens – Example unit exteriors



Horton Gardens – Example of unit interior

We alerted the HUD Memphis field office to the conditions at Horton Gardens after our site visit. HUD public housing management has been working directly with Authority staff to ensure that appropriate action is taken to clean up and secure the site until it can be disposed of.

Management Failed To Protect Tenants' Sensitive Personally Identifiable Information

Management failed to protect tenants' sensitive personally identifiable information. Sensitive personal information that is lost, compromised, or disclosed without authorization could substantially harm an individual. Examples of such information include Social Security or driver's license numbers, medical records, and financial account numbers such as credit or debit card numbers. HUD PIH (Public and Indian Housing) Notice 2010-15 contains many requirements applicable to such information, including the requirement that sensitive personal information be kept in locked files. The Authority was also required to keep accurate records of where the information was stored, used, and maintained.

During our site visit to the Authority's abandoned Horton Gardens development, we inspected the Authority's former administration building and found documents scattered across the floor in several rooms. We examined a few of the documents and found sensitive personal information such as copies of birth certificates, Social Security cards, driver's licenses, and other documents pertaining to tenants and their dependants.

Authority staff members stated that they were unaware of the documentation left behind from the move to the new administration building. They indicated that the former executive director was responsible for the move and had informed them that everything had been boxed up and removed. The photograph below shows the interior of the former administration building.



Horton Gardens – Former administration building containing tenants’ personal information

Management’s disregard for the security of tenants’ personal information compromised tenant safety and posed significant risks for misuse of the information, including possible identity theft. We informed the HUD Memphis field office of the unsecured personal information, and the office began working directly with Authority staff to ensure that the documents were removed and secured.

Management Did Not Effectively Maintain All Records

The Authority did not maintain its records in such a manner as to permit timely and effective audit as required by section 15(A) of its consolidated annual contributions contract. In several instances, we experienced difficulty in obtaining needed documents from either the files or Authority staff. We inspected the former executive director’s files for missing documentation; however, the files had no discernible system of organization, and we were unable to determine whether the documents were accurate or complete enough to be useful. We frequently had to rely on HUD staff for documents that should have been readily available in the Authority’s files. Management was either unaware of the document maintenance requirements or chose to ignore them. The lack of complete and accurate records could result in inefficient Authority operations, inaccurate reports to HUD, and the diminished effectiveness of audits.

Management Did Not Provide Operating Budget Reports to Its Board

The Authority could not support that it provided annual operating budget information to its board of commissioners for approval as required by section 11(A) of its consolidated annual contributions contract. Authority staff was unaware of any budget reports prepared by the former executive director and expressed doubt that any existed. Management was either unaware of the requirement to prepare an operating budget for each of its fiscal years and have it approved by its board of commissioners or chose to ignore the requirement. The absence of budgetary information limited the board's effectiveness in contributing to the planning and oversight of the Authority.

Conclusion

Because the Authority did not comply with all requirements of its consolidated annual contributions contract, the Horton Gardens site appeared to be devalued, the Authority is at risk of being declared in substantial default³ of its consolidated annual contributions contract, and tenants' sensitive personal information was unnecessarily placed at risk. Additionally, the lack of complete and accurate records could result in inefficient Authority operations, inaccurate reports to HUD, and the diminished effectiveness of audits. The absence of budgetary information limited the board's effectiveness in contributing to the planning and oversight of the Authority. Management must make a serious effort to address the areas of consolidated annual contributions contract noncompliance, and HUD should consider alternative options for the future of the Authority's program activities.

Recommendations

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

- 1A. Inform the Assistant Secretary for Public and Indian Housing of the possible consolidated annual contributions contract default and request guidance from the Office of General Counsel to determine whether a substantial default needs to be declared.

³ An event of substantial default is a serious and material violation of any one or more of the covenants contained in the consolidated annual contributions contract signed between HUD and the Authority. Events of substantial default include, but are not limited to, abandonment of any project by the Authority.

- 1B. Explore the feasibility of possible dissolution of the Authority or absorption of Authority activities by another public housing authority.
- 1C. Assess the Horton Gardens site and take appropriate action in consultation with HUD's Special Applications Center regarding possible disposition or demolition of the property.
- 1D. Structure the sales agreement for any sale of the Horton Gardens site to require that any net proceeds be used to repay ineligible costs cited in this report and pay any remaining funds to the U.S. Treasury.
- 1E. Coordinate with the Authority to ensure that tenants with compromised sensitive personally identifiable information are notified according to HUD's breach notification response plan requirements.
- 1F. Require the Authority to maintain its books and records in accordance with its consolidated annual contributions contract.
- 1G. Require the Authority to prepare and provide an operating budget to its board of commissioners for approval in accordance with its consolidated annual contributions contract.

We also recommend that the Director of the Departmental Enforcement Center, in coordination with the Director of HUD's Memphis Office of Public Housing,

- 1H. Take appropriate administrative action against the Authority's former executive director for badly mismanaging its operations.

Finding 2: The Authority Did Not Always Follow Procurement Requirements, Including Requirements for Its Recovery Act Capital Fund Grant

The Authority did not always follow applicable procurement requirements, including requirements for its Recovery Act capital fund grant. It did not comply with the “buy American” requirement, did not publicly advertise, and did not conduct an independent cost estimate for its only Recovery Act contract. In addition, it did not maintain records supporting full and open competition for two other non-Recovery Act procurements. Management was either unaware of the applicable requirements or chose to ignore them. As a result, the entire \$315,372 expended for the Recovery Act grant was ineligible, \$13,694 in disbursements was unsupported, and the Authority could not assure HUD that all procurements were obtained at a reasonable cost or through full and open competition.

The Authority Did Not Comply With Recovery Act Procurement Requirements

The Authority used its entire \$315,372 capital fund Recovery Act grant to partially fund one contract to install 44 heating, ventilation, and air conditioning (HVAC) systems in its Kefauver Terrace public housing complex. The total contract amount for the project was \$342,700.

Section 1605 of the Recovery Act imposes a “buy American” requirement on Recovery Act funding. The “buy American” requirement states that manufactured goods must be manufactured in the United States. The “buy American” provision was not referenced in the contract documents for the HVAC installation, nor did the Authority seek a waiver of this requirement from HUD.

The Authority’s procurement documentation contained references to the “buy American” requirement in correspondence between the Authority and its architectural and engineering firm for the project but did not support that the “buy American” provision was complied with.

We inspected the HVAC units and found that they were manufactured in Thailand. The photograph below shows the product label on one of the HVAC units.



Friedrich split type air conditioner – Made in Thailand

Since there was no evidence that the Authority complied with the “buy American” provision, the entire \$315,372 Recovery Act grant was ineligible.

The Authority Did Not Publically Advertise or Perform a Cost Estimate

The Authority also failed to advertise the HVAC procurement. HUD’s procurement regulations at 24 CFR (*Code of Federal Regulations*) 85.36 (c) (1) require that all procurements be conducted in a manner providing full and open competition and that the invitation for bids be publicly advertised. In addition, the Authority’s procurement procedures required the request for bids for contracts of \$100,000 or more to be publicly advertised at least once a week for 2 consecutive weeks.

The Authority’s architectural and engineering firm confirmed that it contacted several companies on behalf of the Authority but did not formally advertise. Authority staff was unaware of any other advertisement related to the project. As a result, the Authority could not assure HUD that a request for bids was advertised as required, thus ensuring full and open competition.

Additionally, the Authority did not conduct an independent cost estimate for this project. The Authority’s procurement procedures required the Authority to perform an independent cost estimate for all purchases above the micropurchase threshold, and HUD’s regulations at 24 CFR 85.36 (f) require a cost or price analysis in connection with every procurement action. The former executive director was

unaware of the requirement or the process for conducting independent cost estimates. As a result, HUD could not be assured that the Authority received the HVAC units at the most reasonable cost.

Other Contracts Lacked Support for Full and Open Competition

We reviewed three non-Recovery Act procurements and found that two lacked documentation in support of full and open competition.

The Authority accepted the next to lowest cost proposal of \$8,350 for the exterior painting of its Kefauver Terrace public housing complex. Procurement documentation did not include a justification for selecting other than the lowest proposal as required by Authority procurement procedures. The Authority expended \$8,736 for the painting project due to additional minor items being added to the scope of work.

The Authority did not sufficiently document its rationale for selecting the vendor for its landscaping contract. The documentation did not include evidence that quotes were obtained as required by Authority purchasing procedures or a justification for why the landscaper was chosen. The Authority had expended \$4,958 for this contract as of August 31, 2011.

Conclusion

The Authority did not comply with all procurement requirements for its Recovery Act capital fund grant and two other procurements. As a result, it expended its entire \$315,372 Recovery Act grant for an ineligible purpose, could not show that it fairly competed other procurements for which it expended \$13,694, and could not assure HUD that its procurements were obtained at a reasonable cost or through full and open competition. This condition occurred because management either was unaware of the procurement requirements or chose to ignore them.

Recommendations

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

- 2A. Repay the U.S. Treasury \$315,372 from non-Federal funds.

- 2B. Train its staff and follow all applicable HUD and Authority procurement requirements.
- 2C. Support that procurement actions were fairly and openly competed or reimburse its public housing program \$13,694 from non-Federal funds.

Finding 3: The Authority Could Not Support That It Met Its Capital Fund Obligation Deadlines

The Authority could not support that it met its 24-month obligation deadline requirement for \$200,000 in unspent capital fund grant funds for fiscal year 2008. Staff members stated that the former executive director handled all aspects of the capital fund grants and they were unaware of any contracts or expenditures that obligated the remaining 2008 funds. Staff could not explain the Authority's lack of obligations, indicating that management was either unaware of the requirement to obligate the funds within 24 months or chose to ignore the requirement. This noncompliance could result in \$450,955 in future capital fund grants being taken back by HUD and redistributed to other public housing authorities.

No Documentation Was Provided To Support Obligation of Funds Within Prescribed Timeframes

The Authority was unable to provide documentation to support that 2008 capital funds were properly obligated within prescribed timeframes. Regulations require that such funds be obligated no later than 2 years after they were made available to the Authority.

We reviewed HUD's Line of Credit Control System reports to determine whether the Authority reported it had been able to obligate its capital funds within applicable timeframes. HUD's system, which tracks public housing authority progress in obligating and expending HUD funds, showed that the Authority reported that it had met its obligation deadlines for its 2008 capital fund grant. However, Authority staff was unable to provide supporting documentation for obligating the funds.

HUD regulations (24 CFR 905.120 (c)(1)) prohibit awarding new capital fund assistance for any month during any fiscal year in which a public housing authority is in violation of the 2-year obligation deadline. Since the 2008 capital fund obligation deadline was June 12, 2010, the \$450,955 in capital fund grants awarded after that date are in jeopardy of being taken back by HUD and distributed to other public housing authorities.

Capital fund grants awarded after June 12, 2010

Capital fund grant year	Date award signed by HUD	Amount of grant in jeopardy
2010	July 15, 2010	\$247,013
2011	August 3, 2011	<u>\$203,942</u>
Total		<u>\$450,955</u>

Conclusion

Because management lacked adequate controls over its capital fund program activities to adequately support that obligations were made in a timely manner, \$450,955 in future capital fund awards is subject to being taken back by HUD and redistributed to other public housing agencies. Management must improve controls over its capital fund program activities to ensure that applicable obligation deadlines are met.

Recommendations

We recommend that the Director of HUD’s Memphis Office of Public Housing

- 3A. Require the Authority to provide documentation to support that contracts totaling \$200,000 were properly executed to support the obligation of the remaining unexpended amount of 2008 capital funds.
- 3B. If documentation required to satisfy recommendation 3A cannot be provided, appropriate action should be taken in accordance with 24 CFR 905.120 with respect to \$450,955 in future capital fund grants awarded for 2010 and 2011.
- 3C. Require the Authority to strengthen controls over capital fund program activities to ensure that applicable obligation deadlines are met.

Finding 4: The Authority Mismanaged Its Section 8 Housing Choice Voucher Program

The Authority mismanaged its Section 8 Housing Choice Voucher program. Management failed to exercise its responsibility to ensure that many program requirements were understood and followed. Management had sufficient procedures in place to comply with the program requirements but was either unaware of the procedures or chose to ignore them. Thus, it could not assure HUD that Section 8 funds were properly used to provide decent, safe, and sanitary housing to program participants.

Mismanagement of the Section 8 Program Resulted in Several Significant Deficiencies

We performed a review of a nonstatistical sample of five tenant files. None contained verification of owner eligibility before the tenants were allowed to participate in the program, and the Authority's housing manager confirmed that owner eligibility had not been verified. HUD requirements (chapter 11 of HUD Guidebook 7420.10G) prohibit the execution of a housing assistance payments contract before verification of owner eligibility. Without verification of eligibility, the Authority could not ensure that ineligible owners were prevented from participating in the program.

None of the five tenant files contained accurate calculations of the tenant's utility allowance. The Authority's housing manager stated that the former executive director instructed staff to include only heating, cooking, other electric, and water heating when calculating a tenant's utility allowance. HUD regulations require that the Authority maintain a utility allowance schedule for all tenant-paid utilities (except telephone), the cost of tenant-supplied refrigerators and ranges, and other tenant-paid housing services (such as trash collection). In addition, the Authority's Section 8 plan required the Authority to include all tenant-paid utilities in the calculations. As a result of the executive director's improper guidance, the Authority miscalculated tenant utility allowances. In addition, it had not updated its utility allowance schedule since the inception of its Section 8 program in 2009. HUD regulations require a documented review of Authority schedules of utility allowances annually.

None of the five files reviewed contained documentation supporting that the Authority provided form HUD-52641-A (tenancy addendum) to the tenants or that it was included as part of the tenants' lease with the owner as required. The tenancy addendum contains specific terms explaining the rights and obligations of all parties to a housing assistance payments contract that must prevail over any other

provisions of the lease. The housing manager confirmed that staff was unaware of the tenancy addendum requirement.

In all five files reviewed, the Authority failed to follow HUD's requirements for determining rent reasonableness before the execution of the leases. HUD regulations (24 CFR 982.507) require the Authority to determine that the rent is reasonable before approving a lease. The regulations and the Authority's administrative plan explain the process for determining rent reasonableness through a survey of comparable unassisted units. For these five families, the Authority had no basis for assuring HUD that funds were not wasted on inflated rents or that families were not inappropriately restricted as to where they could live.

Of the five tenant files reviewed for housing quality standards inspection forms, one file did not contain an inspection form, and the other four contained incomplete forms. HUD regulations prohibit the execution of a housing assistance payments contract before a satisfactory housing quality standards inspection. The incomplete forms were missing details such as

- Census tract information,
- The name of the family,
- The date of the inspection request,
- The year the unit was constructed,
- The number of bedrooms for the purposes of determining the fair market rent or payment standard,
- Inspection information on the bedrooms in the unit,
- Information on the exterior of the unit,
- Information on the heating and plumbing of the unit, and
- Information on the general health and safety of the unit.

Due to the Authority's incomplete inspections and a lack of staff training, the Authority could not assure HUD that it performed satisfactory inspections before the execution of housing assistance payments contracts.

In three of the five files reviewed, there was no evidence of the head of household's citizenship. Authority staff stated that the documentation was in the tenants' former public housing files but had not been moved to the Section 8 files.

Two of the five tenant files reviewed contained errors in either the family's total income or adjusted income. In one case, the Authority overstated the family's nonreimbursable child care expenses, which reduced the family's income. In another case, the Authority overreported family income and overstated an income adjustment. These errors resulted in incorrect housing assistance payments to the owners as well as incorrect rents paid by the tenants.

In one file, the Authority failed to retain a copy of the initial lease between the owner and the tenant. HUD regulations require the Authority to retain a copy of the

executed lease during the term of each assisted lease and for at least 3 years thereafter. As a result of this error, the Authority made \$12,679 in unsupported housing assistance payments on behalf of the tenant from October 30, 2009, through September 1, 2011.

Authority management did not conduct supervisory quality control inspections as required by HUD regulations and HUD Guidebook 7420.10G. An Authority supervisor or other qualified person must reinspect a sample of units under contract during the last public housing authority fiscal year. The Authority's Section 8 specialist confirmed that no supervisory inspections had been performed. As a result, the Authority could not assure HUD that the inspections were being carried out as required, thus putting tenants at risk of living in substandard housing.

The Authority failed to distribute utility allowance checks as required. In one case, Authority management withheld utility allowance checks on the suspicion that the tenant was not claiming all of his income. Management should have given the tenants due process and followed its Section 8 administrative plan for determining whether the participant would be terminated from the program before withholding any utility allowance funds.

Conclusion

Mismanagement of the Authority's Section 8 program resulted in many significant deficiencies across the program. Management must take meaningful action immediately to bring the Authority's program to an acceptable level of compliance with HUD's requirements. It must improve staff's understanding of the Authority's controls to ensure that written policies and procedures are followed. It must maintain a capable, adequately trained, and well-supervised staff. Taking these measures will better assure HUD that Section 8 funds are properly used to provide decent, safe, and sanitary housing to program participants.

Recommendations

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

- 4A. Properly train its staff on HUD Section 8 requirements as well as its own Section 8 policies and procedures.

- 4B. Properly implement existing procedures to ensure that
 - 1. Owner eligibility is verified before executing a housing assistance payments contract,
 - 2. Utility allowances are accurately calculated,
 - 3. All leases include HUD's tenancy addendum,
 - 4. Income and adjusted income are accurately calculated,
 - 5. Rent reasonableness is determined before the approval of leases,
 - 6. Housing quality inspections are completed as required, and
 - 7. Leases are retained in tenant files for the required timeframe.

- 4C. Provide adequate documentation or repay \$12,679 spent on housing assistance payments for a tenant whose file did not contain an executed copy of the lease.

- 4D. Provide proper and sufficient training to staff performing housing quality inspections.

- 4E. Begin performing quality control inspections as required to ensure that inspections are adequately performed by Authority staff.

SCOPE AND METHODOLOGY

We performed our onsite work from August 31 through October 7, 2011, at the Authority's offices at 8092 U.S. Highway 51 North, Millington, TN. The audit covered the period January 2009 through July 2011 and was extended as necessary. Our objective was to determine whether the Authority complied with HUD requirements for administering its public housing program, including funds received under the Recovery Act, and its Section 8 Housing Choice Voucher program.

To accomplish our objective, we reviewed

- Financial management regulations at 24 CFR 85.20, Section 8 program regulations at 24 CFR Parts 982 and 984, HUD Guidebook 7420.10G, HUD's applicable annual contributions contracts with the Authority, procurement regulations at 24 CFR 85.36, capital fund regulations at 24 CFR 968, HUD Guidebook 7485.3G, the Recovery Act, and HUD's Memphis Office of Public Housing's correspondence and files pertaining to the Authority.
- The Authority's policies and procurement manuals, list of Section 8 tenants, Section 8 participant files, capital fund program draw requests and obligations, Authority program records, the Authority's Recovery Act plans and contract, Authority credit card and bank statements, the two latest Authority audits, and the Authority's organizational chart.

We interviewed Authority employees and HUD's Memphis staff involved with the oversight of the Authority's programs. We selected several nonstatistical samples as described below. The results from these samples pertain only to the items sampled and were not projected to the universe as a whole.

We reviewed all seven capital fund draws performed during our audit period. We tested each of the draws for ineligible or unsupported expenses and to determine whether any funds were transferred to the Authority's other programs.

We conducted site visits to the Authority's public housing sites, Kefauver Terrace and Horton Gardens, to determine site conditions and confirm the Authority's completion of its Recovery Act and capital fund activities.

We reviewed a sample of four procurement actions (including the Recovery Act contract) for compliance with regulations. The Authority did not maintain a contract or procurement register and was unable to provide a list of procurements for our audit period. As a result, we were unable to reliably develop a universe of procurements from which to select a sample. We identified contracts to review based upon our review of documentation at the HUD Memphis field office and discussions with HUD Memphis field office staff.

We reviewed a sample of five Section 8 program participant files to determine Authority compliance with program requirements. We originally selected a random nonstatistical sample of

15 tenant files from a universe of 113 participants. We curtailed our review after the initial five files provided sufficient evidence of significant program deficiencies.

We selected a random nonstatistical sample of five Section 8 units for housing quality standards inspections. We selected our sample from a list of 12 units that had been inspected during the 3 months before our inspections. Some units were excluded from our selection due to tenants declining to move in after the Authority inspections.

We reviewed documentation for all transactions occurring during the month of July 2011 to determine whether program funds were used for authorized purposes and eligible activities.

We tested all electronic data as we performed our audit steps. We did not rely on any supplied data without tracing it to source documentation.

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

INTERNAL CONTROLS

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

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

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

Relevant Internal Controls

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

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Compliance with laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and obligations.

We assessed the relevant controls identified above.

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

Significant Deficiencies

Based on our review, we believe that the following items are significant deficiencies:

- The Authority did not have controls in place to ensure that it complied with its public housing consolidated annual contributions contract (finding 1).
- The Authority did not have effective controls to ensure that it complied with the “buy American” requirement of the Recovery Act or complied with Authority and HUD procurement requirements (finding 2).
- The Authority did not have controls in place to ensure that it complied with capital fund obligation deadlines (finding 3).
- The Authority did not have controls for effective Section 8 administration (finding 4).

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/
2A	\$315,372		
2C		\$13,694	
3A		\$200,000	
3B			\$450,955
4C		\$12,679	
Total	<u>\$315,372</u>	<u>\$226,373</u>	<u>\$450,955</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, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. If the Memphis HUD office implements recommendation 3B, unobligated capital funds will be taken back and can be used for other eligible activities.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

**SHELBY COUNTY
HOUSING AUTHORITY**
8092 US HIGHWAY 51 NORTH
MILLINGTON, TN 38053
901-353-0590 FAX: 901-358-6414

Chairman:
John B. Smith

Commissioners:
Patrick H. Carter, III
Tannera G. Gibson
H. David Lowrance
Malcolm D. Collier

January 6, 2012

James D. McKay, Regional Inspector General for Audit
U.S. Department of Housing and Urban Development
Office of Inspector General
Richard B. Russell Federal Building
75 Spring Street, SW, Room 330
Atlanta, GA 30303

Dear Mr. McKay:

The attached documents detail the response on behalf of the Board of Commissioners for the Shelby County Housing Authority in relations to the recent audit facilitated by the Office of the Inspector General.

This response clearly details the efforts that the Shelby County Housing Authority has taken and continues to take as a course of corrective action to the items identified in the OIG Audit report. As a Board, we are committed to adhering to the requirements of the Department of Housing and Urban Development and will continue to work to ensure that compliance request are met and becomes the norm and not the exception.

If you have any further concerns or request please feel free to contact our office at the contact information listed.

Sincerely,
//signed//
John B. Smith
Chairman

cc: Board of Commissioners (SCHA), Marcia Pierce-Lewis

Management's and Board Comments
HUD's Office of Inspector General for Audit
Audit Report
January 9, 2012

Management Summary

The Shelby County Housing Authority (the Authority) has reviewed the Draft Audit Report issued by HUD's Office of Inspector General for Audit (OIG). Management and the Authority's Board of Commission (Board) acknowledges that there have been several operational and compliance issues pertaining to the management of the Authority and the expenditure of its associated funding. The Authority has taken several steps to begin to address the multitude of issues over the last several months. The former executive director was released from employment on September 2, 2010 and the Board has recruited and engaged contractual experienced, capable and qualified management assistance. In addition assistance has also been sought and provided by the local HUD Field Office Public Housing Division.

In addition to the many issues in the overall management of the Authority, the Authority has experienced many financial misstep that were the direct result of poor financial management and indiscretions and noncompliance by the prior Executive Director that were immediately brought to the attention of the OIG by the Board and the local HUD Field Office. Other irregularities were reported to the HUD Memphis Office by the current staff, Board and contracted Executive Advisor. As a result, current management and staff have worked extensively to conduct research and recover from prior practices, while establishing new processes and controls along the way.

It should be noted that after an assessment by HUD and in concert with the Board and staff, a determination has been made that this agency is not financially viable and the Board is presently actively developing and moving forward in a plan of merger with the Memphis Housing Authority for future management of its assets and operations. An additional management is being developed for management by a capable housing authority through this transition.

The Authority has reviewed all of the OIG Draft Audit Report findings, and has provided associated responses below.

Comment 1

Finding 1 -- The Authority Did Not Comply With All Requirements of Its Public Housing Consolidated Annual Contributions Contract

Recommendation 1A - Inform the Assistant Secretary for Public and Indian Housing of the possible consolidated annual contributions contract default and request guidance from the Office of General Counsel to determine whether a substantial default needs to be declared.

It is difficult to dispute the fact that the previous executive director by action and in word knowingly abandoned the Horton Gardens Apartments site. It is furthermore understood that this constitutes a violation of the ACC agreement between Shelby County Housing Authority and HUD. The Board of Commissioners at the time of the abandonment relied heavily on the executive director to provide accurate information regarding the status of the property and to advise them on how to proceed with the property disposition. Despite their efforts to inquire of project status and requests for direction on moving forward, it is apparent that the previous director was not forthcoming in providing the necessary information to allow the Board to expedite the action. With the change in the current Shelby County mayoral administration, a new Board was appointed in early 2011. This new Board followed up with earlier concerns relative to the director until it became clear that he had engaged in improper management of the agency for some time. He was terminated September 2, 2011 as a result of these issues.

Comment 1

Upon notification of this potential breach and default, the local HUD Field Office immediately provided guidance and assistance to the Authority. The Special Application Center (SAC) was contacted and advised the field office staff to move quickly to clear and secure the property and work on an auction of the property. HUD staff provided guidance for the procurement and subsequent approval of the same for services to clean all the debris and secure the site. HUD staff and housing authority staff, secured all of the documents left by the previous management in the former office and have examined all and secured them at the agency's current office under lock and key. HUD staff also engaged HUD Headquarters to advise them of a potential breach of confidential personal identifiable information of former tenants and worked with them to determine if this in fact had occurred and took immediate action as previously identified. It was determined that a breach had not occurred and upon consultation of State privacy laws a determination was made that notification was not necessary in this case, but that instead the continued security of the documents must be insured.

Recommendation 1B - Explore the feasibility of possible dissolution of the Authority or absorption of Authority activities by another public housing authority.

The Board upon consultation with HUD's office of public housing has determined that the agency is not financially viable and on January 6, 2012 passed a resolution to develop an action plan of merger with the Memphis Housing Authority (MHA) relinquishing ownership of the public housing properties and programmatic assets and responsibilities associated with the public housing low rent program and the Housing Choice Voucher program. The merger will require additional official action by the SCHA Board, the MHA Board and approval by the Assistant Secretary of HUD. Negotiations between the two agencies will ensure a merger plan is

developed. It is anticipated that the transition would take a minimum of three months to complete. The Board will then make a determination relative to the dissolution of the current entity legally known as the Shelby County Housing Authority upon advice of Counsel.

Recommendation 1 C - Assess the Horton Gardens site and take appropriate action in consultation with HUD's Special Applications Center regarding possible disposition or demolition of the property.

Upon notification of this potential breach and default, the local HUD Field Office immediately provided guidance and assistance to the Authority. The Special Application Center (SAC) was contacted and advised the field office staff to move quickly to clear and secure the property and work on moving forward with an immediate auction of the property. The field office was further advised that should the auction result in less than the originally agreed upon fair market value, an amended approval could be sought from the SAC. HUD staff provided guidance for the procurement and subsequent approval of the same for services to clean all the debris and secure the site. Since the firing of the previous executive director the Horton Gardens Apartments site has been secured with a locked gate and the grounds cleaned. Local law enforcement has been notified that the property is considered to be private and no person or persons are allowed. Routine patrols of the property are being performed. Additionally, the Board is ensuring that the property is inspected by an agency representative on a routine basis.

It is the intention of the Board to utilize the services of the management consultant to properly procure auctioneering services to dispose of the property to the highest bidder and recapture as much of the property value as possible before more deterioration of property occurs. This action could change depending on whether Memphis Housing Authority would want to undertake this action and following their procurement and disposition policies.

Recommendation 1D - Coordinate with the Authority to ensure that tenants with compromised sensitive personally identifiable information are notified according to HUD's breach notification response plan requirements.

With respect to Recommendation 1D, HUD's Breach Notification Team on October 7, 2011, determined that the matter of records at the SCHA was a third-party matter and subject to state and local laws, not directly to HUD's policies. In two emails of that date from Jerry Williams, HUD CIO stated, "I have already convened the Department's Breach Notification Team to ascertain the facts that are attached and will be meeting with the team today to possible close out this event based on OGC's determination that the PHA is a third-party that is obligated contractual to safeguard and protect PII this and other associated issues." And, in the second email, "The team agreed this morning to close-out this incident provided that John Gemmill and his team continue to work with the Shelby County Housing Authority to ensure the safeguard and protection of sensitive PII. John mentioned that he and his team will be meeting on Monday with Mayor Wharton to discuss this and other associated issues.

HUD staff acted quickly to secure exposed records at the Horton Garden site. There was no indication that records had been viewed in spite of the security breach, with most files being

Comment 1

Comment 2

unopened. HUD's Legal staff and PIH Hub Director informed Shelby HA County Board of their obligations. Shelby County HA removed the records from the site and has them in their office.

Recommendation 1E - Require the Authority to maintain its books and records in accordance with its consolidated annual contributions contract.

While additional improvements are needed in this area, substantial improvements have been made since the firing of the previous executive director. The Board has secured the services of Zocolla Kaplan, LLC, a very reputable auditing and financial consulting firm, to provide guidance and support in completing and documenting financial transactions, troubleshooting and clearing up existing discrepancies and previous audit findings, and assisting the agency in developing tighter internal controls. The agency's fiscal year 2012 financial records will be audited beginning January 9, 2012.

Comment 1

The agency has secured an executive and program consultant to provide recommendations for procedural changes and policy recommendations for day to day operations.

Additionally, since the OIG Audit, the agency has been assisted on an almost daily basis by Mr. Scott Delle, fee accountant from the agency of Zocolla Kaplan, LLC and has provided guidance to them on timely reporting, expenditures against eligible expenses and performed a reconciliation of the administrative costs for the agency. His work resulted in the agency clearing a potential repayment of ineligible costs against its HCV program.

Recommendation 1F - Require the Authority to prepare and provide an operating budget to its board of commissioners for approval in accordance with its consolidated annual contributions contract.

Comment 1

The financial and program consultants worked with agency staff to prepare and present a 2012 operating budget for the Board's approval. Additionally, changes to the cost allocation plan were submitted for review and approval to the Board.

Recommendation 1G - Take appropriate administrative action against the Authority's former executive director for badly mismanaging its operations.

The Board will provide its full support and cooperation in the Department's attempt to bring accountability for any purposeful actions leading to the gross mismanagement of the agency by the previous executive director.

The Office of Inspector General Enforcement Division notified the Memphis Director of Public Housing of an investigation against Mr. Edward Pearlman on July 28, 2011. That investigation is ongoing but has resulted in a request for Limited Denial of Participation and continues as of the writing of this response. Further action may be sought depending upon its outcome.

Finding 2 - The Authority Did Not Always Follow Procurement Requirements, Including Requirements for Its Recovery Act Capital Fund Grant

Recommendation 2A - Repay the U.S. Treasury \$315,372 from non-Federal funds.

Once again, the Board cannot dispute that the actions of the previous executive director regarding procurement activities related to the Recovery Act Capital Fund Grant violated HUD regulations. The former Board relied on reports and action of the director to properly execute policy in a manner that would assure compliance with agency and HUD regulation and policy.

SCHA does not have a non-federal funding source to repay the \$315,372 Recovery Act Capital Fund Grant.

Comment 1

The Authority is working closely as of the writing of this response with the local HUD field office to seek a retro-active waiver of the "buy American" requirement. The exact air condition units have previously been approved for waiver by HUD for several housing authorities. It is the interpretation of current staff, management and the local HUD Field Office that the architect and engineer that worked with the agency on its ARRA Procurement thought that due to the manufacturer of the units having its home office in Fort Worth, Texas it met compliance. However, the actual assembly occurred in Thailand.

The work items were included in the Annual and Five Year Plan. SCHA has also asked the program consultant to provide an updated procurement policy for Board approval and to provide necessary training to assure that compliance is maintained until a merger takes place between Memphis Housing Authority and SCHA. It is the hope of this agency that its action towards retroactive waiver, its changes in policy and its future merger of its operations with a capable housing authority will be taken into consideration and forgiveness granted on this finding. (See attached)

Recommendation 2B - Train its staff and follow all applicable HUD and Authority procurement requirements.

As stated above, the Authority has requested that the program consultant produce an updated procurement policy and that he provide training for both the staff and the Board until merger activities can be finalized. In the interim, all procurement is approved by the local HUD field office.

Recommendation 2C - Support that procurement actions were fairly and openly competed or reimburse its public housing program \$13,694 from non-Federal funds.

Comment 3

The Board is unable to produce sufficient evidence to assure that the above-mentioned procurement engagements of the previous executive director were fairly and openly completed. Likewise, the Authority does not have non-federal funds to repay the public housing program the \$13,694. SCHA would like to request a waiver of this repayment in lieu of the merger of the agency with a proven capable housing authority that has no responsibility for these actions and

assures HUD OIG that upon approval of the new procurement policy that all engagements will be done in accordance with that policy and HUD regulations. This would also help expedite the actions the Authority is taking towards merger with the Memphis Housing Authority especially since any financial liabilities may cause a delay or eliminate the chances of SCHA merging with another housing authority.

Finding 3 - The Authority could not support that it met its capital fund obligation deadlines.

Comment 1

The Authority in concert with the local HUD Field Office and upon local HUD's consultation with the office of Capital Program and Investments has submitted a budget revision for its FY 2008 CFP moving all funds into line item 1406 - Operations. A copy of the revision is attached. By doing so, more than 90% of the funding is being requested for use under operations and meets qualification of obligation. Upon execution of these documents, it is anticipated that the HUD field office staff will immediately apply this revision to the budget.

This action will remove jeopardy of the loss of the FY 2010 and FY 2011 CFP awards.

OIG Evaluation of Auditee Comments

- Comment 1** The Authority stated that it agrees with the findings and has taken, or plans to take, various actions to address deficiencies. Notably, it has been working closely with the HUD Memphis field office and hired a consultant to assist with day-to-day management and improve internal controls. With the assistance of the field office, it has secured the Horton Gardens site, requested a waiver of the Recovery Act “buy American” requirement for the HVAC systems purchase, and is planning for a possible merger with another housing authority. It has also provided HUD with a revised budget for its 2008 capital fund in an attempt to prevent recapture of subsequent capital fund awards. We confirmed these actions while on site or through the HUD Memphis field office and commend the Board for timely addressing deficiencies cited in our report.
- Comment 2** The Authority highlighted its efforts to address the compromised tenant personal information issue (Recommendation 1E) and explained that HUD's Breach Notification team had closed out the incident as of the date of the Authority's response. We verified that HUD's Office of the Chief Information Officer had closed out the matter and we will close recommendation 1E concurrent with issuance of this report.
- Comment 3** The Authority requested a waiver of recommendation 2C requiring it to reimburse its public housing program \$13,694 from non-Federal funds for unsupported procurement actions. The Authority indicated that it had no non-Federal funds and this liability could potentially hinder its planned merger with another housing authority. We understand the Authority's concerns but cannot grant a waiver. However, we added Recommendation 1D asking HUD to amend the sales agreement for the upcoming sale of Horton Gardens so that any sales proceeds can be used to recover ineligible costs cited in this report.