



Issue Date	June 19, 2008
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Audit Report Number	2008-NY-1008
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TO: Mirza Negron Morales, Director, Office of Public Housing, 2APH

FROM: *Edgar Moore*
Edgar Moore, Regional Inspector General for Audit, 2AGA

SUBJECT: Tuckahoe Housing Authority, Tuckahoe, New York, Had Weaknesses in the Administration of Its Low-Rent Housing and Nonprofit Entity Activities

HIGHLIGHTS

What We Audited and Why

We audited the Tuckahoe Housing Authority (Authority) to address both a hotline complaint and a request from the Director, Office of Public Housing, New York field office. The objectives of the audit were to assess the merits of the complaint and determine whether the Authority administered its low-rent housing program and nonprofit entity activities in accordance with the annual contributions contract and other U.S. Department of Housing and Urban Development (HUD) regulations.

What We Found

The complaint allegations were valid and are addressed in appendix C of this report. The Authority did not adequately administer its low-rent program and nonprofit entity activities in accordance with regulations. Specifically, weaknesses existed in the Authority's financial and management controls. The

Authority executed a contract for executive director services in violation of its annual contributions contract, paid retirement benefits and legal costs that were inadequately supported, incurred unnecessary costs for board meetings, did not have proper documentation for the allocation of costs among its programs, and did not administer an admissions policy in accordance with HUD regulations. These weaknesses occurred because Authority staff was unfamiliar with HUD regulations. As a result, the Authority incurred ineligible costs of \$64,314 and unsupported and unnecessary costs of \$198,243.

In addition, the Authority encountered delays in the construction of a senior citizen complex on land approved for disposal by HUD in 1999 for that purpose. As a result, it plans to break ground by November 2008.

What We Recommend

We recommend that the HUD Director, Office of Public Housing, New York City field office, instruct the Authority to (1) reimburse ineligible expenses of \$64,314 related to the former executive director and salary costs of its nonprofit entity, (2) provide documentation to substantiate the unsupported retirement benefit costs of \$13,543, legal costs of \$32,052 and salary costs of \$136,952, (3) provide justification for the \$15,696 expended for three off-site board meetings so that HUD can determine the reasonableness or necessity of the costs, (4) develop a formal methodology to allocate costs among its programs, and (5) amend its admission policy to comply with HUD regulations.

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 discussed the results of our review with Authority officials during the audit and at an exit conference held on May 21, 2008. Authority officials were requested to provide written comments on May 29, 2008, which we received on May 29, 2008. Authority officials generally disagreed with our findings. The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix B of this report.

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BACKGROUND AND OBJECTIVES

The Tuckahoe Housing Authority (Authority), located in the Village of Tuckahoe, New York, was incorporated in 1938 as a not-for-profit public corporation to provide affordable housing for low-income families. The Authority is governed by a seven-member board of commissioners. Five members of the board are appointed by the Village's mayor for a five-year term, and two members are elected by the tenant association for a two-year term. The Authority owns and operates a four-building complex, known as Sanford Gardens, that has 99 apartments and a single building complex, known as Jefferson Gardens, that has 51 housing units. The Authority also administers 175 Section 8 housing choice vouchers and receives funding under the capital fund program. Total U.S. Department of Housing and Urban Development (HUD) funding in fiscal years 2006 and 2007 was more than \$1.9 million and \$2.1 million, respectively.

In 1997, the nonprofit entity, Jefferson Union Management Associates, was formed to develop plans for the construction and use of housing units for low and middle income families and for senior citizens. Jefferson Union has an identity-of-interest relationship with the Authority because the Authority's executive director serves as its president/chief operating officer and its seven-member governing board consists of two members who are also on the board of the Authority.

HUD designated the Authority as a substandard performer based upon a Public Housing Assessment System¹ financial indicator rating of eight. In January 2003, the Authority was cited for Section 504 noncompliance for failure to maintain a minimum number of units as handicapped accessible. After the former executive director retired on December 31, 2006, a consultant served as executive director through May 2007. Due to difficulties encountered in hiring an executive director and low Public Housing Assessment System scores, in 2007, HUD appointed an administrative consultant for a period of 16 weeks to assist the Authority. In January 2008, the Authority hired a permanent executive director and signed a voluntary compliance agreement with HUD to address the Section 504 noncompliance.

The objectives of the audit were to assess the merits of the complaint and determine whether the Authority administered its low-rent housing program and nonprofit entity activities in accordance with the annual contributions contract and other HUD regulations.

¹ The Public Housing Assessment System rates public housing authorities on four indicators: physical condition, financial condition, management, and tenant satisfaction.

RESULTS OF AUDIT

Finding 1: Weaknesses Existed in Financial and Management Controls

Weaknesses existed in the Authority's financial and management controls. Specifically, the Authority executed a contract for executive director services in violation of its annual contributions contract, paid retirement benefits and legal costs that were inadequately supported, incurred unnecessary costs for board meetings, did not have proper documentation for the allocation of costs among its programs, and did not administer an admissions policy in accordance with HUD regulations. These weaknesses occurred because Authority staff was unfamiliar with HUD regulations. As a result, the Authority incurred ineligible costs of \$64,314 and unsupported and unnecessary costs of \$198,243 to its low rent housing program.

Ineligible Payments for Executive Director Services

The Authority executed a consultant contract for executive director services with its former executive director upon his retirement without HUD approval. Section 19(A)(1)(ii) of part A of the Authority's annual contributions contract prohibits contracting with any person who had a direct or indirect interest with the Authority during his or her tenure or for one year thereafter without obtaining a waiver from HUD.

Despite advertising for an executive director, Authority officials stated that the Authority had difficulty locating an executive director to replace its retiring executive director. Accordingly, on November 21, 2006, the board approved contracting with the former director upon his retirement. On December 8, 2006, the Authority requested a waiver from the HUD Office of Public Housing, New York City field office for this purpose. The field office denied the waiver on February 5, 2007, and instructed the Authority to terminate the contract. However, on March 29, 2007, the Authority appealed to the Assistant Secretary, Public and Indian Housing, who denied a waiver on May 4, 2007. At that time, the Authority terminated its contract with the former executive director.

The contract provided that the Authority would pay the former executive director \$29,952 per year and provide a laptop computer, printer, and appropriate software in an amount not to exceed \$1,500. In return, the former director was required to attend all board meetings, be on site for two to four days monthly, and be available via daily communication.²

² The former executive director was residing out of state at this time.

The Authority had paid the former executive director \$13,650 in fees and travel costs, \$6,164 of which occurred after the field office's denial of the waiver request. In addition, the Authority paid \$1,953, or \$453 more than the board authorized, for a computer and related hardware and software. Accordingly, we regard \$6,617 (\$6,164 plus \$453) as ineligible costs.

Retirement-Related Benefits Inadequately Supported

In January 1996, the Authority executed an agreement with the Village of Tuckahoe by which the Authority assumed the transfer of the Village's Section 8 program. The agreement stipulated that the Village was not released from all terms, covenants, and conditions of contracts until February 1, 1996. In August 1996, the Authority began paying the medical premiums on behalf of a retired employee who had worked in the Village's Section 8 program and was entitled to benefits under the Village's retirement plan.

During the period January 1, 2000 through March 31, 2008, Authority records disclosed that the Authority paid \$13,543 in benefits on behalf of this retired employee. Since it is not clear why the Authority, as opposed to the Village, is paying these expenses, we regard the \$13,543 as an unsupported expense. Additionally, since these expenses are unsupported, any benefits paid on behalf of the retired employee prior to January 2000 should also be considered an unsupported expense.

Legal Expense Inadequately Supported

The Authority's Executive Board approved legal counsel services for a two-year period beginning October 2000, which was subsequently renewed in October 2002 and October 2004. The attorney was reimbursed \$32,052 for legal services during the period October 2004 to May 2006 in connection with a discrimination lawsuit against the Authority. However, Authority officials did not provide documentation to support the charges for legal services related to the discrimination lawsuit. Accordingly, we regard the \$32,052 as unsupported costs.

Unnecessary Expense for Board Meetings

The Authority held a board meeting every June in Atlantic City, New Jersey, which is approximately 147 miles from the Authority, during the years 2000 to

2003. Authority officials stated that due to financial difficulties, these off-site meetings were not held after 2003. While HUD regulations do not specifically govern the locale for board meetings, the New York State Sunshine Law (Public Officers Law Section 103(a)) requires that meetings be open to the public. HUD regional counsel opined that to be considered open to the public under the state law, distant and/or expensive travel should not be required.

We noted that the Authority required attendees to pay their own transportation to these meetings but reimbursed them for food and lodging. This reimbursement amounted to \$15,696 for years 2000, 2001, and 2003.³ While the board authorized these off-site meetings, the minutes did not specify a rationale for such. In addition, the expenditures were not adequately supported because for 2000 and 2001, there was one overall bill. Thus, the Authority could not ensure HUD that it complied with its \$350 per calendar day cap on per diem and transportation expense per employee. Further, since the Authority could not provide a specific rationale for holding off-site meetings, we consider the \$15,696 in costs as unnecessary.

Lack of a Formal Methodology for Allocating Direct Costs

Section 9C of the Authority's annual contributions contract requires that adequate records be maintained to identify the source and use of funds to allow HUD to determine that expenditures are in accordance with program requirements. The Authority allocated staff salary among its low-rent, Section 8, and nonprofit entity activities. However, during the period 2005 through 2007, staff salary and related benefit costs of \$136,952 were reallocated from the low-rent housing program to the Section 8 program, and \$27,900 in salary cost was reallocated to the nonprofit entity. A further review of the Authority's books indicated that additional amounts were allocated to the nonprofit for prior periods at the end of the fiscal year resulting in a cumulative total of \$57,697 through 2007. However, the Authority lacked a written methodology for its allocation of direct costs and did not have documented time studies or timesheets to support its allocation. In addition, while the Section 8 program reimbursed the low-rent program for its allocated costs, the nonprofit had not reimbursed the Authority for the \$57,697 in allocated salaries. Therefore, we regard the \$136,952 allocated for salaries to the Authority's Section 8 program as unsupported and the \$57,697 to its nonprofit as an ineligible expense.

³ The June 2002 meeting was held for training purposes, for which an off-site meeting would be justified; therefore, we did not take exception to those expenses.

Admission Policy Not in Compliance with HUD Regulations

The Authority's admission policy did not comply with HUD regulations. 24 CFR (*Code of Federal Regulations*) 960.206(b)(2), requires that applicants for low-rent housing units be given working family preference if the head of household and spouse or sole member is age 62 or older or is a person with disabilities. The Authority's admission policy did not extend this preference to disabled applicants, and in assigning units to applicants, the Authority gave preference to working nondisabled applicants. An Authority official stated that persons with disabilities were currently being given the required preference. However, the admission policy had not been revised to comply with HUD policy.

Conclusion

Weaknesses existed in the Authority's financial and management controls. These weaknesses resulted from the Authority staffs' unfamiliarity with HUD regulations. Consequently, the Authority incurred ineligible, unsupported, and unnecessary expenses, and developed and administered an admissions policy that did not comply with HUD regulations.

Recommendations

We recommend that the HUD Director, Office of Public Housing, New York City field office, instruct the Authority to

- 1A. Reimburse the low-rent program for the ineligible expenses of \$6,617 paid to the former executive director as a consultant without the approval of HUD. Any reimbursement due the program should be made from nonfederal funds.
- 1B. Provide documentation to substantiate the unsupported costs of \$13,543 paid on behalf of the former Village of Tuckahoe retired employee since 2000. If these costs are determined by HUD to be ineligible, any amount paid on behalf of the retired employee prior to January 2000 should be computed, and the total of all costs should be considered as an ineligible expense and reimbursed to the low-rent program.
- 1C. Provide documentation to substantiate the \$32,052 in unsupported legal costs. If the costs are not supported, reimbursement to the program should be made from nonfederal funds.

- 1D. Provide justification for the \$15,696 expended for three off-site board meetings so that HUD can determine the reasonableness or necessity of the costs. If the costs are not justified as reasonable or necessary, reimbursement to the program should be made from nonfederal funds.
- 1E. Provide support for the unsupported salaries and related benefits of \$136,952 allocated to the Section 8 program so that HUD can determine their eligibility. Any amounts determined to be unsupported and inappropriately paid by the Section 8 program should be returned to the Section 8 program, thus insuring that the funds are put to better use.
- 1F. Seek reimbursement to the program for the \$57,697 in salary and related cost paid on behalf of the Authority's nonprofit entity, which has not been reimbursed.
- 1G. Develop a formal methodology to allocate direct costs in accordance with federal regulations among its low-rent, Section 8, and nonprofit entity activities.
- 1H. Strengthen controls over expenditures to ensure that disbursements are properly supported and are in accordance with the Authority's annual contributions contract.
- 1I. Amend its administrative plan and admission policy to comply with HUD's policy for providing preferences to the disabled or handicapped.

Finding 2: Development on Land Approved for Disposal by HUD Has Not Been Realized

In 1999 HUD authorized the Authority to transfer land to its nonprofit for construction of a 36-unit senior citizen complex. However, the project has not been realized due to financial and zoning approval difficulties. We attribute this to weaknesses in oversight by the Authority board.

Construction Delays and Reduction in Project Scope

On September 9, 1999 HUD approved the Authority's demolition/disposition application of Authority-owned land for the construction of a 36-unit senior citizen complex, which was to be occupied in September 2001. On September 27, 1999, the nonprofit's board of directors competitively selected a construction corporation to serve as a joint venture developer for the complex. Subsequently, the corporation encountered financial difficulties and various zoning board denials. However, not until April 13, 2004 did the nonprofit Board act to terminate its joint venture with the corporation based upon failure to obtain (1) approvals necessary to construct the project, (2) financing necessary to erect the building, and (3) acceptable architectural or engineering plans for the structure.

Additionally, while approved for a 36-unit complex by HUD, the Authority sought a variance from the local zoning board for a 50-unit complex. This resulted in various appeals which also delayed initiating construction. On July 26, 2001 a variance request was rejected and two subsequent appeals by the zoning board resulted in approval for a 43-unit complex on September 9, 2002. However, due to the delays caused by the financial difficulties of the first joint developer, this variance lapsed, and the new developer had to file for another variance. On July 21, 2005, this developer secured approval for a 37 unit complex.

After the termination of the first joint developer, the nonprofit contracted with another company to serve as the joint developer, and has secured a financing commitment. The Housing Trust Corporation, a New York State public benefit corporation has committed to providing a \$1.8 million loan for 30 years at a 1 percent interest rate. The commitment is contingent upon breaking ground on the project no later than November 3, 2008, and the Housing Trust Corporation's approval of the project as required under federal or state environmental laws and regulations. Authority officials stated that these conditions will be met. HUD officials have advised that until financing is secured and construction closing occurs, the land remains subject to a Declaration of Trust which limits the use of the property for public housing purposes in accordance with the Annual

Contributions Contract between the Authority and HUD. Prior to closing, the Authority is required to obtain approval from the HUD New York City Office of Public Housing to release the Declaration of Trust and restrictive covenants.

Conclusion

The Authority's nonprofit has encountered significant delays and a reduction in the scope of the planned senior citizen housing complex. While HUD approved the disposition of the land transfer in 1999 for the construction of a 36-unit senior citizen complex, construction of the project has not yet been initiated.

Recommendation

We recommend that the HUD Director, Office of Public Housing, New York City field office, instruct the Tuckahoe Housing Authority to

- 2A. Submit to HUD for approval a Declaration of Trust for the land approved for disposition to ensure that the land is used for public housing purposes in accordance with the Annual Contributions Contract.
- 2B. Establish procedures that will ensure that the board provides adequate oversight of the joint venture developer, thus ensuring that this project is completed in a timely manner.

SCOPE AND METHODOLOGY

To accomplish our objectives, we

- Reviewed applicable laws and regulations relating to public housing authority low-rent operations and nonprofit activity and the Authority's annual contributions contract;
- Reviewed 24 CFR (*Code of Federal Regulations*) Part 8 relating to public housing authority responsibility to make facilities handicapped accessible;
- Analyzed the Authority's administrative plan; admission and occupancy procedures; independent public accountant reports for the period ending December 31, 2004, 2005, and 2006; and financial records for calendar years 2004 through 2007;
- Interviewed HUD field office staff from the Offices of Public Housing, Fair Housing and Equal Opportunity, and the General Counsel;
- Interviewed Authority management, and program and financial staff to gain an understanding of the Authority's operations and assess internal controls;
- Reviewed the monitoring files of the Offices of Public Housing, and Fair Housing and Equal Opportunity;
- Selected a nonstatistical sample of disbursements to determine whether the Authority expended low-rent and capital funds in accordance with HUD regulations; and
- Reviewed the operations of the Authority's nonprofit activity related to the development of land approved for transfer by HUD to ensure that Authority assets were not put at risk and to document progress toward realizing the plans for the land.

The review generally covered the period January 1, 2004, through December 31, 2007, and was expanded as necessary. We conducted our audit at the Authority in Tuckahoe, New York, during the period October 2007 through March 2008. We performed our review in accordance with generally accepted government auditing standards.

INTERNAL CONTROLS

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

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

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined 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 Weaknesses

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

- Program operations – The Authority did not ensure that its program met the objectives of its operations when plans for the development of land approved for disposal by HUD were not realized (see finding 2).
- Compliance with laws and regulations – The Authority did not ensure compliance with laws and regulations when it executed a contract for executive director services in violation of its annual contributions contract, paid retirement benefits and legal costs that were inadequately supported, incurred unnecessary costs for board meetings, did not have proper documentation for the allocation of costs among its programs, and did not administer an admissions policy in accordance with HUD regulations (see finding 1).

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Ineligible <u>1/</u>	Unsupported <u>2/</u>	Unreasonable or Unnecessary <u>3/</u>
1A	\$6,617		
1B		\$13,543	
1C		32,052	
1D			\$15,696
1E		136,952	
1F	57,697		
Total	\$64,314	\$182,547	\$15,696

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 polices 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 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/ Unreasonable/unnecessary costs are those costs not generally recognized as ordinary, prudent, relevant, and/or necessary within established practices. Unreasonable costs exceed the costs that would be incurred by a prudent person in conducting a competitive business.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

<p>COMMISSIONERS Anthony J. De Cintio <i>Chairman</i></p> <p>Kevin McBride <i>Vice Chairman</i></p> <p>Elynor Yancy <i>Assistant Secretary</i></p> <p>Edward J. Bonci Josephine Colasacco Gertrude Gunther Philip A. White</p>	 <p>TUCKAHOE HOUSING AUTHORITY 1938</p> <p>4 Union Place, Tuckahoe, New York 10707 (914) 961-3373 · Fax 961-5943</p>	<p>Irina Matveevskii <i>Executive Director</i> <i>Secretary</i></p> <p>Mark J. Kamensky <i>Counsel</i></p> <p>Housing Choice Voucher Program (914) 961-1795 (914) 779-1253 (Fax)</p>
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May 29, 2008

Mr. Edgar Moore
Regional Inspector General for Audit
26 Federal Plaza, Room 3430
New York, NY 10278

Dear Mr. Moore:

The following are the Tuckahoe Housing Authority's comments with regard to your draft Audit Report Number 2008-NY-100X.

Finding 1: Weakness Existed in Financial and Management Controls

1A. Ineligible Payments for Executive Director Services

With regard to ineligible payments for Executive Director Services, it should be noted that the correspondence dated February 5, 2007 was incorrectly addressed to Mr. Sloan and was never received by him at that address.

Our records indicate that a faxed copy of this letter was received from Ms. Morales acknowledging our failure to receive the letter and noting that she extended our deadline to respond to April 5, 2007 due to unforeseen circumstances.

On March 29, 2007, at the request of the Board, Carl Sloan wrote to the US Department of HUD in Washington, D. C. seeking a waiver to rehire the Executive Director. Immediately upon receipt of Assistant Secretary Cabrera's denial of the waiver, the Authority ceased paying the Executive Director. The denial of the waiver was received on May 4, 2007.

1

Comment 1

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

Comment 2

The Authority stopped paying the Executive Director effective May 1, 2007.

The Authority followed the proper procedure in regards to the above matter; therefore, the Authority should not be responsible for paying any back amounts. The amounts paid to the Executive Director should be considered as eligible expense.

1B. Retirement Benefits Inadequately Supported

Comment 3

With regard to unsupported retirement benefits, it should be noted that the contract executed between the Village of Tuckahoe and the Tuckahoe Housing Authority stated the following: "The THA, as assignee, hereby assumes the performance of all terms, covenants and conditions of the Contracts... all of the said terms... with full force and effect as if the assignee had signed the Contracts originally...". The Authority had assumed retirement payments (medical premium and Medicare reimbursement) as part of the terms of the original Contract.

Based on a letter from the Village Clerk of Tuckahoe, the Authority added the retiree to its group policy since the Section 8 Program had come under the jurisdiction of the Tuckahoe Housing Authority.

The Authority believes that the above provides sufficient support to justify payment of retirement's benefits.

1C. Legal Expense Inadequately Supported

Comment 4

These legal services were outside the scope of the attorney's then current legal services agreement with the Housing Authority. The vouchers for the additional legal services were approved by the Board and, therefore, the Authority believes that these legal costs should be regarded as eligible expenses.

1D. Unnecessary Expense for Board Meetings

Comment 5

With regard to the off-site meetings in 2000, 2001 and 2003, these meetings were similar to the meeting held in 2002 in that they included training for the commissioners as supported in the minutes. Therefore, the Authority believes that the expenses for all of the off-site meetings are justified as reasonable and necessary.



TUCKAHOE HOUSING AUTHORITY

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

1E. 1F. 1G., 1H. Lack of a Formal Methodology for Allocating Direct Costs

The Authority has consistently prepared an annual operating budget in advance of the beginning of its fiscal year in accordance with HUD requirements. Form HUD-52566, Schedule of All Positions and Salaries, is an integral part of the operating budget. As with other forms that make up the supporting pages of the operating budget, the salary schedule shows current and anticipated salaries and their allocation to all programs. The operating budget and its supporting schedules have served as a written document for the allocation of various costs among the Authority's programs.

In addition, the operating budget has always been prepared in a timely manner as prescribed by HUD requirements.

A review of the salary schedule shows a consistent allocation of one-third of the Executive Director's salary to the Section 8 program through the fiscal year ending September 30, 2004. The FY 2005, 2006 and 2007 budgets reduced that allocation to one-quarter of the Executive Director's salary.

Comment 6

This finding indicates that the Authority lacked a written methodology for its allocation of direct costs and did not have documented time studies or time sheets to support its allocation. The Authority does, in fact, have a written methodology in place to support salary allocations – the operating budget itself along with the time studies that were completed in the past. The above mentioned time studies are available for review upon request.

Comment 7

Going forward, from now on the THA is preparing time studies at least annually or whenever the revision of operating budget is done in order to justify costs and salaries allocation for both Section 8 and JUMA.

Further, we believe that amounts allocated to Section 8 and the nonprofit were not unreasonable.

Comment 8

This finding indicates that \$136,952 of staff salary and related benefits costs were "transferred" to the Section 8 program during the 2005 through 2007 period.

The finding calls the allocated salaries and benefits as unsupported; however, Section 8 program had reimbursed all allocated costs, therefore, the above mentioned sum of \$136,952 should not be taken into consideration.



TUCKAHOE HOUSING AUTHORITY

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

Comment 9

This finding indicates that total cumulative expenses of \$57,697 are due from the non-profit entity to the THA. The books of the nonprofit reflect these liabilities. In fact, there are inter-program receivables and payables that reflect all of the above liabilities. The nonprofit expects to repay these liabilities in the near future.

Furthermore, effective October, 2007, JUMA is repaying the THA amounts it owes due to allocation of costs and salaries for the current fiscal year. Each month the THA receives the check in the amount of \$ 275.00. In addition, JUMA is anticipating making payments in quarterly installments to cover the amount owed prior to October 2007.

Comment 10

The finding contains a related recommendation that unsupported salaries should be returned to the low-rent program, thus insuring that the funds are put to better use. If these allocated salaries are determined to be unsupported, the low-rent program would have to repay the Section 8 program and the nonprofit- not the other way around. This is in complete contradiction to what the finding seeks.

Admission Policy Not in Compliance with HUD Regulations

Comment 7

The Authority has forwarded revised preferences to FHEO for their approval.

Comment 7

The Authority has corrected and modified our policies under the supervision of HUD through the VCA.

Comment 11

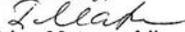
Finding 2: Development on Land Approved for Disposal by HUD Has Not Been Realized

2A. 2B. Construction Delays and Reduction in Project Scope

With regard to the development of land approved for disposal, the zoning approvals have been achieved and the current target date to begin construction is November 1, 2008. Plans and drawings are being prepared for submission and approval by the Building Department of Tuckahoe.

Should you have any questions or comments, please do not hesitate to contact me at (914) 961-3373

Yours truly,


Irina Matveevskii
Executive Director



TUCKAHOE HOUSING AUTHORITY

OIG Evaluation of Auditee Comments

- Comment 1** The letter reportedly from Ms. Morales granting an extension, which was provided at the exit conference, was unsigned and therefore is not regarded as official correspondence. The HUD field office will need to determine whether it had granted an extension via such letter during the audit resolution process.
- Comment 2** The annual contributions contract prohibited the Authority to contract with the former executive director without a waiver from HUD. A waiver was requested after the decision to contract was made, and was denied by the HUD field office on February 5, 2007. Consequently, the Authority had not followed the proper procedures, which would have been to secure the waiver prior to executing a contract.
- Comment 3** The contract executed between the Authority and the Village of Tuckahoe binds the Authority to the contractual obligations that existed between the Village and HUD for the administration of the Section 8 program. The Authority lacks support to have assumed the obligation for medical benefit payments on behalf of a Village Section 8 employee who had retired prior to the transfer of the program to the Authority.
- Comment 4** The expenses categorized as unsupported were not within the scope of services provided under the Authority's routine legal retainer fee. While the expenses categorized as unsupported were approved by the Board, Authority officials lacked evidence of any negotiation or contract to support the scope of services or payment terms for these expenses.
- Comment 5** While the Authority's consultant provided training on annual plan requirements at the 2002 meeting, the Board minutes for the other years' meetings document that routine Authority issues were discussed, as opposed to any required training. Further, the expenses for the 2000 and 2001 meetings were not supported by adequate documentation. Therefore, if HUD determines, during the audit resolution process, that these expenses were justified, Authority officials will have to provide additional documentation to adequately support the expenses.
- Comment 6** The budget would not represent a written methodology to support the basis for the allocation of costs among various programs; rather, it serves merely to document the proposed allocation of these costs. The time studies mentioned as having been available to support the methodology for the allocations were not provided during the course of our audit work, were not made available at the exit conference, and were not provided with the auditee's comments.
- Comment 7** The Authority's action to have time studies for justifying the allocation of salary costs in the future will be responsive to our recommendation going forward. However, HUD will have to review the documentation that Authority officials

state are available to determine if they are adequate to support the salary allocations made in the past.

Comment 8 The costs are regarded as unsupported because, although paid, the Authority lacked documentation for the basis upon which the costs were allocated.

Comment 9 The Authority lacked documentation for the basis upon which the costs were allocated to the nonprofit; moreover, although properly recorded as a receivable to the Authority, the costs are regarded as ineligible because the use of low-rent program funds for the Authority's nonprofit activities represent an unallowable cost.

Comment 10 The report was changed to recommend that any unsupported costs paid from Section 8 funds should be returned to the Section 8 program.

Comment 11 The Authority's action is responsive to our recommendation, therefore if HUD approves the policy modifications based on the documentation submitted, it will result in a management decision and closure of the recommendation.

Comment 12 The Authority needs to provide evidence of an executed Declaration of Trust.

Appendix C

EVALUATION OF COMPLAINT ALLEGATIONS

Allegation #1. The Authority Contracted with the Former Executive Director without Obtaining a HUD Waiver

This issue has merit. After the retirement of the executive director on December 31, 2006, the Authority contracted with the director to serve as a consultant, effective January 1, 2007, without HUD approval. Part A, section 515,⁴ of the Authority's annual contributions contract prohibits entering into any contract, subcontract, or arrangement with any employee who formulates policy or influences decisions with respect to housing authority projects during his/her tenure or for one year thereafter. The contract provides that HUD may waive this prohibition for "good cause."

The Authority's legal counsel requested a waiver from HUD for this action on December 8, 2006. However, on February 5, 2007, the HUD New York City field office denied the waiver and required that the contract with the former director be terminated. On March 29, 2007, the Authority appealed this denial to the Assistant Secretary, Public and Indian Housing, who also denied the appeal on May 4, 2007. At that time, the Authority terminated the contract (see finding 1).

Allegation #2. The Authority Held Off-Site Public Meetings and Other Social Events

This issue has merit. During the years 2000 through 2003, the Authority held annual off-site board of commissioners' meetings. In addition, it annually conducted a "Family Day" and a children's Christmas party; no other major social events were found to have been funded by the Authority.

The timing, location, and nature of the board of commissioners' meetings are not subject to HUD regulations but, rather, to New York State law, which requires that the meetings be conducted openly and minutes be published of the results. The off-site meetings were approved by the board, and the business conducted was recorded in published minutes. However, while not specifically prohibited, we question the costs incurred for out-of-town meetings and consider this to be an unnecessary expense (see finding 1).

Part A, section 4, of the annual contributions contract provides that the mission of the housing authority, in addition to providing decent, safe, and sanitary housing, is to provide for the economic and social well-being of the tenants. HUD has historically interpreted this mission as allowing a housing authority to fund social activities such as Family Day for the social benefit of its tenants. Therefore, we are not taking exception to the expenses incurred for the social events.

⁴ This prohibition is found in part A, section 19(A)(1)(ii), in the most recent version of a HUD annual contributions contract.

These activities were held on the grounds of the Authority until 2003, when the Authority stopped conducting them for financial reasons.

Allegation #3. The Authority Engaged an Out-of-State Attorney to Whom Travel Reimbursement Was Made

This issue has merit. In response to a solicitation for bids for legal services, the board approved a contract for the period October 2002 through September 2004 with a law firm located in New York. Beginning in June 2004, the monthly retainer was forwarded to an out-of-state address of the firm's assigned attorney. The board renewed this contract for another two-year period beginning October 2004, and Authority officials executed the agreement and sent it to the attorney's out-of-state address. Although the board again renewed the contract for another two-year period beginning October 2006, the attorney resigned in June 2007. While the attorney resided out-of-state, the only documented payment for travel-related costs was \$472. During the contract periods, there is no indication that the attorney was unable to fulfill the requirements of the contract due to the out-of-state location.

Allegation #4. The Authority Had Not Executed a Voluntary Compliance Agreement in Accordance with the Rehabilitation Act of 1973.

This issue has merit but was resolved as of January 15, 2008, when a voluntary compliance agreement was executed.

Regulations at 24 CFR (*Code of Federal Regulations*) Part 8 implement the provisions of Section 504 of the Rehabilitation Act of 1973 and require that public housing authorities conduct a needs assessment and develop a transition plan to address identified needs of residents and applicants with disabilities. Further, 24 CFR Part 8 generally requires that a public housing authority make its program readily accessible and usable by the disabled. The Authority and HUD's Office of Fair Housing and Equal Opportunity have negotiated since 2003 on ways to best accomplish this requirement. The process was protracted because the Authority initially did not follow prescribed procedures to request a waiver, and HUD officials differed with the Authority over the cost to comply.

The Authority consists of two complexes. Authority officials submitted a needs assessment transition plan in June 1992 proposing converting one unit for the hearing impaired in the first complex and converting one unit for the hearing impaired and three units for the disabled/handicapped in the second complex. The Authority sought a waiver for disabled/handicapped accessibility in the first complex, the renovation of which it argued would create an undue financial hardship due to structural limitations. In October 1993, HUD provided \$375,967 for the proposed conversions, which were completed in March 1996. However, the Authority and HUD's Office of Fair Housing and Equal Opportunity have taken different positions on what modifications the regulations require and whether a waiver could be granted for accessibility at the first complex. Various proposals and counterproposals for a voluntary compliance agreement have been submitted since 2004, and a voluntary compliance agreement was

executed between HUD and the Authority on January 15, 2008. This agreement specifies the physical work required to achieve Section 504 compliance at the first complex and stipulates that the Authority will appoint a Section 504 reasonable accommodations coordinator and implement a reasonable accommodations policy.