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TO: Stephen Schneller, Director, Office of Public Housing, Region IX, 9APH
Henry S. Czauski, Acting Director, Departmental Enforcement Center, CV

Joan S. Hobbs

FROM: Joan S. Hobbs, Regional Inspector General for Audit, Region IX, 9DGA

SUBJECT: The Housing Authority of the City of Richmond, Richmond, California, Did Not Follow Procurement Requirements and Had Internal Control Weaknesses

HIGHLIGHTS

What We Audited and Why

We audited the Housing Authority of the City of Richmond (Authority) in response to the U.S. Department of Housing and Urban Development (HUD) Office of Public Housing's concerns about the Authority's procurement activities. Our objective was to determine whether the Authority followed procurement requirements.

What We Found

The Authority could not adequately support that it conducted procurement activities in accordance with applicable requirements, including full and open competition. As a result, it could not demonstrate that contracts were awarded to vendors whose proposals were most advantageous to the Authority.

The Authority also had internal control weaknesses. The written procedures contained inconsistent instructions, payments were processed and issued without proper supporting documentation and required approvals, contract limits were ignored, and controls for safeguarding the Authority's financial assets were not in place or not effective. These conditions created significant risks for the Authority.

What We Recommend

We recommend that the Director of HUD's San Francisco Office of Public Housing ensure that the Authority's board of commissioners obtains a full understanding of federal procurement requirements and conducts annual reviews of the Authority's payment history for the next three years or until HUD is satisfied that the Authority's procurements and contracts comply with federal requirements.

We also recommend that the Director of HUD's San Francisco Office of Public Housing require the Authority to (1) terminate the existing contracts and ongoing purchases for security services, landscaping maintenance, Section 8 housing quality standards annual inspection services, and Section 8 housing quality standards initial inspection services; (2) conduct new procurements for these services in accordance with applicable requirements; (3) repay from nonfederal funds \$112,755 to its public housing program or Section 8 program, as appropriate, for ineligible costs; (4) support or repay from nonfederal funds more than \$2.4 million to its public housing program or Capital Fund or Section 8 program, as appropriate, for unsupported costs; (5) obtain HUD's review and approval of all contracts and amendments totaling more than \$100,000, in part or aggregate before execution, for the next three years or until HUD is satisfied that procurement actions are appropriate; and (6) provide training to responsible personnel to ensure that they understand federal procurement requirements.

We recommend that the Acting Director of HUD's Departmental Enforcement Center take administrative actions against DP Security, its owner, and the Authority's deputy director for their part in the violations.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

We provided the Authority a discussion draft report on August 24, 2009, and held an exit conference with the Authority's officials on August 26, 2009. The Authority provided written comments on September 2, 2009.

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 OBJECTIVE

The Housing Authority of the City of Richmond (Authority) was formed in 1941 as a separate legal entity under the provisions of the Housing Act of 1937. The Authority was established to rehabilitate local deteriorated housing and to subsidize low-income families in obtaining decent, safe, and sanitary housing. Although the Authority is a separate legal entity from the City of Richmond (City), it is an integral part of the City. The City exercises significant financial and management control over the Authority, and members of the city council serve as the governing board of the Authority. In January 2009, the Authority's board of commissioners (board) was reduced from 11 members (nine city council members and two tenant commissioners) to nine members (seven city council members and two tenant commissioners).

In fiscal year 2008, the Authority received more than \$1.6 million in public housing operating subsidies and nearly \$15.1 million in Section 8 Housing Choice Voucher program funds and was authorized to receive more than \$900,000 in capital funds.

Based on the U.S. Department of Housing and Urban Development's (HUD) concerns, we performed an audit of the Authority. Our objective was to determine whether the Authority followed procurement requirements.

RESULTS OF AUDIT

Finding 1: The Authority Could Not Adequately Support Its Procurement Activities

The Authority could not adequately support its procurement activities for security services, Section 8 housing quality standards initial inspection services, public housing uniform physical condition standards inspection services, Section 8 housing quality standards annual inspection services, landscaping maintenance services, maintenance/vacant unit turnover services, and construction services. For example, the Authority's board rejected the results of the Authority's procurement process and voted to award the security services contract to a firm that had an undisclosed conflict of interest with board members. The Authority awarded contracts without using the proper procurement methods, failed to ensure that procurement activities showed no appearance of conflict of interest, did not retain records pertinent to the procurement, renewed contracts when the original contract did not contain an option to renew, and made contract payments without adequate support. These violations occurred because the Authority's board ignored HUD's procurement requirements and the Authority's procurement policy and the staff did not always follow procurement requirements. As a result, the Authority paid more than \$2.5 million in questioned costs, for which it could not ensure that the services obtained were most advantageous to the Authority. This amount included more than \$2.4 million in unsupported and more than \$112,000 in ineligible costs.

No Procurement Documents for Three Security Services

Available records showed that DP Security Services, LLC (DP Security), had provided security services to the Authority for senior/disabled public housing developments since at least 1998. However, the Authority could not provide documentation to show the significant history of the procurement activities leading up to the DP Security May 1998, August 2000, and September 2000 contracts. According to the accounting records, DP Security received continuous payments after the September 2000 contract expired in September 2001. The Authority was unable to provide documentation showing justification for the choice of procurement method, the independent cost estimate, the requests for proposals, the advertisement, proposals received, the proposal evaluations, and the basis for the contract award. In addition, management alleged that the board required the Authority to obtain security services from DP Security. However, no documentation was available to confirm or deny the allegation. Without the procurement documentation, the Authority could not support that it procured security services with full and open competition as required by HUD. As a result, it was unable to demonstrate that contracting with and paying DP Security more than \$1.5 million between 1999 and January 2009 was most advantageous to the Authority.

The contracts with DP Security had deficiencies. They failed to include a fixed contract amount, renewal options if applicable, and the provisions required by HUD's procurement requirements, which included legal remedies, equal employment opportunity, termination for cause, etc. In addition, the Authority allowed payments without written renewal options and continued to obtain security services beyond the five-year limitation as set forth in HUD requirements.

Flawed Procurement for the Fourth Security Services Contract

In November 2007, the Authority presented to the board its recommendation to execute a contract with OSS International, Inc. (OSS), to provide security services to two senior/disabled public housing developments. The request for proposals process for the security services contract resulted in four responsive proposals (OSS, Mason Security Services, Inc. (Mason), Securitas Security Services USA, Inc., and DP Security). A selection committee reviewed and rated the four proposals using three evaluative factors:

- History/experience/management/operation,
- Price, and
- Technical aspects.

Based on these ratings, OSS had the highest score among the four proposers, and the Authority recommended that the board execute a contract with OSS. During a November 6, 2007, public meeting, the board rejected the Authority's request. There was no documentation to show justification for the board's decision. According to the Authority, the board rejected OSS due to the following concerns: the request for proposals process was flawed, the Authority manager overseeing the process was biased against DP Security, there was a lack of public housing tenant representation on the selection committee, and the request for proposals needed editing. Considering the board's concerns, the Authority issued another request for proposals for the contract.

Three security firms (OSS, Mason, and DP Security) submitted proposals for the second request for proposals. The selection committee, which included two public housing tenant representatives, reviewed and rated the three security firms using the following factors:

- Technical aspects,
- History/experience/management/operation,
- Price, and
- Interview.

Based on the committee's ratings, Mason was rated the highest. The Authority presented these results to the board. During a January 6, 2009, public meeting, the board rejected the Authority's request. Instead of having the Authority issue another request for proposals, the board selected DP Security as the firm to provide security services. The board believed that since DP Security had the lowest price among the three contractors, it should have received the security services contract. The board's action violated the intent of HUD procurement rules and regulations to ensure open and fair competition and the Authority's own procurement procedures.

HUD requirements provide specific rules, regulations, and guidance addressing real or apparent conflict of interest of officers, employees, and agents of agencies involved in the procurement of goods and services. The board's repeated rejection of security firms selected through the request for proposals process created the appearance that it was seeking a particular firm, DP Security, for the contract. City public records showed that a majority of the board members had received political contributions amounting to more than \$7,200 from DP Security and/or its owner during the request for proposals process. These contributions were not disclosed as potential conflicts of interest during the public meetings. The board's actions leading up to the awarding of the security services contract to DP Security exposed the Authority to significant financial and legal risks. As a result, the Authority incurred more than \$46,000 in ineligible costs associated with the execution of the January 2009 security services contract outside both HUD procurement rules and regulations and the Authority's own procurement policies and procedures.

Potential Conflicts of Interest

The deputy director participated in the procurement for Section 8 housing quality standards initial inspection services that resulted in the contract being awarded to his brother in April 2008. HUD prohibits public housing agency employees or officers from participating in the selection, award, or administration of contracts supported by federal funds if a conflict of interest, real or apparent, would be involved. In violation of HUD requirements, the deputy director solicited and received at least one proposal from his brother.¹

In addition, the deputy director participated in the evaluation of the proposals received from two firms, one of which was his brother's. According to the deputy director, the other firm's proposal was not responsive to the request for proposals.² As a result, the Authority awarded the contract to his brother. That contract should have ended by June 30, 2008. Although the original contract did not have a renewal option, it was extended

¹ The deputy director's brother submitted two different proposals. The first proposal was signed but did not propose a flat rate as requested by the Authority's request for proposals. Specifically, it proposed a pricing structure that charges for each time an inspector goes out for an inspection. Therefore, the first proposal would have been considered unresponsive. However, the procurement file contained a second proposal from the deputy director's brother that was unsigned, but this second proposal proposed a flat rate as requested by the request for proposals. Although the request specified that proposals must be mailed to the deputy director, the deputy director said that he never saw his brother's first proposal. He was not certain why his brother submitted two different proposals. The deputy director speculated that Authority staff told his brother to resubmit his proposal.

² The deputy director stated that the other firm later refused to honor its proposed flat rate and insisted on reverting to the pricing structure that charges for each time an inspector goes out for an inspection. However, the representative from that firm told the audit team that his firm did not refuse to honor the proposed flat rate.

for another year until June 30, 2009, without a contract amount and without the executive director's signature.

Accounting records showed in October and November 2008 that the Authority also paid the deputy director's brother for performing public housing uniform physical condition standards inspections. According to the Authority's personnel, the deputy director arranged for his brother to perform these inspections. The Authority stopped using the deputy director's brother to perform the inspections only after the public housing department manager informed the executive director that it was too costly. It appeared that the Authority did not conduct a cost analysis to determine whether this arrangement was most advantageous to the Authority. In February 2009, the deputy director again recommended that his brother perform uniform physical condition standards inspections for the Authority. According to the executive director, he did not accept the deputy director's recommendation.

In March 2009, the deputy director admitted that during the same month, the Authority started a test project in which his brother began performing half the Authority's upcoming Section 8 housing quality standards annual inspections. This new arrangement without benefit of an appropriate procurement process created yet another appearance of a conflict of interest. The executive director was unaware of this test project until it was brought to his attention in April 2009. Within a week, the executive director rectified the problem by ordering Authority staff to terminate the test project.

Section 8 Housing Quality Standards Annual Inspection Services

The Authority had obtained Section 8 housing quality standards annual inspection services from Sterling Company, Inc. (Sterling), without a contract since 2005. HUD requires the Authority to maintain records sufficient to detail the significant history of a procurement action. Although proposals were available for review, other procurement-related documents were missing. Specifically, the Authority could not provide the independent cost estimate, request for proposals, evaluation of the proposals, the contract, and contract renewals for review as required. Without these documents, the Authority could not justify that the contract awarded to Sterling was most advantageous to the Authority. Therefore, it could not support that \$302,168 paid to Sterling between September 2005 and February 2009 was fair and reasonable.

Landscaping Maintenance Services

The Authority awarded a landscaping maintenance services contract to KJR Enterprises in June 2006 without conducting the required procurement process. HUD requires the use of sealed bids or competitive proposals methods if the services needed are estimated to go over the simplified acquisition threshold, which is currently set at \$100,000. Without performing

an independent cost estimate of the services needed to determine which procurement method it should have used, the Authority awarded the contract to KJR Enterprises. According to Authority staff, the contract award was based on the Authority's previous experience with the contractor, in which the contractor performed a one-time clean-up. Although the original contract executed in June 2006 had a contract amount below \$100,000, it became apparent in 2007 that landscaping maintenance services would cost the Authority more than \$100,000 annually.

Although the June 2006 contract did not have an options clause, the Authority renewed or extended the contract at least three times in April and November 2007 and again in May 2008. In the extended April 2007 contract, the Authority inappropriately expanded the scope of services and increased the monthly contract payment amount. The April 2007 contract specified that total payments shall not exceed \$100,000 and had a seven-month contract term. However, total payments would have exceeded \$100,000 in eight months, based on the contract's monthly payment amount. Clearly, the Authority limited the contract term to seven months to keep it under the simplified acquisition threshold.

In November 2007, the Authority renewed the contract again, but this time it split the contract into three contracts (two for the family developments and one for the senior and disabled developments) with smaller not-to-exceed contract amounts over a six-month period. However, the combined contract amounts would have had a not-to-exceed amount of more than \$100,000. It appeared that the contract was divided to avoid obtaining the board's approval. Further, Authority staff believed that if the matter had been presented to the board for approval, the board would have dictated which firm the Authority would be required to select. Authority staff cited this as the reason for keeping contract amounts under \$100,000.

In May 2008, the Authority amended the November 2007 contract to extend the contract term for another six months. When this amended contract expired on November 1, 2008, the Authority continued to obtain landscaping maintenance services from KJR Enterprises without a written contract.

The Authority was unable to justify that the contract award and contract renewals with KJR Enterprises were most advantageous to the Authority. Therefore, it could not support that \$303,698 paid to KJR Enterprises for landscaping maintenance services between July 2006 and January 2009 was fair and reasonable.

Maintenance/Vacant Unit Turnover Services

The Authority used the competitive proposals method to procure maintenance/vacant unit turnover services but could not show that it performed all the steps required under this method. The contracts were awarded to Building Services Maintenance, Inc., and KJR Enterprises in July 2007. HUD requires that an independent cost estimate be performed for all procurement actions. For purchases in excess of \$100,000, the Authority is required to

solicit bids or proposals through advertisement or E-Procurement. HUD also requires other steps including performing searches on the General Services Administration Excluded Parties List System before contract awards to ensure that the contractors are not debarred or suspended, having mandatory clauses in contracts greater than \$100,000, and exercising an option to extend a contract only if the original contract had an options clause and that a price for the additional services was specified.

However, the Authority could not show that it performed an independent cost estimate or that it publicized the solicitation. It also did not perform searches of the two contractors on the excluded parties list before awarding the contracts. Neither of the contracts awarded included mandatory clauses. Although the original contracts did not contain an options clause, the Authority extended the contracts with both contractors and at contract amounts higher than the original contracts but kept each renewal contract just below \$100,000. According to Authority staff, although accounting records showed that total payments on each of the two original contracts exceeded \$100,000, the renewal contract amounts were kept below \$100,000 to avoid presenting the contracts to the board for approval. Although no direct negative impacts were observed as a result of the Authority's failure to perform the required steps, the Authority must carry out future procurement activities in accordance with HUD requirements to ensure that all procurements are conducted with full and open competition and that contracts are awarded only to firms that not debarred or suspended.

Construction Contracts

The Authority awarded two construction contracts to H&H Builders in 2007 using small purchase procedures. HUD prohibits breaking down requirements aggregating more than the small purchase threshold into multiple purchases to avoid requirements that apply to purchases that exceed that threshold. The two construction contracts represented two phases of one construction project. The intention was to select one contractor to complete both phases of this construction project. Authority staff acknowledged that the two separate contracts could have been combined into one contract. Therefore, the Authority should not have divided the construction project into separate contracts that were under \$100,000, in order to solicit bids using small purchase procedures. Authority staff contended that the contract was divided because of (1) budget constraints, (2) ease in terminating work, and (3) concerns over the board's hampering the procurement process. However, Authority staff's first two explanations were unfounded because even if one contract had been awarded the entire construction project, the contract provisions would still allow the Authority to terminate the contract for cause (due to budget constraints) or for convenience. Since the Authority used an inappropriate procurement method, it was unable to demonstrate that this procurement was conducted with full and open competition or that contracting with H&H Builders was most advantageous to the Authority. For the same reason, the Authority could not justify that paying H&H Builders \$158,180 between September 2007 and May 2008 was fair and reasonable.

Conclusion

The Authority violated HUD procurement requirements for seven procurement activities. This condition occurred because the Authority and its board ignored HUD rules and regulations and the Authority's procurement policy. Also, Authority staff members did not always follow procurement requirements because they believed that the board would compromise the procurement process. Based on previous experience, Authority staff had the perception that the board would challenge the Authority's recommendation whenever it recommended that a contract be awarded to a business outside Richmond. Further, the deputy director created the appearance of conflict of interest when he was involved in selecting his brother to provide services for the Authority. As a result, the Authority paid at least \$112,755 to contractors with which a conflict of interest existed. It also spent at least \$2.4 million without adequate support to show whether the services were obtained or whether the prices paid were reasonable and in accordance with the contracts (see appendix A).

Recommendations

We recommend that the Director of HUD's Office of Public Housing, Region IX,

- 1A. Ensure that members of the Authority's board obtain a full understanding of their duties and responsibilities related to the federal procurement process.
- 1B. Obtain, on an annual basis, the Authority's most recent 12-month vendor payment history to identify those vendors/contractors that were paid more than \$100,000 and conduct reviews of the corresponding procurement and contract files for a minimum of three years or until HUD is satisfied that the procurements and contracts meet federal requirements.

We also recommend that the Director of HUD's Office of Public Housing, Region IX, require the Authority to

- 1C. Conduct a new procurement for security services in compliance with HUD procurement requirements and the Authority's own procurement policy and terminate the current contract with DP Security.
- 1D. Repay its Public Housing program \$46,295, using nonfederal funds, for the ineligible payments made through February 28, 2009, plus any subsequent payments made to DP Security associated with the January 2009 contract.
- 1E. Provide support to show that the DP Security contracts executed in 1998 and 2000 were most advantageous to the Authority and provide documentation to support that the \$1,512,531 paid to DP Security was reasonable or repay its public housing

program \$1,512,531, using nonfederal funds, for the unsupported payments made through December 31, 2008.

- 1F. Conduct a new procurement for landscaping maintenance services in compliance with HUD procurement requirements and the Authority's own procurement policy and terminate the current contract with KJR Enterprises.
- 1G. Identify the amounts charged to its public housing program and Capital Fund for payments made to KJR Enterprises for landscaping services from July 1, 2006, through February 28, 2009, and provide documentation to support that the expenditures were most advantageous to the Authority and were reasonable or repay the corresponding amounts to the appropriate programs from nonfederal funds for a total of \$303,698 for unsupported payments made through February 28, 2009, plus any subsequent payments made to KJR Enterprises for landscaping services because the Authority did not conduct a procurement.
- 1H. Discontinue the purchase of Section 8 housing quality standards annual inspection services from Sterling once an eligible contractor has been selected.
- 1I. Conduct a new procurement for Section 8 housing quality standards annual inspection services in compliance with HUD procurement requirements and the Authority's own procurement policy.
- 1J. Provide documentation to support that the purchase of Section 8 housing quality standards annual inspection services without a contract with Sterling was most advantageous to the Authority and provide documentation to support that the \$302,168 paid to Sterling was reasonable or repay its Section 8 program \$302,168 from nonfederal funds for unsupported payments made through February 28, 2009, plus any subsequent payments made to Sterling.
- 1K. Conduct a new procurement for Section 8 housing quality standards initial inspection services in compliance with HUD procurement requirements and the Authority's own procurement policy and terminate the current contract.
- 1L. Repay its Section 8 program \$50,140, using nonfederal funds, for the ineligible payments made to the deputy director's brother for Section 8 housing quality standards initial inspection services through May 27, 2009, plus any subsequent payments made to the deputy director's brother.
- 1M. Repay its public housing program \$11,040, using nonfederal funds, for the ineligible payments made to the deputy director's brother for public housing uniform physical condition standards inspection services.
- 1N. Repay its Section 8 program \$5,280, using nonfederal funds, for the ineligible payments for Section 8 housing quality standards annual inspection services through May 27, 2009, plus any subsequent payments.

- 1O. Provide documentation to support that the purchase of construction services from H&H Builders was most advantageous to the Authority and provide documentation to support that the \$158,180 paid to H&H Builders was reasonable or repay its Capital Fund program \$158,180 from nonfederal funds for the unsupported payments.
- 1P. Obtain HUD's review and approval of all contracts and amendments totaling more than \$100,000, in part or aggregate before execution, for a minimum of three years or until HUD is satisfied that the procurements and contracts meet federal requirements.
- 1Q. Provide appropriate training to responsible personnel to ensure that they understand federal procurement requirements.

We also recommend that the Acting Director of HUD's Departmental Enforcement Center

- 1R. Take appropriate administrative actions, up to and including debarment, against DP Security, its owner, and the Authority's deputy director for their part in the violations cited in this audit report.

Finding 2: The Authority Had Internal Control Weaknesses

The Authority's internal controls were weak. The Authority (1) allowed the City's finance director to have access to the Authority's funds; (2) had discrepancies in its written accounts payable and disbursement procedures; (3) could not ensure that payments were adequately supported, properly approved, and within contract amounts; and (4) did not safeguard blank checks and check-printing equipment from unauthorized use. These deficiencies were caused by inadequate or inconsistent procedures and practices. As a result, the Authority risked exposing itself to potential significant financial and legal liabilities.

The City Had Access to the Authority's Funds

Since the Authority is a separate entity from the City, the City should not have access to the Authority's assets, such as granting signature authority on its bank accounts. However, in June 2006, the board passed a resolution giving the finance director of the City access to the Authority's local agency investment fund account. Although there was no known questionable withdrawal by the City, the board put the Authority's funds on deposit in the account at risk.

Accounts Payable and Disbursement Procedures Had Discrepancies and Written Procedures Conflicted with Actual Practice

The Authority's written procedures for accounts payable and disbursements showed inconsistencies. One part of the procedures specified that payment requests were subject to approval and review by the department manager, finance manager, and executive director. However, another part of the procedures required either the approval of a department manager or the finance manager if the payment requests were accompanied by an authorized contract or purchase order. For payment requests that were not accompanied by an authorized contract or purchase order, this part of the procedures required approvals from both a department manager and the executive director. With these discrepancies, the Authority's written procedures for accounts payable and disbursement were difficult for Authority staff to follow.

Written procedures conflicted with actual practice. The executive director and deputy director believed that the procedures required payment requests to have four levels of approval, which included department staff, finance manager, deputy director, and executive director. Written procedures, as described above, did not require the deputy director's approval. In actual practice, the Authority issued payments with two, three, or four levels of

approval. The Authority could not explain why payments were issued with fewer than four levels of approval.

Written procedures for check authorization also conflicted with actual practice. Specifically, the Authority's written procedures stated that two signatures, the executive director and the finance manager, were required on checks. However, the actual practice was to have the deputy director's and finance director's signatures stamped on the checks.

Payments Were Not Adequately Supported or Properly Approved and Exceeded Contract Amounts

The Authority made payments without adequate supporting documentation. Authority staff members acknowledged that they approved invoices for payment when they did not have documentation to justify the invoiced amounts. For example, Building Services Maintenance, Inc. and KJR Enterprises submitted invoices for vacant unit turnover services but provided no supporting documentation such as timesheets, receipts for supplies, etc. However, Authority staff approved them for payment without determining whether the invoiced amounts were appropriate.

Internal controls should be in place to ensure that all required approvals are obtained before issuing checks. However, the Authority's internal controls in this area proved to be ineffective. There were instances in which checks were issued to vendors and posted to the Authority's bank account before the department manager and the executive director levels of approval were obtained. There were also instances in which invoices were approved by another department manager who was not responsible for procuring or receiving the services billed. Unsupported payments occurred because Authority staff was not aware of the Authority's procedures that require invoices to be matched with additional supporting documentation to ensure that services were received and billings were accurate before approval.

Internal controls for contract monitoring would ensure that payments made were within the contract amount. While the Authority had designated an accounting staff member to monitor the contract payments, this internal control was ineffective because some contracts had aggregate payments that exceeded the contract amount. Contract amounts were exceeded because Authority staff ignored the Authority's procedures and continued to approve invoices for payment although the designated accounting staff member had reported that those contracts had no remaining balance.

Blank Checks and Check-Printing Equipment Were Not Safeguarded from Unauthorized Use

Although the finance manager stated that the blank checks and check-printing equipment were kept secure in a vault, we observed that the vault was open, and anyone could have had access to its contents. The Authority should strengthen its internal controls to ensure that access to these items is limited to authorized personnel.

Conclusion

Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, requires that an entity receiving and expending federal funds maintain internal controls that provide reasonable assurance that the entity is managing its federal awards in compliance with laws, regulations, and grant agreements. Through physical observations and payment reviews, we identified the Authority's internal control weaknesses. In some cases, the internal control weaknesses occurred because the Authority's written procedures contained discrepancies. Other weaknesses occurred because Authority staff members either were not aware of the responsibilities of their positions or ignored the Authority's written procedures.

Recommendations

We recommend that the Director of HUD's Office of Public Housing, Region IX, require the Authority to

- 2A. Remove the City's finance director from having direct authorization over or access to any of the Authority's financial accounts or funds, including the local agency investment fund account.
- 2B. Revise either its written policy or current practice to ensure consistency in the levels of approval needed to approve, process, and issue payments pertaining to contracts, purchase orders, and other payment requests.
- 2C. Revise either (1) its written procedures to reflect the actual practice of having the deputy director as one of the two authorized signatories on checks or (2) its actual practice to be in accordance with the written procedures in which the executive director's signature is one of the two signatures on checks.

- 2D. Ensure that all department managers and personnel have a clear understanding of their roles and responsibilities regarding their respective departments and positions.
- 2E. Perform adequate contract monitoring to ensure that (1) payments for invoices are accompanied by supporting documentation to ensure that goods or services are received and billings are accurate, (2) payment requests are properly approved before checks are printed and issued to vendors, and (3) aggregate payments do not exceed contract amounts.
- 2F. Provide documentation to support that the \$97,044 paid to Building Services Maintenance, Inc., and the \$44,295 paid to KJR Enterprises for maintenance/vacant unit turnover services were reasonable or repay its public housing program from nonfederal funds for any remaining unsupported payments.
- 2G. Establish stronger internal controls to safeguard the blank checks and check-printing equipment to ensure that access to these items is limited to authorized personnel.

SCOPE AND METHODOLOGY

We performed our on-site audit work at the Authority, located in Richmond, California, from February to July 2009. Our audit generally covered the procurement activities that affected the period July 1, 2006, through June 30, 2008. We expanded our scope when necessary. Our objective was to determine whether the Authority followed procurement requirements.

To accomplish our objective, we

Reviewed applicable laws, regulations, HUD program requirements at 24 CFR (*Code of Federal Regulations*) Part 85, and HUD's Procurement Handbook for Public Housing Agencies.

Interviewed the Authority's employees and HUD staff.

Reviewed the Authority's procurement policy and accounts payable and disbursement procedures.

Reviewed the Authority's board minutes and videos of the board meetings.

Reviewed the Authority's audited financial statements for fiscal years ending June 30, 2006 and 2007.

Reviewed the procurement files for those vendors that were paid more than \$100,000 during either of the fiscal years ending June 30, 2007 or 2008.

Reviewed a systematic sample of payments of the vendors selected.

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. 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 an integral component of an organization's management that provides reasonable assurance that the following controls are achieved:

- Program operations,
- Relevance and reliability of information,
- Compliance with applicable laws and regulations, and
- Safeguarding of assets and resources.

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

Relevant Internal Controls

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

- Policies and procedures that were implemented to reasonably ensure that procurement activities were conducted in accordance with applicable requirements.
- Policies and procedures that were implemented to reasonably ensure that payments to vendors were made in accordance with applicable requirements
- Policies and procedures that were implemented to reasonably ensure that program funds were safeguarded from unauthorized use.

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 that the following items are significant weaknesses:

- The Authority lacked adequate controls to ensure that procurement activities were conducted with full and open competition, free of any appearance of conflict of interest, and contracts were only awarded to vendors whose proposals were most advantageous to the Authority (finding 1).
- The Authority lacked adequate controls to ensure that payments made were supported, properly approved, and within contract amounts (finding 2).
- The Authority lacked adequate controls to ensure that program funds were safeguarded from unauthorized use (findings 1 and 2).

APPENDICES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Ineligible <u>1/</u>	Unsupported <u>2/</u>
1D	\$46,295	
1E		\$1,512,531
1G		303,698
1J		302,168
1L	50,140	
1M	11,040	
1N	5,280	
1O		158,180
2F		97,044
2F		44,295
Totals	\$112,755	\$2,417,916

1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or federal, state, or local policies or regulations.

2/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments



CITY OF RICHMOND HOUSING AUTHORITY

ADMINISTRATIVE OFFICE
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Timothy Jones, Executive Director

September 2, 2009

Ms. Joan S. Hobbs
Regional Inspector General for Audits
U.S. Department of Housing and Urban Development
Office of Inspector General Region IX
611 West 6th Street, Suite 1160
Los Angeles, CA 90017-3101

Subject: Richmond Housing Authority Comments to HUD OIG Procurement Audit.

Dear Ms. Hobbs:

In the recently conducted HUD OIG Procurement Audit it was determined that the Richmond Housing Authority violated HUD procurement requirements for seven (7) procurement activities, and that the Housing Authority also had internal control weaknesses. The following information details the Housing Authority's comments to the recommendations resulting from this audit.

We recommend that the Director of HUD's Office of Public Housing, Region IX,

1A Ensure that members of the Authority's board obtain a full understanding of their duties and responsibilities related to the federal procurement process.

We agree with this recommendation; updated federal procurement training would be very helpful for the Housing Authority staff and Board of Commissioners in our efforts to ensure full compliance with federal procurement guidelines and regulations.

1B Obtain, on an annual basis, the Authority's most recent 12-month vendor payment history to identify those vendors/contractors that were paid more than \$100,000 and conduct reviews of the corresponding procurement and contract files for a minimum of three years or until HUD is satisfied that the procurements and contracts meet federal requirements

We agree with this recommendation.

1C Conduct a new procurement for security services in compliance with HUD procurement requirements and the Authority's own procurement policy and terminate the current contract with DP Security.

We agree with this recommendation.

1D Repay its Public Housing program \$46,295, using nonfederal funds, for the ineligible payments made through February 28, 2009, plus any subsequent payments made to DP Security associated with the January 2009 contract.

Comment 1

We disagree with this recommendation. The January/2009 DP Contract was procured correctly and in compliance with federal regulations, with the exception of the final award. We have agreed to conduct a new procurement to address that issue. However, the procurement file does support that the amounts paid for this service were the most advantageous to the Housing Authority and reasonable given that the DP proposal was the lowest bid.

1E Provide support to show that the DP Security contracts executed in 1998 and 2000 were most advantageous to the Authority and provide documentation to support that the \$1,512,531 paid to DP Security was reasonable or repay its public housing program \$1,512,531, using nonfederal funds, for the unsupported payments made through December 31, 2008.

Comment 2

We disagree with this recommendation. The Housing Authority has been unable to provide support documentation to show that the DP Security Contracts executed in 1998 and 2000 were most advantageous to the Housing Authority. However, we contend that the recommendation to repay \$1,512,531 is exorbitant and will severely undermine the Housing Authority's fiscal stability.

1F Conduct a new procurement for landscaping maintenance services in compliance with HUD procurement requirements and the Authority's own procurement policy and terminate the current contract with KJR Enterprises.

Comment 3

We agree with this recommendation. It should be noted that the landscaping maintenance contract referred to in this recommendation has been canceled and a new procurement for this service has been conducted.

1G Identify the amounts charged to its public housing program and Capital Fund for payments made to KJR Enterprises for landscaping services from July 1, 2006, through February 28, 2009, and provide documentation to support that the expenditures were most advantageous to the Authority and were reasonable or repay the corresponding amounts to the appropriate programs from nonfederal funds for a total of \$303,698 for unsupported payments made through February 28, 2009, plus any subsequent payments made to KJR Enterprises for landscaping services because the Authority did not conduct a procurement.

We agree with this recommendation.

1H Discontinue the purchase of Section 8 housing quality standards annual inspection services from Sterling once an eligible contractor has been selected.

Comment 4

We agree with this recommendation.

1I Conduct a new procurement for Section 8 housing quality standards annual inspection services in compliance with HUD procurement requirements and the Authority's own procurement policy.

We agree with this recommendation.

1J Provide documentation to support that the purchase of Section 8 housing quality standards annual inspection services without a contract with Sterling was most advantageous to the Authority and provide documentation to support that the \$302,168 paid to Sterling was reasonable or repay its Section 8 program \$302,168 from nonfederal funds for unsupported payments made through February 28, 2009, plus any subsequent payments made to Sterling.

We disagree with this recommendation. The Housing Authority's procurement file from July/2005 does include the original proposals and bidder's sheet. The initial contract and copy of the RFP were unavailable during the audit, but the fee schedules included in the original proposals do indicate that the Sterling bid was the lowest bid and therefore the amounts paid for this service were cost reasonable.

1K Conduct a new procurement for Section 8 housing quality standards initial inspection services in compliance with HUD procurement requirements and the Authority's own procurement policy and terminate the current contract.

We agree with this recommendation.

1L Repay its Section 8 program \$50,140, using nonfederal funds, for the ineligible payments made to the deputy director's brother for Section 8 housing quality standards initial inspection services through May 27, 2009, plus any subsequent payments made to the deputy director's brother.

We agree with this recommendation.

1M Repay its public housing program \$11,040, using nonfederal funds, for the ineligible payments made to the deputy director's brother for public housing uniform physical condition standards inspection services.

We agree with this recommendation.

1N Repay its Section 8 program \$5,280, using nonfederal funds, for the ineligible payments for Section 8 housing quality standards annual inspection services through May 27, 2009, plus any subsequent payments

We agree with this recommendation.

1O Provide documentation to support that the \$97,044 paid to Building Services Maintenance, Inc., and the \$44,295 paid to KJR Enterprises for maintenance/vacant unit turnover services were reasonable or repay its public housing program from nonfederal funds for any remaining unsupported payments.

Comment 5

We disagree with this recommendation. The primary concerns with this procurement were not cost related; they were the lack of an independent costs estimate in the file, no copy of the original advertisement and no evidence that there was a search conducted on the excluded parties list for the two contractors selected before awarding the contract. The report indicated that there were no direct negative impacts observed as a result of the Authority's failure to perform these steps.

1P Provide documentation to support that the purchase of construction services from H& H Builders was most advantageous to the Authority and provide documentation to support that the \$158,180 paid to H& H Builders was reasonable or repay its Capital Fund program \$158,180 from nonfederal funds for the unsupported payments

Comment 6

We disagree with this recommendation. Staff's contention that this contract was bid in two phases because of (1) budget constraints, (2) ease in terminating work and (3) concerns over the board's hampering with the procurement were unsubstantiated. This contract was bid in two phases because the scope for each phase was distinctly different. The first phase scope focused on windows, walls and mailboxes. The scope for the second phase focused on flooring and baseboard heating elements. Cost estimates for each phase were below the small purchase threshold. There were no budget constraint issues with these work items, and the selected contractor was a local Richmond Business to whom the Board would have been more than pleased to award the contract. The procurement methods used for these services were appropriate.

1Q Obtain HUD's review and approval of all contracts and amendments totaling more than \$100,000, in part or aggregate before execution, for a minimum of three years or until HUD is satisfied that the procurements and contracts meet federal requirements

We agree with this recommendation.

1R Provide appropriate training to responsible personnel to ensure that they understand federal procurement requirements.

We agree with this recommendation.

1S We also recommend that the Acting Director of HUD's Departmental Enforcement Center take appropriate administrative actions, up to and including debarment, against DP Security, its owner, and the Authority's deputy director for their part in the violations cited in this audit report.

We do not disagree with this recommendation that administrative actions should be considered, but we would request that HUD's Departmental Enforcement Center consider sanctions short of debarment in regards to DP Security and the Housing Authority's Deputy Director. In both instances they were responding to immediate and legitimate client needs.

The Authority's Deputy Director was pursuing the most cost effective and efficient way to respond to the needs of our section 8 clients searching for rental units at a time when our administrative fees were low, our request for initial inspections were high and our turn-around time for these inspections was slow. It should also be noted that the vendor selected (his brother) has over thirty years experience with Public Housing Authority programs. His most recent position was "Director of Affordable Housing Programs" with the Contra Costa County

Housing Authority. Our section 8 utilization rate has increased significantly and many more low income families and Section 8 landlords have benefited from this effort.

Additionally, the DP Security firm has had a significant impact on the reduction of crime in our senior developments. The fact that the Housing Authority delayed in re-bidding this professional service and ultimately erred in awarding the most recently procured contract should not overshadow the very much needed professional service provided to our most vulnerable senior residents and residents with disabilities over the past ten years.

We also recommend that the Director of HUD's Office of Public Housing, Region IX, require the Authority to

2A Remove the City's finance director from having direct authorization over or access to any of the Authority's financial accounts or funds, including the local agency investment fund account.

We agree with this recommendation.

2B Revise either its written policy or current practice to ensure consistency in the levels of approval needed to approve, process, and issue payments pertaining to contracts, purchase orders, and other payment requests

We agree with this recommendation.

2C Revise either (1) its written procedures to reflect the actual practice of having the deputy director as one of the two authorized signatories on checks or (2) its actual practice to be in accordance with the written procedures in which the executive director's signature is one of the two signatures on checks.

We agree with this recommendation.

2D Ensure that all department managers and personnel have a clear understanding of their roles and responsibilities regarding their respective departments and positions

We agree with this recommendation.

2E Perform adequate contract monitoring to ensure that (1) payments for invoices are accompanied by supporting documentation to ensure that goods or services are received and billings are accurate, (2) payment requests are properly approved before checks are printed and issued to vendors, and (3) aggregate payments do not exceed contract amounts

We agree with this recommendation.

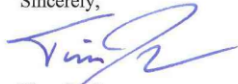
2F Establish stronger internal controls to safeguard the blank checks and check-printing equipment to ensure that access to these items is limited to authorized personnel.

We agree with this recommendation. However, it should be noted that the Housing Authority has recently relocated the Executive Office and Finance Division to a newly renovated building with guard service at the

main entrance and limited ID Badge/Card Key points on entry to the Housing Authority's suite. Access to the blank checks and check-printing equipment will be much more secure at this location and even further restricted to just two members of the Housing Authority's finance division.

This concludes the Richmond housing Authority's comments to this HUD OIG Procurement Audit Report. We would like to extend our appreciation to the HUD OIG field staff assigned to this project. They conducted this audit in an extremely professional manner with very limited disruption to the Authority's daily operations. I am confident that our federal procurement activities will benefit as we respond to the recommendations included in this report.

Sincerely,



Timothy Jones
Executive Director
Richmond Housing Authority

cc: Helen Sparks
Assistant Regional
Inspector General for Audit



OIG Evaluation of Auditee Comments

- Comment 1** Based on the results of its procurement process, Authority staff recommended the contract be awarded to another security firm, whose proposal was rated the highest after considering multiple factors including price, technical aspects, history/experience/management/operation, and interview. However, the board, in which a majority of the members received political contributions from DP Security, rejected Authority staff's recommendation and awarded the contract to DP Security. The contract award was a potential conflict of interest in violation of HUD procurement requirements.
- Comment 2** The Authority did not dispute the facts in this finding related to the DP Security contracts executed in 1998 and 2000. The Authority can work with HUD during the audit resolution process to work out a repayment plan.
- Comment 3** We commend the Authority for taking steps to implement the recommendations. HUD can verify that the recommendations have been implemented.
- Comment 4** The procurement for Section 8 housing quality standards annual inspection services was performed using the competitive proposals method by issuing a request for proposals. The Authority did not use the sealed bid method, with an invitation for bids. While the sealed bids method allows the Authority to award a contract to a responsible bidder with the lowest bid, the competitive proposals method requires the Authority to consider other factors in addition to price. The request for proposals would have shown the criteria for evaluating each proposal. Therefore, without a copy of the request for proposals, it cannot be determined whether the Authority awarded the contract to the firm whose proposal was most advantageous to the Authority. Furthermore, by the end of our audit, the Authority still could not find the contract. Therefore, it cannot be determined whether payments made were in accordance with contract terms.
- Comment 5** Since no direct negative impacts were observed as a result of the Authority's failure to perform the required steps during the procurement process, the report did not recommend that HUD require the Authority repay all amounts paid to Building Services Maintenance, Inc. and KJR Enterprises for maintenance/vacant unit turnover services. Rather, the recommendation for repayment was limited to the sampled payments that the Authority could not adequately support as described in finding 2. Accordingly, this recommendation has been removed from finding 1 and placed under finding 2.
- Comment 6** We disagree with the Authority's claim that its choice of procurement method was appropriate. While the Authority contended that the contract was bid in two phases because the scope for each phase was distinctly different, the phone solicitation document prepared by Authority staff did not support that explanation. Had the scope of work in each phase been distinctly different, the Authority staff would have needed to prepare separate solicitations showing one

group of contractors submitted bids on phase one and another group of contractors submitted bids on phase two. However, Authority staff requested bids on both phases from the same group of contractors and documented the bids on the same phone solicitation record. This suggested that the work in the two phases were not so different that it required two separate procurement processes.

The Authority also contended that cost estimates for each phase were below the small purchase threshold, but an independent cost estimate was not in the procurement file to justify the use of small purchase procedures.

Comment 7 The Authority's comment was in response to recommendation 2F in the discussion draft report. In this final audit report, that recommendation has been renumbered as 2G.

We commend the Authority for taking steps to implement the recommendations. HUD can verify that the recommendations have been implemented.

Appendix C

CRITERIA

HUD's regulations at 24 CFR 85.36(b)(3) state: "No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or
- (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements."

HUD's regulations at 24 CFR 85.36(b)(9) state: "Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price."

HUD's regulations at 24 CFR 85.36(d)(1) state: "Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. [*United States Code*] 403(11) (currently set at \$100,000)."

HUD's regulations at 24 CFR 85.36(i) require all contracts to contain the following provisions:

- (1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)
- (2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
- (3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)
- (4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)
- (5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

- (6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)
- (7) Notice of awarding agency requirements and regulations pertaining to reporting.
- (8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
- (9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.
- (10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- (11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.
- (12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).
- (13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

HUD's Procurement Handbook for Public Housing Agencies

Chapter 3.2 states that the independent cost estimate is the public housing agency's estimate of the costs of the goods or services to be acquired under a contract or a modification. It also helps the contracting officer determine the contracting method to be used. The independent cost estimate must be prepared before the solicitation of offers.

Chapter 3.3 states that the public housing agency (PHA) must maintain records sufficient to detail the significant history of each procurement action. Supporting documentation shall be in writing and placed in the procurement file. These records shall include but shall not necessarily be limited to the following:

1. Rationale for the method of procurement selected. For example, the contract file would not need to state why the contracting officer chose small purchase procedures to order a desk but would want to note why noncompetitive proposals were used for a roofing contract.
2. The solicitation.

3. Selection of contract pricing arrangement, but only if not apparent. For example, the contract file would not need to document why a firm fixed-price contract was used to obtain building materials.
4. Information regarding contractor selection or rejection, including, where applicable, the negotiation memorandum, the source selection panel, evaluation report, cost and price analysis, e-mail correspondence (including offers, selections, pertinent pre- and post-award discussions and negotiations, etc.)
5. Basis for the contract price (as prescribed in this handbook), and
6. Contract administration issues/actions.

Chapter 3.3 continues to state that PHAs shall retain all significant and material documentation and records concerning all procurements they conduct. These records must be retained for a period of three years after final payment and all matters pertaining to the contract are closed. If any claims or litigation are involved, the records shall be retained until all issues are satisfactorily resolved.

Chapter 4.4 specifies that no PHA employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by federal funds if a conflict of interest, financial or otherwise, real or apparent, would be involved. Such a conflict would arise when the employee, officer, or agent; any member of his or her immediate family; his or her partner; or an organization which employs or is about to employ any of the above has a financial or other interest in the firm selected for the award.

Chapter 4.4 states that solicitations and contracts above the federal small purchase threshold shall include clauses advising prospective contractors of the prohibitions against gratuities and kickbacks (24 CFR 85.36(i)(4)). These rules are designed to protect the integrity of the procurement system and to ensure that contracts are awarded fairly, based on merit, without improper influence. It further states that PHA officers, current employees, former employees within one year of employment, or agents shall neither solicit, accept, or agree to accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements. It continues to state that disclosure of confidential information to any person not authorized by the contracting officer to receive such information shall be a breach of the ethical standards. Confidential information includes but is not necessarily limited to the contents of a bid (before bid opening) or proposal (before contract award using competitive proposals), names of individuals or firms that submitted bids (before bid opening) or proposals (before contract award), PHA-generated information related to a procurement (including PHA cost estimates, contractor selection and evaluation plans, specifications [before solicitation is issued]), and any other information the disclosure of which would have a direct bearing upon the contract award or the competitive process. It is a breach of ethical conduct for any current or former employee, officer, or agent to knowingly use confidential information for actual or anticipated personal gain or for actual or anticipated personal gain of any other person.

Chapter 5.3 prohibits the contracting officer from breaking down requirements aggregating more than the small purchase threshold (or the micro purchase threshold) into multiple purchases that are less than the applicable threshold (commonly called “bid splitting” or “unbundling”) merely

to permit use of the small purchase procedures or avoid requirements that apply to purchases that exceed those thresholds.

Chapter 10.2 states that before a contract is awarded, the PHA shall check to determine if HUD has issued an LDP (limited denial of participation) or if a contractor has been debarred or suspended. A list of persons and contractors for which LDPs have been issued may be found on the Internet at www.hud.gov/enforce. All persons or contractors that have been suspended or debarred from Federal programs will show up on the GSA website: <http://epls.arnet.gov>. It is recommended that PHAs also check with their State agencies regarding debarred or suspended contractors.

Chapter 10.8 states that the option to extend the term of the contract or to order additional supplies or services is the unilateral right of the PHA. The additional supplies or services are ordered at the prices specified in the original contract. A clause that allows an option to be exercised by the contractor is not a legitimate option clause. It further states that the option to extend the term of the contract or to order additional quantities may only be exercised if the contract contained an options clause and if a price for the additional supplies or services was included. An unpriced option is considered a new procurement and, therefore, may not be used. In the case of a cost-reimbursement contract, an estimated cost for the option periods or additional quantities must be negotiated and included in the contract award; otherwise, the option will need to be treated either as a change order or a new contract. It continues to state that contracts shall not exceed a period of five years, including options for renewal or extension.

Authority's Procurement Policy

Section III.F states that the request for proposals shall clearly identify the relative importance of price and other evaluation factors and subfactors, including the weight given to each technical factor and subfactor. A mechanism for fairly and thoroughly evaluating the technical and price proposals shall be established before the solicitation is issued. Proposals shall be handled so as to prevent disclosure of the number of offerors, identity of the offerors, and the contents of their proposals. The proposals shall be evaluated only on the criteria stated in the request for proposals. It further states that the contract shall be awarded to the responsible firm whose qualifications, price and other factors considered, are the most advantageous to the Authority.

Section V.B specifies that options for additional quantities or performance periods may be included in contracts, provided that “(i) the option is contained in the solicitation; (ii) the option is a unilateral right of the Authority; (iii) the contract states a limit on the additional quantities and the overall term of the contract; (iv) the options are evaluated as part of the initial completion; (v) the contract states the period within which the options may be exercised; (vi) the options may be exercised only at the price specified in or reasonably determinable from the contract; and (vii) the options may be exercised only if determined to be more advantageous to the Authority than conducting a new procurement.”

Section IX.B states that no member, officer, or employee of the Authority shall voluntarily acquire an interest, direct or indirect, in any contract or proposed contract relating to the Authority. If any such member, officer, or employee involuntarily acquires any such interest or

had acquired any such interest before appointment or employment as such member, officer, or employee, then such member, officer, or employee shall immediately disclose any such interest in writing to the Authority, and such disclosure shall be entered into the minutes of the Authority, a copy of which is promptly furnished to the Authority. Upon such disclosure, such member, officer, or employee shall not participate in any action by the Authority relating to the contract in which he or she may have any such interest. It further states that Authority officers, employees or agents shall not solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontracts and shall not knowingly use confidential information for actual or anticipated personal gain.

OMB Circular A-133 requires that the auditee maintain internal controls over federal programs that provide reasonable assurance that the auditee is managing federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its federal programs.